

PUBLIC
PROCUREMENT
IN
UKRAINE

LEGISLATION AND
MATERIALS
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This a translation of the pending draft law submitted to the Ukrainian parliament, as it was adopted in the first reading. A new version, prepared by the Parliament, apparently exists for the second reading, but has not yet been translated into English.

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Draft

LAW OF UKRAINE

On Procurement of Goods, Works, and Services with State Funds

This Law establishes the general legal and economic principles for procurement of goods, works, and services with state funds.

The goal of this Law is creation of a competitive environment in the sphere of government procurement, prevention of corrupt practices in this sphere, ensuring rational and effective use of state funds.

Chapter 1

GENERAL PROVISIONS

Article 1. Definition of fundamental terms

1. In this Law, the terms presented below are applied with the following meanings:

1) Acceptance of a bid – adoption by the procuring entity of a bid that is determined to be the best according to the results of an assessment, and giving consent and undertaking obligations to pay for a procurement object or a part thereof (lot) according to that proposal. A bid is considered to be accepted, if the procuring entity gives the bidder a written confirmation of the acceptance of the bid in the time period established by this Law;

2) alternative bid – a proposal that may be submitted by the bidder to the procuring entity in addition as part of the bid if this is provided for by the tender documentation and which is distinguished from the proposal that is developed according to the conditions provided for by the tender documentation;

3) general procuring entity – the state power authority, enterprise, institution or organization defined accordingly by the Cabinet of Ministers of Ukraine, Council of Ministers of the Autonomous Republic of Crimea, or local executive self-governance authorities responsible for organization and conduction of procurement procedures on the basis of coordination according to this Law;

4) government procurement (hereinafter referred to as “procurement”) – acquisition by a procuring entity of goods, works, and services with state funds in a procedure that is established by this Law.

5) state funds – funds of the State Budget of Ukraine, Budget of the Autonomous Republic of Crimea and local budgets, state credit resources, funds of the National Bank of Ukraine, state allocated funds, the Pension Fund of Ukraine, mandatory state social insurance funds, unemployment insurance funds, mandatory state social insurance funds in the event of temporary working disability and birth and burial expenses, the funds envisaged by the Law of Ukraine “On Mandatory State Social Insurance Against Accidents at a Work Place and Occupational Diseases Which Result in Working Disability”, the funds of the institutions or organizations established by the state authorities, the Autonomous Republic of Crimea authorities or local authorities in the established procedure, humanitarian aid in money terms, funds of enterprises;

6) procurement contract – a contract that is concluded between the procuring entity and the bidder based on the results of a procurement procedure and provides for provision of services, execution of works, or acquisition of ownership rights for goods with state funds;

7) electronic state procurement – execution by the procuring entity of the procurement procedure established by this Law with the help of an information system on the Internet with use of a system of electronic filing;

8) guarantee of execution of a procurement contract – provision of the procuring entity by the bidder with guarantees of execution of obligations by the bidder including such kinds of guarantees as collaterals, warranties, pledges and security deposits;

9) guarantee of a bid (hereinafter referred to as a “bid security”) – provision of the procuring entity by the bidder with a guarantee of execution of the obligations of the bidder in connection with submission of a bid including such kinds of guarantees as collaterals, warranties, pledges and security deposits;;

10) procurement on the basis of coordination – execution of a procurement procedure by the general procuring entity who acts in the interests of the procuring entities in a procedure determined by this Law;

11) procuring entities – managers of state funds that perform procurement in the procedure determined by this Law;

12) qualification documentation – documentation that is developed by the procuring entity and transferred to the bidders for preparation of qualification proposals when conducting preliminary qualification of bidders;

13) qualification proposal – a proposal that is submitted to the procuring entity by the bidder according to the requirements of qualification documentation;

14) winner of the procurement process – the bidder whose bid is accepted;

15) enterprises – state enterprises as well as government ones, utility enterprises and business companies with authorized stock in which the state or utility enterprise owns over 50% of shares, their daughter companies as well as the enterprises, business companies with authorized stock where over 50% of shares is owned by the state as well as government enterprises, and also to the government enterprises, utility enterprises and business companies with authorized stock where municipal share makes up over 50%;

16) connected individual – an individual that conforms to any of the characteristics presented below:

A legal entity that performs supervision of a bidder or supervises said bidder, or remains under joint supervision with said bidder;

An individual or member of their family that performs supervision of the bidder;

A state official of the bidder who is authorized to perform legal acts in the name of the bidder that are directed at establishment, amendment, or suspension of civil-legal relations, as well as the family members of said state official;

When performing supervision in this Law, one should understand direct possession or possession through connected individuals or legal entities of the largest share (stake, package of shares) of the statutory capital of the bidder, or management of the largest number of votes in a leading authority of said bidder, or possession of a share (stake, package of shares), that is no less than 20 percent of the statutory capital of the bidder. For an individual, the total sum of possession of a share of the statutory capital of a bidder (votes in a leading authority) is defined as the total sum of corporate rights that belong to said individual, a family member of said individual and legal entities that are supervised by said individual or a member of their family.

For the purposes of this Law, spouses and their children, parents, brothers, sisters, and grandchildren as well as the spouses of children, parents, brothers, sisters, and grandchildren are considered to be family members.

17) services – any procurement other than goods and works, including preparation of specialists, provision of means of transport and communications, mastering technologies, research surveys, medical and communal services, routine repairs, and consultation services. Consultation services include services connected with consulting, expertise, assessment, and preparation of conclusions and recommendations;

18) procurement object – goods, works, and services that are procured by a procuring entity in the framework of a uniform procurement procedure, in which the bidders are allowed to submit bids; the procurement object is defined as the procuring entity in a procedure established by a specially authorized executive power authority. The number of bids for one procurement object cannot be less than two;

19) works – design, new construction of, expansion, reconstruction, major repairs, and restoration of objects and facilities for manufacturing and non-manufacturing purposes, geological surveys, technical re-equipment of existing enterprises, as well as accompanying works in services, including geodesic works, drilling, seismic surveys, aero- and satellite photography and other services that are included in the estimated cost of works, if the cost of executing such works does not exceed the cost of the works themselves;

20) manager of state funds – state power authorities, power authorities of the Autonomous Republic of Crimea, local self-governance authorities, other authorities, institutions, and organizations stipulated by the Constitution and other legislative acts of Ukraine, as well as enterprises, institutions, , or organizations that are created in the established procedure by state power authorities, power authorities of the Autonomous Republic of Crimea or local self-governance authorities and authorized to receive state funds, and obligations and performance of payments connected thereto as well as enterprises;

21) term of validity of a bid – the period established by the procuring entity over the course of which the bidder does not have the right to amend their bid;

22) tender documentation – documentation that the procuring entity draws up submits to the bidders free of charge for preparation thereby of bids regarding the procurement object;

23) bid – proposal regarding the procurement object or part thereof (lot) that is submitted by the bidder to the procuring entity in accordance with the requirements for tender documentation;

24) tender committee – a group of specialists designated by the procuring entity (general procuring entity) as responsible for conducting the procurement procedure in accordance with this Law;

25) auctions (tenders) – performance of a competitive selection of bidders with the goal of determining the winner of the auctions (tenders) in accordance with procedures (with the exception of the procurement procedure for one bidder) established by this Law;

26) goods – products of any type and purpose, including raw materials, manufactured goods, installations, technology, objects in a solid, liquid, or gas form, including electric energy, as well as services connected with delivery of goods if cost of such services does not exceed the cost of the goods themselves;

27) authorized body – a central executive power authority to ensure implementation of the state economy policy that is stipulated by the Cabinet of Ministers of Ukraine to execute the function of a specially authorized body in the sphere of government procurement;

28) bidder in the procurement procedure (hereinafter referred to as the “bidder”) – an individual, including an individual who is a subject of entrepreneurial activity, a legal entity (resident or non-resident) that has confirmed intent to participate in procurement procedures and has submitted a bid or a qualification proposal;

29) section of the procurement object (lot) – a share of goods, works, or services determined by the procuring entity (according to volume, nomenclature, or the location of supply of goods, execution of work, provision of services) for which in the bounds of a uniform procurement procedure the

bidders are allowed to submit bids. The number of bids for each individual share of the procurement object cannot be less than two.

Article 2. Sphere of Application of the Law

1. This Law is applied to procurement of all goods, work, and services that are fully or partially performed using state funds, according to conditions that the cost of the object of procurement of a good (goods), service (services) is equal to or exceeds 100 thousand UAH, or 300 thousand UAH in the case of works, (500 thousand UAH in the case of performance of the procurement with the funds of the enterprises).

2. Procedures for procurement of goods, works, and services using state funds may be established or amended only by this law and only in events foreseen by this Law.

Particularities of procurement of goods, works, and services related to the execution of the state defense order in the area of production of arms and special devices, as well as procurement of goods, works, and services performed by the enterprises of the defense industry complex may be stipulated by the Cabinet of Ministers of Ukraine.

3. The effect of this Law does not extend in the event that the procurement object is:

- 1) goods, works and services assigned for preparation and hold of the snap election of the People's Deputies of Ukraine;
- 2) forms for securities, strict reporting documents;
- 3) state awards of Ukraine;
- 4) documents regarding education in the state system;
- 5) protected dyes, papers and other materials that are used for preparing forms for securities, strict reporting documents in accordance with their protection scheme;
- 6) publishing products that are purchased directly by libraries;
- 7) leasing state and communal property;
- 8) services that are procured by state banks while their executing bank transactions in accordance with the Law of Ukraine "On Banks and Bank Activities"
- 9) banking services for receiving communal payments, checking account services, and cash processing services;
- 10) services in the sphere of air transport for official state delegations;
- 11) administrative services that are provided exclusively by the state authorities in accordance with the Law;
- 12) railroad transport services;
- 13) natural gas and services in the sphere of its transport, distribution and supply;
- 14) postal services, postage stamps, and stamped envelopes;
- 15) prosthetic-orthopedic goods; orthopedic shoes, means of conveyance prepared exclusively according to individual orders by disabled persons, including added features thereof; and services in repair of such means; prosthetic-orthopedic services;
- 16) works of descriptive art: paintings, graphics, sculptures, as well as works of decorative-applied and folk art for replenishment of the State Museum Fund of Ukraine;
- 17) telecommunications services, including those in the sphere of relaying radio and television signals (with the exception of mobile communication services and services of Internet providers);
- 18) goods and services connected with design development, preparation of protected papers, banknotes, and coins, their storage, transport and record;
- 19) goods, works, and services, procurement of which is performed by procuring entities located outside the borders of Ukraine;

20) goods and services that are acquired for direct performance of out-of-town tours of creative groups and performers;

21) goods and services that are procured directly for ensuring preparation of national teams of Ukraine for the Olympic and Paralympic Games, development of the Olympic and Paralympic movements, and high-level sports;

22) goods, works, and services that are procured by authorities, institutions, educational institutions, and enterprises in the criminal executive system from enterprises of the criminal executive system;

23) centralized water supplies, water drainage, and servicing sewer systems;

24) electric power, its transmission and distribution;

25) centralized supply of heat energy;

26) atomic fuel, unirradiated fuel elements for nuclear reactors;

27) legal services for ensuring protection of rights and interests of Ukraine during review of cases by authorities in foreign jurisdictions;

28) goods and services assigned exclusively for ensuring execution of the events and formal receptions with participation of the President of Ukraine, the Head of the Verkhovna Rada of Ukraine and members of the Cabinet of Ministers of Ukraine;

29) services to ensure fire prevention of the objects provided by the State fire prevention units;

30) goods, works and services assigned for provision by Ukraine humanitarian aid to other countries;

31) goods, works and services, which due to their special purpose constitute the state secret;

32) goods, works and services needed for the liquidation of the aftereffects of emergencies of anthropogenic and natural character;

33) fuel for the vehicles that is purchased at retail directly at filling stations;

34) goods and services needed to carry out state borrowings, maintenance and repayment of the state debt;

4. In case the procurement object is food manufacturing products, medicinal remedies and goods for medical purposes, fuel, services in the sphere of catering, transportation services, or repair services, during the period of performing the procurement procedure, the procuring entity has the right to current needs to perform procurement of a necessary procurement object without application of the procurement procedure envisioned in this Law for the sum of funds that does not exceed 10 percent of the total anticipated cost of the procurement object, about which they will notify the Authorized Body within 3 calendar days.

The provisions envisioned in Paragraph 1, Part 4 of this Article are not applied during conduction of the upcoming procedure of procuring this specific procurement object by the procuring entity.

Article 3. The Principles of government procurement

1. Procurement is based upon the following principles:

maximum cost-efficiency and effectiveness;

fair competition among bidders;

openness and transparency at all stages of government procurement procedure;

non-discrimination of bidders;

objective and impartial evaluation of bid;
prevention of corrupt practices and abuse.

Article 4. Procedure for procurement planning

1. Procurement is carried out in accordance with the annual procurement plan subject to approval and publication by the procuring entity no later than thirty days after approving the estimated finance plan (plan for funds allocation, plan for budget (public) funds expenditures). The annual procurement plan shall be sent to the Authorized Body compliant with the terms and procedures set forth by said Authorized Body.

2. No procuring entity shall be entitled to split the procurement in parts seeking to avoid the execution of the procurement procedure.

Article 5. Non-discrimination of bidders

1. National and foreign bidders shall participate in the government procurement procedures on the *pari pasu* basis.

2. Procuring entities and the Authorized Body shall ensure equal access for all bidders to government procurement information, as defined by this Law.

Article 6. Ukraine's international obligations in the sphere of government procurement

1. In case an international treaty to the obligatoriness of which Ukraine has acceded upon the Verkhovna Rada prior consent sets forth a procurement procedure other than stipulated by this Law, the provisions of an international treaty shall prevail.

2. Procurement of goods, works and services with loan and credit funds granted according to the international treaties of Ukraine concluded in the established procedure:

the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the International Development Association, the European Bank for Reconstruction and Development, the European Investment Bank, the Nordic Investment Bank shall be carried out according to the rules and procedures set forth by said organizations;

international organizations shall be carried out according to the procedures set forth by the Cabinet of Ministers of Ukraine.

Chapter II

STATE REGULATION IN THE SPHERE OF GOVERNMENT PROCUREMENT

Article 7. State regulation in the sphere of government procurement

1. State regulation in the sphere of government procurement shall be carried out by the Authorized Body and other authorities within their competence.
2. The Authorized Body is the Ministry of Economy of Ukraine.

3. The Authorized Body exercises control, supervision and coordination in the sphere of government procurement within its competence, as set forth by this Law.

Other state authorities and law enforcement bodies shall exercise control over the activities of procuring entities and bidders, and shall receive information from them within the competence defined by the Constitution of Ukraine and the laws of Ukraine.

4. State Treasury of Ukraine:

checks the availability and compliance of the concluded procurement contract with the report on the procurement procedure results and the annual procurement plan, as well as the accuracy of their execution according to the Law;

takes measures to debar carrying out payments from the account of the procuring entity in accordance with the financial obligation undertaken under the procurement contract in the event of acknowledgement of the results of the procurement procedure as null or for the period of suspension of the procurement procedure according to this Law.

5. The State Control and Revision Service carries out control over fulfillment by the procuring entities the requirements of the Law in the sphere of government procurement according to this Law and other laws of Ukraine, and cooperates with the state authorities in order to prevent corrupt practices in the sphere of government procurement.

6. The State Committee of Statistics of Ukraine keeps record of the procurement by way of collecting information on the procurement planned and the results of the procurement procedure including the tenders that did not take place, and approves the forms of statistics records in the sphere of the procurement.

7. The Antimonopoly Committee of Ukraine carries out control over compliance with the Law on the protection of economic competition in the sphere of government procurement.

Article 8. The Authorized Body

1. The principal functions of the Authorized Body shall be the following:

- 1) to develop and approve normative and legal acts needed for the execution of this Law;

- 2) to maintain bookkeeping on procurement through collecting information about planned and implemented procurement;

- 3) to interpret legislative provisions in the sphere of government procurement in the procedure stipulated by the Authorized Body;

- 4) to nominate general contractors subject to the Cabinet of Ministers' approval;

- 5) to summarize the practice of execution of government procurement including international procurement;

- 6) to support international cooperation in the sphere of government procurement;

- 7) to cooperate with law enforcement bodies as it pertains to detecting violations in the sphere of government procurement and, if explicitly required by the Law, to submit to law enforcement bodies any and all materials related to detected violations;

- 8) to cooperate with the Antimonopoly Committee of Ukraine as it pertains to detecting violations in the sphere of economic competition related to government procurement procedures;

- 9) to approve the application of restricted bidding procedure and the procurement procedure from a sole contractor given the relevant recommendations from the Claims Review and Procurement Monitoring Committee;

- 10) to cooperate with state authorities as it pertains to preventing corrupt practices in the sphere of government procurement;

11) to approve training programs for professionals in the sphere of government procurement;

12) to control compliance with applicable legislation in the sphere of government procurement;

13) to ensure the publication of an official state bulletin on government procurement;

14) to ensure the operation of a web-portal of the Authorized body on government procurement (hereinafter referred to as “web-portal of the Authorized body”);

15) to ensure the publication of an official international bulletin on government procurement;

16) to draw up and approve:

the form of:

- annual procurement plan;

- announcement on carrying out the procurement procedure and its results;

- the report on the results of the procurement procedure;

- the register of the bids received;

- the minutes of the bids disclosure;

- the minutes of the bids evaluation;

the procedure for:

- defining the object of the procurement;

- carrying out control over compliance with the Law in the sphere of government procurement;

- approving of application of the bidding procedure with restricted participation and a sole-proprietor procurement procedure;

17) to approve the methods elaborated by the Claims Review and Procurement Monitoring Committee:

to define the amount of damages in the event of failure to meet the requirements of the Law during the procurement process;

to calculate the price of the procurement object with consideration of technical and quality specifications of works, goods and services.

3. The Authorized Body shall be entitled:

1) to require from the procuring entities to submit a report on the results of a government procurement procedure, as set forth by this Law;

2) to monitor bidders/procuring entities' compliance with legislative provisions in the sphere of government procurement;

3) to file administrative claims in case the legislation in the sphere of government procurement is violated;

4) to set up timeframes for submitting by the Claims Review and Procurement Monitoring Committee the recommendations on approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure;

5) to make decisions on the approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure without consideration of the recommendations of the Claims Review and Procurement Monitoring Committee in the event of delay in submitting these recommendations and given the motivated reasons to reject the corresponding recommendations;

6) to set up timeframes for submitting by the procuring entities the information on the planned procurement and the procurement contracts concluded;

7) to set up qualification requirements to trainers involved in training or further training professionals with regard to organization and execution of the government procurement.

Article 9. Claims Review and Procurement Monitoring Committee

1. The Authorized body shall set up the Claims Review and Procurement Monitoring Committee (hereinafter referred to as “the Committee”).

The Committee shall:

review claims submitted by bidders in the procedure envisaged by this Law;

submit to the Authorized body the recommendations on approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure;

elaborate and submit to the Authorized body to approve the methods to:

define the amount of damages in the event of violation of the legislation in the sphere of government procurement;

calculate the price of the procurement object with consideration of technical and quality specifications of works, goods and services.

2. The Committee is made up by single representatives of the Ministry of Economy of Ukraine, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Main Control and Revision Office of Ukraine, State Treasury of Ukraine, Antimonopoly Committee of Ukraine, State Inspection for Prices Control of Ukraine, Chamber of Auditors, Economic Policy Committee of the Verkhonva Rada of Ukraine, the Budget Committee of Verkhovna Rada of Ukraine, the Committee on Combating Organized Crime and Corruption at the Verkhovna Rada of Ukraine.

State officials only can be the members of the Committee.

The list of the members of the Committee shall be approved by the Authorized body and disclosed at the web-portal of this body.

The Head of the Committee shall be appointed Deputy Minister of Economy of Ukraine.

3. The rules and procedures of the Committee shall be defined by the Committee and disclosed at the web-portal of the Authorized body.

The Committee sitting shall be deemed eligible if it is attended by not less than two third of the members of the Committee. The decision of the Committee shall be deemed made if it was voted for by the two third of the members of the Committee being present at the sitting. Each member of the Committee shall have one vote. In the event of equal distribution of votes the vote of the Head of the Committee shall be deemed casting, and in the event the Head is not present at the sitting – the vote of the Chairman of the sitting. The decision of the Committee shall be filed as the Minutes signed by the Head of the Committee.

The Authorized Body shall be responsible for organizational and logistic Support of the Committee activities.

Article 10. Participation of the general public in the formation and implementation of the state policy in the sphere of government procurement.

1. Both procuring entities and bidders of procurement procedures and the Authorized Body shall foster the involvement of the general public in carrying out control in the sphere of government procurement in accordance with the Laws of Ukraine “On Unions of Citizens”, “On Appeals of Citizens” and “On Information”.

2. The Authorized Body, managers of state funds shall ensure a proper feedback to appeals of citizens and public organizations and their unions.

3. Citizens and public organizations and their unions shall not interfere in the work of the Authorized Body and the procedure of the procuring entity's defining a winner of the tender.
4. Representatives of mass media can be present at bids disclosure procedures.

Chapter III

GENERAL PROCUREMENT CONDITIONS

Article 11. Publication of procurement information

1. The procuring entity publishes procurement information, in particular:

annual procurement plan;

planned procurement announcement (request for price proposals, invitation);

announcement about holding a preliminary qualification;

minutes of opening bid (price) proposals;

minutes of bid proposals evaluation;

announcement about bid proposal acceptance;

announcement about procurement procedure results;

information pertaining to the review of complaint submitted according to this Law (on receipt of complaint, decision concerning complaint review);

bidding documentation, amendments to it and explanations, except for cases when information in bidding documentation cannot be disclosed under the law;

report on procurement procedure results;

announcement about procurement procedure cancellation (in case the procedure had been announced).

2. Announcement about planned procurement (demand for price proposals, invitation) and procurement procedure results shall be published in official government procurement newsletter free of charge.

The information listed in part 1 of this article shall be published on web portal of Authorized institution free of charge.

The information listed in part 1 of this article shall be published on web portal of Authorized institution on the day of its publication in state official government procurement newsletter.

In case the information posted on web portal of Authorized institution contains data different from those published in official government procurement newsletter, the information published in official government procurement newsletter is considered to be authentic.

The information noted in part 1 of this article can be additionally published upon decision of the procuring entity in other media, on websites of procuring entities, respective authorities, and local self-governing bodies.

The procuring entity can also publish other information on procurement except for information qualified as state secret.

3. The procurement procedure cannot be held before publication of announcement (demand for price proposals, invitations) about it pursuant to paragraph two of part 2 of this article except for cases when the procuring entity conducts procedures of restricted bidding and procurement from single entity in accordance with this Law.

4. The announcements about planned procurement or holding preliminary qualification of participants are additionally posted in respective international publications and on the web portal of Authorized institutions in one of the foreign languages used in international trade in case the expected value of procurement object exceeds the sum equivalent to:

200 thousand euro, for goods;

300 thousand euro, for services;

500 thousand euro, for works.

The euro exchange rate is determined according to the official exchange rate of the National Bank of Ukraine established for the day of sending planned procurement or preliminary qualification announcement for publication.

5. The publication of information envisaged by part 1 of this article in the Internet is not considered electronic procurement.

6. The access of users to the information published on web portal of the Authorized institution is free of charge.

7. The violation of publication procedure envisaged by this article serves as a ground for recognizing the procurement procedure null and void by the Commission or court.

Article 12. Tender committee

1. The tender committee is established by the procuring entity (general procuring entity) for the organization and holding of procurement procedures.

The tender committee acts on collective nature basis with conflict of interest absent among the tender committee members and their being unbiased.

2. The composition of tender committee and the provision of tender committee are approved by the decision of procuring entity (general procuring entity). The tender committee cannot include officials and bidders' representatives, their family members and also people's deputies of Ukraine and deputies of village, town, city district, district and regional councils.

Tender committee consists of no less than five persons.

3. Experts and consultants involved in the work of tender committee on contract terms under the legislation cannot be members of tender committee and are not responsible for the decisions, actions or inaction of tender committee and officials of procuring entity, bidder or other persons, for performance (non-performance) of procurement contracts and also for consequences caused by such decisions, actions or inaction.

4. The work of tender committee is directed by its head. The head of the tender committee organizes the work of the committee and is personally responsible for the committee fulfilling the delegated functions.

Head, deputy head and secretary of the tender committee shall receive the document on completing a training (enhancing qualification) in the procurement field according to the procedure established by the Authorized institution.

5. The decision of the tender committee is documented in minutes signed by all committee members who took part in voting.

Tender committee members are personally responsible for decisions made by them according to the laws of Ukraine.

6. A typical provision on the tender committee is developed and approved by the Authorized institution.

Article 13. Procurement procedures

1. Procurement can be held with the help of one of the following procedures:

Open bidding;

Open bidding with reduction of price;

Price reduction;

Two-stage bidding;

Request for price proposals;

Restricted bidding;

Procurement from single entity.

2. The procuring entity has the right to carry out procurement according to one the procedures listed in part 1 of this article (except for restricted bidding and procurement from single entity) by conducting electronic procurement using an informational system in the Internet and adhering to requirements established by this Law and other legal acts of Ukraine.

Article 14. Procurement on coordination basis

1. Upon request of the Authorized institution the Cabinet of Ministers of Ukraine approves the list of goods and services the procurement of which is conducted on coordination basis for the funds from State budget of Ukraine and defines general procuring entity.

The Council of Ministers of the Autonomous Republic of the Crimea and executive bodies of local councils approve the list of goods and services the procurement of which is conducted on coordination basis for the funds from budget of the Autonomous Republic of the Crimea and local budgets and define the general procuring entity.

The order of procurement on coordination basis is established by the Cabinet of Ministers of Ukraine upon request of the Authorized institution.

2. The general procuring entity:

conducts the procurement procedure according to the requirements of this Law and determines the successful bidder;

informs all interested procuring entities about procurement procedure results.

3. The procuring entity concludes a procurement agreement with the successful bidder determined by general procuring entity, except for cases when goods or services do not meet the requirements of the procuring entity due to their technical specifications, quality, supply conditions or price. In such case the procuring entity has the right to refuse from accepting the bid proposal and concluding a procurement contract having informed the general procuring entity about it and to conduct a procurement procedure for such goods or services. The general procuring entity is informed by procuring entities about conclusion of procurement contract or refusal to conclude it according to the procedure established by the Authorized institution.

4. Having received notifications from procuring entities about concluding procurement contracts or refusing to conclude them, the general procuring entity submits to Authorized institution and all interested procuring entities a report on the procurement procedure results listing the names of all procuring entities.

Article 15. Submitting information during the procurement procedure

1. Submitting information during the procurement procedure is done in written form.

In case the procuring entity and bidders have submitted the information during procurement procedure in another form than the written one, the content of such information shall be confirmed in written form.

2. Submitting information during electronic procurement is done by the procuring entity and bidders in the electronic form according to legislation requirements.

Article 16. Language used during the procurement procedure

1. Bid (qualification) proposals are submitted in the language (languages) noted by the procuring entity in bidding (qualification) documentation.

2. If the expected value of procurement object exceeds the sum equivalent to: 200 thousand euro, for goods; 300 thousand euro, for services and 500 thousand euro, for works, the documents of procuring entity on procurement procedure envisaged by this Law are put in Ukrainian and other language used in international trade. The texts shall be authentic, the text in Ukrainian being prevalent.

Article 17. Qualification requirements for bidders

1. The procuring entity demands that the bidders submit confirmed information on their meeting the following qualification requirements:

permission or licence for conducting a certain type of economic activity (in cases envisaged by the legislation);

equipment, funds and respectively qualified workforce, which has the necessary knowledge and experience;

payment of taxes and fees (compulsory payments);

conducting economic activity by the bidder according to the provisions of his statute;

the absence of decision on recognizing the bidder as bankrupt according to the established procedure or on his participation in the case on bankruptcy.

2. The qualification requirements established by the procuring entity according to this article and the list of documents confirming the information of bidders on their adherence to such requirements are noted in bidding (qualification) documentation.

3. The documents not envisaged by the legislation for bidders – natural persons, including natural persons – entrepreneurs are not submitted by them as a part of bid proposal.

4. The procuring entity cannot establish discriminatory requirements for the bidders.

Article 18. Bid (qualification) proposals rejection

1. The procuring entity shall reject a bid (qualification) proposal in case:

1) it has irrefutable evidence that the bidder offers, provides or agrees to provide directly or indirectly to any official of the procuring entity or other state institution a remuneration in any form (employment proposal, valuable object, service etc.) with the aim to influence the decision about the successful bidder or the application of certain procurement procedure by the procuring entity;

2) the bidding natural person was convicted of a crime committed during the procurement procedure or other crime committed on lucrative impulse, and the conviction was not lifted or cleared off according to the established procedure;

3) the official of the bidder who has been authorized by the bidder to represent his interests during the procurement procedure was convicted of a crime committed during the procurement procedure or other crime committed on lucrative impulse, and the conviction was not lifted or cleared off according to the established procedure;

4) the bidder is a connected person;

5) the bidder submitted inadequate information on his adherence to the established qualification requirements;

6) the bidder does not meet the established qualification requirements;

7) the bidder submitted the proposal against the requirements of bidding documentation and this Law.

2. The information on rejection of bid (qualification) proposal with the indication of reason is sent within seven calendar days to the bidder whose proposal had been rejected.

Article 19. The report on procurement procedure results

1. The report on procurement procedure results shall include:

name of procurement object;

number of procurement procedure participants and the name and location of bidder with whom the procurement contract had been concluded;

bid proposal and procurement contract price;

date of publication of announcement about planned procurement, request for price proposals and procurement procedure results or the date of sending an invitation for participation in the restricted bidding, procuring from single entity and the date of informing the bidders about procurement procedure results;

information on bidders providing a calculation of price for procurement object according to its method of calculation confirmed by the Authorized institution;

in case procurement contract was not concluded as a result of bidding procedure – the grounds for such decision;

date of bid proposal acceptance and conclusion of procurement contract.

2. The report on procurement procedure results (except for information of state and commercial secret) is published by the procuring entity within 10 days after its approval according to Article 11 of this Law.

3. The term of keeping the report on procurement procedure results and other documents concerning procurement procedures amounts to three years.

Chapter IV

PROCEDURES OF OPEN BIDDING AND OPEN BIDDING WITH REDUCTION OF PRICE

Article 20. Conditions of using procedures of open bidding and open bidding with reduction of price

1. Open bidding and open bidding with reduction of price are the principal procurement procedures.

2. During the open bidding procedure and open bidding with reduction of price all interested persons have the right to submit bid proposals.

Article 21. Informing about the procedures of open bidding and open bidding with reduction of price

1. The announcement about holding open bidding and open bidding with reduction of price shall include:

name and location of procuring entity;

web site where the procuring entity additionally posts procurement information (in case of such procedure planned);

name, number and place of supplying goods, or kind and place of conducting works or providing services;

term of supplying goods, conducting works or providing services;

ways and place of obtaining bidding documentation;

place and term of submitting bid proposals;

place, date and time of opening bid proposals;

address of the chosen informational system in the Internet (in case of electronic procurement);

amount, type and conditions of providing bid security (if the procuring entity so requires).

The announcement may include additional information determined by the procuring entity.

2. The term for submitting bid proposals cannot be less than 20 calendar days from the date of publication of announcement about holding the procedure of open bidding and open bidding with reduction of price.

Article 22. Bidding documentation

1. The procuring entity sends or provides for the person who intends to participate in the procurement procedure free bidding documentation within three working days after receiving a respective request from this person.

Bidding documentation can be taken free of charge by the person who intends to participate in the procurement procedure on the web portal of the Authorized institution.

2. The bidding documentation is developed by the procuring entity shall contain:

1) instruction on preparation of bid proposals;

2) qualification requirements for bidders and the list of documents confirming the information of bidders on their adherence to such requirements;

3) list of criteria put forward by the tender committee to evaluate the adherence of bidders to the established qualification requirements;

4) information on the necessary technical and quality specifications of procurement object, including respective technical specification (if necessary, plans, sketches, drawings or description of procurement object). At that, the technical specification shall contain detailed description of goods, works and services procured, including their technical and quality specifications; requirements concerning technical and functional specifications of procurement object in case the description is impossible to make or when it is more reasonable to indicate such specifications; references to standard specifications, requirements, notation conventions and terminology associated with goods, works or services procured and envisaged by existing international or national standards, norms and rules. Technical specification shall not contain references to specific trademark or company, patent, procurement object construction or type, source of its origin or producer. In case such reference is necessary, the specification shall contain the words "or equivalent";

5) amount of goods and place of their supplying;

6) place where works shall be conducted or services provided;

7) terms of supplying goods, conducting works or providing services;

8) draft contract or principal conditions which shall be included in the procurement contract;

9) description of separate part or parts of the procurement object (lot) pertaining to which bid proposals can be submitted in case the bidders are allowed to submit bid proposals for part of procurement object (lot);

10) list of criteria and method of bid proposals evaluation with the indication of criteria's weight;

11) term of validity for bid proposals;

12) method of evaluation and comparison of alternative bid proposals (if they are allowed by the procuring entity);

13) requirement for the bidder to submit a calculation of procurement object price according to the method of its calculation approved by the Authorized institution.

The bidder has no right to include in the bid proposal price any expenses incurred during participation in the procurement procedure;

14) information on currency used for calculation and indication of bid proposal price;

15) information on language (languages) used to compile bid proposals;

16) indication of means, place and deadline for submitting bid proposals;

17) procedure of providing explanations concerning bidding documentation;

18) term of validity for bid proposals;

19) place, date and time of opening bid proposals;

20) last name, first name and patronymic, post and address of one or several officials of the procuring entity who are authorized to communicate with the bidders.

Bidding documentation may also contain other information which the procuring entity deems necessary.

3. Bidding documentation shall not contain requirements limiting competition and discriminating bidders.

Article 23. Providing explanations concerning bidding documentation and making amendments to it

1. The person who has obtained bidding documentation from the procuring entity has the right to address the procuring entity for explanations concerning bidding documentation no later than seven calendar days before the end of term for submitting bid proposals. The procuring entity shall provide explanations to the query within three calendar days from the day of its receipt to all persons who have obtained bidding documentation.

In case of holding a meeting to explain any queries concerning bidding documentation the procuring entity shall provide the minutes of such meeting, which contains all query explanations and send it to all persons who have received bidding documentation regardless of their presence at the meeting.

The explanations mentioned in this part are published by the procuring entity according to Article 11 of this Law.

2. The procuring entity has the right no later than seven calendar days before the end of term for submitting bid proposals on one's own initiative or according to the results of queries make amendments to bidding documentation having extended the term of submitting and opening bid proposals by no less than three calendar days and immediately send a written notification about the abovementioned changes to all persons who received bidding documentation.

In case of late provision of explanations concerning the content of bidding documentation or late amendments to it by the procuring entity it shall extend the term for submitting and opening bid proposals by no less than three calendar days and inform about it all persons who received bidding documentation.

The information listed in this part is published by the procuring entity according to Article 11 of this Law.

Article 24. Provision of bid security

1. The procuring entity has the right to include in the announcement about procurement procedure and in bidding documentation the requirements for providing bid security.

In case the procuring entity requires provision of bid security the bidding documentation shall contain conditions of its provision, in particular type, amount, term of validity and also cases when bid security is not returned to the bidder. In such case the bidder submits bid security together with the bid proposal.

The amount of bid security in monetary value cannot exceed 1 per cent of the expected procurement value in case of holding bidding for procuring works and 5 per cent in case of holding bidding for procuring goods or services on the conditions defined by bidding documentation.

2. In case bid proposals are submitted concerning a part of procurement object (lot) the amount of bid security is determined by the procuring entity on the basis of expected value of procurement object pertaining to each of its parts (lots).

3. In case bid security is provided for the bidder by any other enterprise, institution or organization the bidder shall agree this decision with the procuring entity before submitting a bid proposal.

4. Bid security is not returned by the procuring entity in case of:

Withdrawal or change of bid proposal by the bidder after the expiration of term for submitting a bid;

Non-signing of procurement contract by the successful bidder;

Non-provision of contract performance security by the successful bidder after the acceptance of his bid proposal, if bidding documentation envisages providing such security.

5. The procuring entity shall return bid security to the bidder within 10 calendar days from the day of emerging grounds for the return of bid security in case of:

expiration of bid security term noted in bidding documentation;

conclusion of procurement contract with the successful bidder;

withdrawal of bid proposal before the end of term for submitting bids;

end of procurement procedure in case of non-conclusion of procurement contract with any of the bidders who submitted their bid proposals.

6. The funds which came as bid security (in case they are not returned to the bidder) are subject to transfer to respective budget, and in case of procurement for the funds of an enterprise are transferred to the enterprise's account.

Article 25. Procedure of submitting bid proposals

1. The bid proposal is submitted in written form with the signature of bidder's authorized person in a sealed envelope or in another form mentioned in bidding documentation. Upon request of the bidder, the procuring entity confirms the receipt of bid proposal indicating date and time.

Every participant has the right to submit only one bid proposal (including a proposal for a part of procurement object (lot) listed in bidding documentation) and can also submit an alternative bid proposal if it is envisaged by bidding documentation. The received bid proposal is entered by the procuring entity into the register the form of which is defined by the Authorized institution.

2. The bidding documentation is accompanied by the document confirming the provision of bid security by the bidder if such provision is envisaged by bidding documentation and by the calculation of procurement object price according to the method approved by the Authorized institution.

3. Bid proposals received by the procuring entity after the expiration of term for their submitting are not opened and returned to the bidders who have submitted them.

4. Bid proposals are valid during the term noted in bidding documentation. Before the end of this term the procuring entity has the right to require that the bidders extend the terms of their bid proposals. The bidder has the right:

to decline such request not losing the bid security provided;

to agree to the demand and to extend the term of bid proposal and bid security submitted.

5. The bidder has the right to modify or withdraw the bid proposal before the end of term for its submitting not losing the bid security as a result. Such modifications or the bid withdrawal application are taken into account in case they are received by the procuring entity before the end of term for submitting bid proposals.

6. The procuring entity has the right before the end of established term for submitting bid proposals to make a decision on its extension in case one or more persons who have received bidding documentation from the procuring entity cannot submit their bid proposals before the specified deadline due to objective reasons and have informed the procuring entity about it in written form. The notification about term extension or about possible changes in place and procedure of opening bid proposals is immediately sent to each person who received the bidding documentation and is published according to Article 11 of this Law.

Article 26. Procurement contract performance security

1. Procuring entity has the right to require the successful bidder to provide not later than the date of concluding the procurement contract a security of such contract performance according to the conditions defined in the bidding documentation. The procuring entity returns contract performance security according to conditions listed in the contract.

2. The amount of contract performance security cannot exceed 15 per cent of contract price in case of procuring goods and services and 5 per cent in case of procuring works.

3. The funds which arrived as contract performance security (in case they are not returned) are subject to transfer to respective budget and in case of procurement conducted by enterprise, to the enterprise's account.

Article 27. Opening of bid proposals

1. Opening of bid proposals is conducted on the day of expiration of term for their submitting at the time and place listed in bidding documentation.

2. Participation in the procedure of opening bid proposals is allowed by the procuring entity for all bidders or their authorized representatives and also representatives of state power institutions (including deputies of all levels). The absence of bidder or his authorized representative at the procedure of opening bid proposals is not a reason for refusal to open or to reject his bid proposal.

3. During the opening of bid proposals the presence of all necessary documents envisaged by bidding documentation and their correctness is checked and announced; name and location of each bidder and price of each bid proposal are also announced.

4. In case of procuring entity conducting a procedure of open bidding with reduction of price or the second stage of two-stage bidding the procuring entity after opening bid proposals offers the present bidders' representatives to reduce the proposed bid proposal price by a step defined by the scale. If after a three-time announcement of a price a lower price is not offered, the procuring entity gives an opportunity to present bidders' representatives to voluntarily reduce the proposal price until each of the bidders announces that he has offered a final price, which shall be noted in the minutes of bid proposals opening.

5. During the opening of bid proposals minutes is drawn according to the form established by the Authorized institution.

A copy of minutes of bid proposals opening is provided to any bidder upon his request within three calendar days after receipt of such request.

Article 28 Review and evaluation of bids

1. The procuring entity is entitled to appeal to the bidders for explanation of the essence of their bids in order to simplify the procedure of review and evaluation of bids.

2. The procuring entity and the bidders shall not initiate any negotiations regarding amending the submitted bid, including changing its price and adjusting, except for correcting any arithmetic errors in accordance with the requirements of the chapter three of this Article.

3. The procuring entity is entitled to correct arithmetic errors found in the submitted bid during its evaluation according to the procedure envisaged by the bidding documents provided that the bidder who submitted the bid gave their written consent thereto.

4. The procuring entity shall evaluate the bids that have not been rejected according to the Law.

5. The procuring entity defines the winner of the bidding procedure from among the bidders whose bids were not rejected under this Law on the basis of the criteria and evaluation methods indicated in the bidding documents.

The evaluation criteria shall be as follows:

In the event of procurement of goods, works and services with a constantly existing market, which are produced, executed or provided beyond purposefully elaborated specifications (technical project) – price;

In the event of procurement of a complicated or specialized nature (including consulting services, scientific research, experiments or developments, research and engineering works) - price together with other evaluation criteria, in particular such as:

After-sales service;

Operational costs;

Transfer of technology and education of administrative, scientific and production staff including exploitation of local resources, including the means of production, labor force and the materials needed for production of goods, execution of work, and provision of services offered by the bidder.

6. In the event that in order to define the best bid, criteria other than price are applied, the value equivalent or specific weight of these criteria in the general evaluation of the bids shall be indicated in the bidding documents. Specific weight of the price criterion shall not be lower than 70 percent.

7. The procuring entity is entitled to request from any of the bidders the submission of the documents on the reaffirmation of its compliance with qualification requirements or apply for confirmation of this information to public authorities, agencies, organizations in accordance with their competence field. In the event of refusal of the bidder to submit the documents on such a confirmation or credible information with regard to its noncompliance with the qualification requirements or the fact of indicating in the bid inadequate information, the customer shall reject the bid of this bidder and defines a winner of the tender from among the bidders left with the duration of their bids valid.

8. To consider the bids relevant expert organizations or particular experts can be attracted on a contractual basis.

9. Upon the results of consideration and evaluation of the bids one winner of the procurement procedure shall be defined.

In the event of procurement procedure with the subject of procurement broken into parts (lots), the winner shall be determined for every separate lot.

10. Relevant minutes shall be drawn up on the basis of the results of consideration and evaluation of the bids in accordance with the form envisaged by the Authorized body.

11. The general duration of consideration, evaluation and determination of the procurement procedure winner shall not exceed 20 calendar days following the date of disclosure of the bids.

Article 29 Rejection of bids

1. The procuring entity rejects a bid in the event that:

1) the bidder:

does not meet the qualification requirements envisaged by the bidding documents;

does not agree with the correction of the arithmetic error detected by the procuring entity;

failed to provide a bid security if such a security was requested by the procuring entity;

2) circumstances mentioned in Article 18 and part seven of Article 28 hereof have arisen;

3) the bidding documents do not comply with requirements to bidding documents.

2. The procuring entity has the right to reject all the bids before the acceptance of the bid, provided that it is envisaged by the bidding documentation.

3. Information about bid rejection and relevant grounds for such rejection shall be forwarded to the bidder who submitted the bid within seven calendar days following the date when the procuring entity made a relevant decision.

Article 30 Cancellation of the bidding procedure by the procuring entity or acknowledgement of the bidding procedure as such that has never taken place

1. The procuring entity shall cancel the bidding procedure in the event of:

submission of less than two bids for participation in the bidding procedure;

rejection of all the bids according to the Law.

The bidding procedure may be cancelled in part (with regard to a lot).

2. The procuring entity has the right to acknowledge the bidding procedure as such that has never taken place if:

the price of the most advantageous bid exceeds the one envisaged by the procuring entity to fund the procurement;

the procurement no longer meets government needs as a result of occurrence of unpredictable objective circumstances (acts of God).

3. Notification of the cancellation of the bidding procedure as well as acknowledgement of the bidding procedure as such that has never taken place shall be forwarded by the procuring entity to all the bidders within three calendar days after making the corresponding decision.

Article 31 Acceptance of the bid and signing procurement agreement

1. The procuring entity shall accept the bid that has been defined the best one based upon the results of the evaluation.

2. Within three calendar days following the date of the acceptance the procuring entity shall send a notification of the acceptance of the bid that has not expired to the winner, and all the bidders shall receive a written notification of the results of the bidding procedure specifying the name and location of the winning bidder whose bid has been recognized the best one as per evaluation results.

The procuring entity shall sign a procurement agreement with the bidder whose bid has been accepted in accordance with the requirements to the bidding documentation and accepted bid within the period not earlier than five calendar days following the date of sending a written notification to all the bidders about their results, but not later than within 30 calendar days of the date of acceptance.

3. In the event of the bidding winner's refusal to sign a procurement agreement in accordance with the requirements of the bidding documentation the procuring entity shall re-determine the best bid from the bids that have not yet expired.

Article 32 Informing the bidders of the results of the bidding procedure

1. Announcement of the results of the bidding procedure shall be published in accordance with Article 11 of this Law within seven calendar days after signing a procurement agreement or after making a decision on cancellation of the bidding procedure or acknowledgement of the bidding procedure as such that has never taken place.

2. The announcement of the results of the bidding procedure shall include the following information:

name and location of the procuring entity;

web-site where additional information of the procuring entity about the procurement procedure was placed;

kind, number and place of delivery of goods or kind and place of carrying out work or providing services;

date of the procurement announcement publication (announcement of the previous qualification);

date of acceptance of the bid recognized as the best one;

date of signing a procurement agreement:

the date of making a decision about canceling the bidding procedure or acknowledging the bidding such that has never taken place (if such a decision was made by the procuring entity), and their reason;

price under the procurement agreement;

full name of the winner of the bidding procedure.

Chapter V

PRICE REDUCTION PROCUREMENT PROCEDURE

Article 33. Terms of application of the price reduction procurement procedure

1. The price reduction procurement procedure shall be applied in the event of procurement of good or services with a constantly operating market, which are produced or provided beyond purposefully elaborated specifications.

Article 34. Carrying out the price reduction procurement procedure

1. The price reduction procurement procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features as determined by the Chapter.

2. The price reduction procurement procedure shall consist of two stages:

At the first stage all the bidders are offered to submit preliminary bids without specifying the price. The bidding documents must only provide for offers about technical, qualitative, and other characteristics of the procurement object, terms of delivery, and qualification requirements. The period for submission of bids is not less than 15 calendar days from the date of publication of the announcement about the price reduction procurement procedure;

At the second stage the procuring entity suggests that bidders whose preliminary bids have not been rejected during the first stage submit final bids and specify the price. The period for submission of bids during the second stage is not less than seven calendar days from the date of notifying bidders about results of the first stage.

3. During disclosure of bids at the second stage the bidder shall announce the name and address of all the bidders and the price of all bids. Then the bidder suggests that the present representatives of bidders reduce the price of their bid by one step of the price reduction procedure mentioned in the bidding documents. The initial price for the price reduction procurement procedure shall be deemed the minimum price of the bid. Their consent to reduce the price of the bid the present representatives of bidders confirm by raising a card with the mentioned name of the bidder on it. If after the initial and following prices have been announced three times, no bidder suggests a new price, the price reduction procurement procedure terminates and the last bidder who was called and suggested the lowest price is announced the winner.

Chapter VI TWO-STAGE BIDDING PROCEDURE

Article 35 Terms of application and execution of a two-stage bidding procedure

1. A two-stage bidding procedure can be applied under the following conditions:

the procuring entity can not draw up a specific list of goods (work) or indicate the kind of the services as well as in the event that to make the best decision on the procurement it is necessary to hold preliminary negotiations with the bidders;

the subject of the procurement is carrying out scientific research, experiments or development, research and engineering work, provision of consulting and other specific services.

Article 36. Two-stage bidding procedure

1. Two-stage bidding shall be carried out according to the procedure envisaged for the open bidding procedure with due account taken of the peculiarities envisaged by this Chapter.

2. Two-stage bidding shall be carried out in two stages:

at the first stage all the bidders are offered to submit preliminary bids without price specification. In this case tender documentation can include only the bids with regard to technical, quality and other characteristics of the subject of procurement, the terms of supplies, confirmation of professional and technical competence of the participants and their compliance with qualification requirements. The bidders shall submit their preliminary bids within a period not less than 21 calendar days of from the date of publication of the announcement of the two-stage bidding.

The customer is entitled to hold negotiations with any of the participants during the consideration of preliminary tender offers. After the receipt of the preliminary offers the customer is entitled to amend tender documentation on the subject of technical requirements and the requirements to the quality of the procurement subject or offer new characteristics and criteria of evaluation of the

offers under this Law. The customer shall inform all the participants about the change of conditions of the tender documentation during his provision of invitations to the second stage of the bidding process;

at the second stage the customer offers the participants, whose preliminary tender offers have not been rejected at the first stage, to submit their final tender offers with price specification. The tender offers shall be submitted within a period not less than 11 calendar days from the date of the notification of the bidder of the results of the first stage.

3. The bidders whose preliminary bids have not been rejected at the first stage shall submit a bid security upon request of the procuring entity for participation in the second stage.

Chapter VII

PROCEDURE FOR REQUEST OF PRICE OFFERS (QUOTATIONS)

Article 37. Terms of application and execution of the procedure for request of price offers

1. The customer can carry out procurement by way of application of such procedure for request of price offers with regard to products and services, which enjoy secular market, provided that their value does not exceed UAH 200 thousand.

Article 38. Procedure for carrying out requests of price offers

1. To receive price offers the procuring entity shall send a request to not less than three bidders and publish the request (at the date of sending thereof) according to Article 11 hereof.

2. The request shall include:

the name and location of the customer;

the description of the subject of the procurement or its parts (if the customer envisages submission of the price offers with regard to particular parts) including their necessary technical and other characteristics;

the website where additional information of the procuring entity about the procurement has been placed (if appropriate);

period of delivery of goods and provision of services;

place and period of submission of price offers;

place and date of disclosure of price offers;

principal conditions of the procurement agreement.

The request must contain information whether the price includes costs pertaining to transportation, insurance, payment of taxes and duties (mandatory payments).

3. Each bidder has a right for submission of only one price proposition (quotation), which shall not be subject to further changes. The offer shall be submitted in a sealed enveloped or other form envisaged by the customer, within the period envisaged by the latter.

The price offer shall be accompanied by the calculation of the price for the object of procurement according to the methodology for calculation thereof as approved by the Authorized body.

4. Price offers shall be disclosed at the time established by the procuring entity. All the bidders who have submitted their offers shall be invited to participate in the procedure of disclosing price offers.

During the disclosure of price offers relevant minutes shall be drawn up in the form established by the Authorized body.

A copy of the minutes of the disclosure of price offers shall be provided to any of the participants upon their request within one calendar day from the day of receipt of such a request.

5. The procuring entity accepts the price offer and signs a procurement agreement with the bidder who has submitted the offer, which meets the requirements of the procuring entity and has the lowest price within the period not less than 3 calendar days from the date of sending a written notification of the results of the procedure to all the participants, but not later than 14 calendar days from the date of identification of the winner.

6. The procuring entity rejects price offers in the event that they do not meet requirements of the procuring entity specified in the request, on the grounds mentioned in Article 18 of the Law.

7. The procuring entity acknowledges the procedure for request of price offers as such that has never taken place in the event of:

receipt of less than three offers;

rejection of all the offers;

excess of the lowest price offer of the amount envisaged by the customer to fund the procurement.

8. Information about the results of the request for price offers shall be published according to the procedure envisaged for the open bidding.

Chapter VIII

RESTRICTED BIDDING PROCEDURE

Article 39. The terms of application and execution of the restricted bidding procedure

1. The restricted bidding procedure shall be applied in the event that the goods, work or services are of complicated or specialized nature and can be offered by a limited number of participants.

Article 40. Carrying out the restricted bidding procedure

1. The restricted bidding procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features determined in the Chapter.

2. Before applying the restricted bidding procedure the procuring entity may conduct preliminary qualification. Information about the preliminary qualification of bidders must be published by the procuring entity according to Article 11 hereof.

3. The announcement about preliminary qualification of bidders must include the following information:

name and location of the customer;

website where additional information of the procuring entity about the procurement has been placed (if applicable);

name, quantity of goods and place of delivery, type of works and place of their execution or the type of services and the place of their provision;

period of delivery of goods, execution of works, and provision of services;

methods and place of receipt of qualification documents;

place and submission period for qualification offers;

place and date of disclosure of qualification offers.

4. Qualification documentation shall include:

- 1) guidelines re: preparation and submission of qualification offers;
- 2) qualification requirements to the bidder and a list of documents confirming information of bidders about their compliance with such requirements;
- 3) criteria and procedure for evaluation of compliance with qualification requirements;
- 4) information about required technical and qualitative characteristics of the procurement object, including relevant technical specification (plans, charts, drawings or descriptions of the procurement object if required). Technical specification, plans, charts, drawings or descriptions of the procurement object required by the procuring entity shall not contain references to a specific trade mark or firm, patent, construction or type of the object of procurement, source of its origin or producer;
- 5) quantity and place of delivery of goods;
- 6) place of executing works or rendering services;
- 7) period of delivery of goods, execution of works, and provision of services;
- 8) information about the language (languages) in which qualification offers must be made in;
- 9) method, place and deadline for submission of qualification offers;
- 10) procedure for providing clarifications with regard to qualification documents;
- 11) place, date and time of disclosure of qualification offers;
- 12) fist, middle and last name, position and address of one or several officials or other employees of the procuring entity authorized to communicate with bidders.

Qualification documents may also contain other information that the procuring entity deems appropriate for inclusion.

5. The period for submitting qualification offers may not be less than 15 calendar days following publication of the announcement about preliminary qualification.

The customer selects bidders for further participation in the restricted participation procurement solely based on their compliance with the requirements stipulated in the qualification documentation within 14 calendar days from the date of disclosure of qualification offers.

6. Qualification offers of the bidders shall be disclosed on the day of expiry of the period for submission thereof at the time and at the place mentioned in the announcement about preliminary qualification. The procuring entity shall allow any bidders who have submitted qualification offers or their authorized representatives to participate in the disclosure of qualification offers. During disclosure of qualification offers the procuring entity shall check and announce the presence of all required documents envisaged by qualification documentation with regard to their preparation and correct execution, as well as announce the name and address of each bidder. During the disclosure of qualification offers relevant minutes shall be taken in the form determined by the Authorized body whose copy shall be forwarded to any and all bidders upon their request within three calendar days following receipt of a relevant request from the bidder.

7. In the event of carrying out preliminary qualification the procuring entity shall inform each bidder about the results of the preliminary qualification within five calendar days after its completion.

Only those bidders who have been selected upon the results of the preliminary qualification of the participants shall be invited for further participation in the bidding procedure. The period for submission of bids after preliminary qualification of bidders shall be not less than 10 calendar days from the date of forwarding a notification of its results

Article 41. Peculiarities of application of the restricted bidding procedure

1. For participation in the restricted bidding procedure (specifically as per results of conducted preliminary qualification) the procuring entity shall invite the number of persons that will secure the selection of the most commercially reasonable offer and competition, however not less than two. The

invitation containing the information envisaged by Article 21 of the Law shall be forwarded to the persons indicted in this part in writing.

2. The invitation to participate in the restricted bidding procedure shall be published on the official website of the Authorized body within three calendar days after it has been sent. Publication of the invitation shall not be deemed invitation to participate in the restricted bidding procedure for an undefined pool of persons.

3. In the event of restricted bidding procedure only the persons invited by the procuring entity for participation in the procurement procedure according to the procedure envisaged by part one of this Article shall have the right to submit bids. The period for submission of bids may not be less than 15 calendar days following the date mentioned in the invitation (in the event of applying restricted bidding procedure following preliminary qualification of bidders -10 calendar days).

4. The restricted bidding procedure for procurement of goods, works and services shall be applied by the procuring entity after its application has been approved by the Authorized body (except in the event of preliminary qualification of bidders).

Chapter IX

SINGLE SOURCE PROCUREMENT PROCEDURES

Article 42. Terms of application of the single source procurement procedure

1. Single source procurement is a procedure according to which the procuring entity enters into a procurement agreement with the bidder after relevant negotiations with the latter.

2. Single source procurement shall be applied by the procuring entity after it has been approved by the Authorized body in the event of:

1) procurement of works of art or procurement related to protection of rights of intellectual property and execution of a procurement agreement with the winner of architecture or art contest;

2) lack of competition (as well as due to technical reasons) for the goods, work or services that can be delivered, carried out or provided by a particular bidder only, and there is no option in this case.

3) need for carrying out additional construction works not included into the original project, the value of which does not exceed 50 percent of the primary agreement, but which due to acts of God became necessary for execution of the project, provided that the agreement will be signed with the performer of these works and these works are technically or economically linked to the primary agreement;

4) needs for additional deliveries by the primary bidder (not over 50 percent of the value specified in the primary agreement), intended for partial replacement or increase of deliveries, when any changes made by the bidder may lead to procurement of goods or services which do not meet the requirements of interchange.

5) occurrence of an urgent need for procurement due to specific economic or social, legal, other circumstances, which the procuring entity could not foresee;

6) procurement of services in the official delegation halls for government, parliamentary, diplomatic delegations and officials of state bodies.

3. The bidder must submit price calculation for the object of procurement according to the methodology and calculation approved by the Authorized body.

Chapter X

PROCUREMENT AGREEMENT

Article 43. Basic requirements to the procurement agreement

1. The procurement agreement shall be concluded in writing according to the provisions of the Civil Code of Ukraine and the Commercial Code of Ukraine.

A sample procurement agreement shall be approved by the Authorized body.

2. The procurement agreement may be prolonged for the period sufficient for conducting procurement at the beginning of the following year for the amount not exceeding 15 per cent of the value determined in the agreement concluded in the preceding year if funds have been approved for the purpose according to the established procedure.

3. The procuring entity has the right to envisage prepayment in the procurement agreement according to the requirements of budget legislation at the expense of the funds of the State Budget of Ukraine, the budget of the Autonomous Republic of the Crimea and local budgets. In the event of procurement at the expense of other government funds the procuring entity may introduce terms and conditions to the procurement agreement pertaining to prepayment according to the Civil Code of Ukraine and the Commercial Code of Ukraine.

Article 44. Essential terms of the procurement agreement

1. Essential terms of the procurement agreement are as follows:

the object of procurement (name (nomenclature, range); quantity of goods, works, and services, as well as quality requirements);

payment procedure;

contractual price;

period of validity of the agreement;

rights and obligations of the parties;

specification of the condition concerning the possibility to reduce procurement volumes conditional upon actual funding of the expenses;

responsibility of the parties;

other terms and conditions which the parties must agree upon request of one of the parties.

If the parties fail to reach agreement about all essential terms and conditions, the procurement agreement shall be deemed as such that has not been concluded. If one of the parties has taken actions to implement the agreement, legal consequences of such actions shall be determined according to the Civil Code of Ukraine.

Article 45. Payment under the procurement agreement

1. During the settlement of payment under procurement agreements, the State Treasury of Ukraine (servicing bank) inspects the availability of:

A report about results of the procurement procedure;

A copy of the announcement about the planned procurement procedure (request for price offers) and of the announcement about results of the procurement procedure;

The decision about approving application of the restricted participation procedure and single source procurement procedure according to this Law.

2. The State Treasury of Ukraine (servicing bank) does not have the right to effect payments from the account of the procuring entity according to the undertaken financial obligation under the procurement agreement if the procurement procedure has been recognized according to the established

procedure as such that has been conducted in violation of requirements of the Law. Information about such events the State Treasury of Ukraine (servicing bank) shall forward within two business days to the Authorized body, the Commission and law enforcing bodies.

Article 46. Termination of the procurement agreement and invalidation thereof

1. In the event that the bidder-winner of the procurement procedure refuses to perform the procurement agreement, the procuring entity has the right to unilaterally terminate the agreement and carry out another procurement procedure.

In this event the period of validity of the agreement shall be terminated.

2. The procurement agreement shall be null and void if it has been concluded during the period of termination of the procurement procedure in relation to a claim submitted.

Article 47. Procedure for provision of information about signed procurement agreements

1. Information about signed procurement agreements shall be submitted upon the request of the Authorized body or the general procuring entity (in the event that the procurement was carried out on the coordination basis) by submission of a copy of the concluded procurement agreement certified by the procuring entity.

2. A copy of the concluded procurement agreement shall be submitted within the period stipulated by the Authorized body or the general procuring entity.

Chapter XI CONTESTATION OF THE PROCUREMENT PROCEDURE

Article 48. The right for contestation of the procuring entity's actions

1. Any bidder of the procurement procedure, is entitled to dispute the procuring entity's actions in accordance with the chapter of the Law by appealing to the procuring entity, Authorized body and/or court.

2. The object of the dispute can not be:

the choice of the procurement procedure;

the decision of the procuring entity on rejection of all bids according to the second part of the Article 30 of this Law as well as on cancellation of the bidding procedure or the acknowledgement of the bidding procedure null and void.

Article 49. Procedure for submission and consideration of complaints

1. Before signing a procurement agreement the bidder shall submit a complaint on the subject of the procuring entity's violation of the procurement procedure or decisions made, actions or lack of actions to the procuring entity or the Commission. If the claim has been submitted the Commission shall inform the procuring entity thereof within three business days upon receipt of such claim.

2. According to the first part of this Article the procuring entity or the Commission brings the procurement procedure to a halt for the period, which can not exceed 15 business days from the date of its receipt by the procuring entity of the Commission and the State Treasury of Ukraine (servicing bank) will be informed thereof within one business day. After expiry of the mentioned period the procuring entity has the right to prolong the relevant procurement procedure unless the Commission has made a decision within the established period about invalidation of the results of the procurement procedure.

3. The procuring entity or the Commission shall inform the bidder who submitted the claim, the bidder – winner of the procurement procedure, and the procuring entity of the content of the claim, time and place of review of the claim not later than three business days after receipt of the claim. During review of the claim the said persons have the right to participate in the review process.

4. Within 15 business days following receipt of the claim the procuring entity or the Commission shall make a well-grounded decision specifying the following:

in the event that the complaint was not settled, – the reasons for making such a decision;

in the event that the complaint was settled fully or partially, - measures that will be taken to settle the conflict, obligations of the procuring entity to eliminate violations of the procurement procedure.

In the event that the complaint is considered by the procuring entity, the decision about review of the complain shall be sent to Commission within a three business day period from the date it was made.

5. In the event that submission of the claim by the bidder leads to detection of any violations of the established procedure for government procurement that affect objectiveness of determining the winner of the procurement procedure or lead to discrimination of bidders, the Commission has the right to invalidate results of such procurement procedure and to oblige the procuring entity to start a new procurement procedure.

The Decision of the Commission about invalidation of the results of the procurement procedure is binding for both the procuring entity and the bidders.

6. The Commission or the procuring entity shall send a copy of the decision following review of the complaint to the bidder, who has submitted the complaint, the procuring entity and the State Treasury of Ukraine (servicing bank) within five business days from the date it was made.

7. After receipt of the decision based upon review of the claim the State Treasury of Ukraine (servicing bank) shall effect the following expenditures:

If results of the procurement procedure has been invalidated and the procuring entity has been obliged to conduct new procurement procedure – settlement of relevant payments from the account of the procuring entity according to the undertaken financial obligations shall continue after submission by the procuring entity of documents confirming results of a new conducted procurement procedure;

If the decision of the Commission does not envisage invalidation of the results of the procurement procedure and does not oblige the procuring entity to conduct a new procurement procedure, - settlement of relevant payments from the account of the procuring entity according to the undertaken financial obligations shall continue according to the documents confirming results of the conducted procurement procedure.

8. The limitation period with regard to the dispute of the decision of the procuring entity or the Commission made upon the result of the complaint consideration, shall constitute 30 calendar days from the date such a decision was made.

9. The bidder has the right to appeal against the decision, actions or inactivity of the procuring entity in court according to the established procedure.

The claimant must forward a notarized copy of the claim along with documentary evidence of submission of said claim to court to the State Treasury of Ukraine (servicing bank) and the procuring entity within three business days after submission of such claim to court.

The procuring entity terminates the procurement procedure on the date of receipt of a copy of the claim.

Starting from the sate of receipt of the claim the State Treasury of Ukraine (servicing bank) is obliged to stop settlement of payments from the account of the procuring entity according to the undertaken financial obligations.

The procuring entity has the right to continue the procurement procedure and the State Treasury of Ukraine (servicing bank) shall effect expenditures:

In the event that the claimant has failed to submit a notarized copy of the court ruling re: instituting legal proceedings in the matter within 20 calendar days upon forwarding of a copy of the claim;

In the event of termination of legal proceedings in the matter;

In the event that the court decision comes into effect.

Article 50. Responsibility of the parties for violation of the requirements of this Law

1. For the violation of the requirements stipulate by this Law and regulatory norms elaborated according to the provisions hereof, the officials of the procuring entities, bidders, members of the bidding committee face criminal, administrative and civil charges under the Law.

Chapter XII

FINAL PROVISIONS

1. This Law comes in force within a month of the date of its publication.

2. The procurement procedures, started before this Law has come into force, shall be carried out according to the procedure stipulated before this Law has come into force.

3. Within a two-month period of the date this Law comes into force the Cabinet of Ministers of Ukraine shall:

Harmonize its normative and legal acts with requirement of this Law;

Ensure harmonization of relevant normative and legal acts by ministries and other central executive authorities with the Law;

Ensure adoption of regulatory norms necessary for implementation of provisions hereof.

4. Before other normative and legal acts have been harmonized with requirements of the Law, they remain in force, partially or entirely, to the extent that this is in line with this Law.

5. Amend the following legislation of Ukraine:

1) in paragraph 1 of part one of Article 255 of the Code of Ukraine on Administrative Violations (Vidomosti Verkhovnoyi Rady URSR, 1984, Annex to No. 51, p. 1122) numbers “164¹⁴,” shall be deleted in the following paragraphs:

“bodies of the Antimonopoly Committee of Ukraine (Articles 164³, 164¹⁴, 166¹—166⁴)”;

“the Accounting Chamber (Articles 164¹², 164¹⁴, 188¹⁹)”;

The paragraph will be supplemented as follows:

“specially authorized body in the sphere of government procurement (Article 164¹⁴)”;

2) part five of Article 4 of the Commercial Code of Procedure of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 1992., No. 6, p. 56; 1997, No. 25, p. 171; 2001, No. 36, p. 188; 2007, No. 9, p. 67) shall be deleted;

3) part seven of Article 8 of the Civil Code of Procedure of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 2004, No. 40 — 42, p. 492; 2007, No. 9, p. 67) shall be deleted;

4) paragraph two of part two of Article 5 of the Code of Administrative Legal Proceedings of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 2005, No. 35— 37, p. 446; 2007, No. 9, p. 67) shall be deleted;

5) in the law of Ukraine “On the State Control and Revision Office of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1993, No. 13, p. 110; 2006, No. 18, p. 117; 2007, No. 9, p. 67) the following shall be deleted:

in Article 2:

part eight;

in part nine the words “both according to the procedure for inspecting government procurement and”;

paragraph 8 of part one of Article 8;

6) in the Law of Ukraine “On the Antimonopoly Committee of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1993, No. 50, p. 472; 2000, No. 41, p. 343; 2004, № 13, p. 181; 2006, № 14, p. 118; 2007, № 9, p. 67) the following shall be deleted:

In part one of Article 1 the words “and in the sphere of government procurement”;

Paragraph 17¹ of part one of Article 7;

In paragraph 18 of part one and paragraph 19 of part three of Article 7, paragraph 20 of part one of Article 16, paragraph 20 of part one of Article 17 the words “and the Law of Ukraine “On Government Procurement of Goods, Works, and Services”;

7) paragraph two of part two of Article 15 of the Law of Ukraine “On Education” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1996., № 21, p. 84; 2007, № 9, p. 67) shall be deleted;

8) paragraph 13 of Article 6 of the Law of Ukraine “On the Accounting Chamber” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1996., № 43, p. 212; 1998., № 24, p. 137; 2006., № 14, p. 118) shall be deleted;

9) paragraph four of Article 2 of the Law of Ukraine “On Licensing Certain Types of Commercial Activities” (Vidomosti Verkhovnoyi Rady Ukrayiny, 2000, № 36, p. 299; 2001, № 11, p. 45; 2002, № 1, p. 1, № 20, p. 134; 2004., № 12, p. 155; 2005, № 42, p. 465; 2006, № 18, p. 155; 2007., № 9, p. 67, № 10, p. 89, № 34, p. 444) shall be deleted;

10) paragraph 30 of part one of Article 16 of the Law of Ukraine “On the State Service of Special Communication and Information Protection of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 2006., № 30, p. 258) shall be deleted.

This a translation of the pending draft law submitted to the Ukrainian parliament, as it was adopted in the first reading. A new version, prepared by the Parliament, apparently exists for the second reading, but has not yet been translated into English.

This translation was made by the project in February 2009, in parallel to the translation made by the World Bank of the same document from the first reading, which was received from the Ministry of Economy in March 2009.

DRAFT

LAW OF UKRAINE

On Public Procurement of Goods, Works and Services

This Law establishes general legal and economic grounds for public procurement of goods, works and services.

The purpose of this Law is to develop a competitive environment in the public procurement sphere, to prevent manifestations of corruption in this sphere, to ensure rational and efficient use of public funds.

Section I GENERAL PROVISIONS

Article 1. Definition of main terms

1. The terms listed below are used in this Law in the following meaning:

1) acceptance of a tender offer - acceptance by the client of a tender offer, which is considered to be the most economically efficient based on results of the evaluation, as well as the agreement to assume obligations to pay for the subject of procurement or a part (lot) thereof. A tender offer is considered to be accepted if the client provides a written confirmation of the tender offer acceptance within the deadline stipulated in this Law;

2) alternative tender offer - a offer, which a participant can submit to the client additionally as a part of a tender offer subject to requirements of the tender documentation and in accordance with the conditions specified in the tender documentation. Such alternative tender offer is different from the offer prepared in accordance with the terms of the tender documentation;

3) general client - a public authority, enterprise, institution or organization designated respectively by the Cabinet of Ministers of Ukraine, the Cabinet of Ministers of the Autonomous Republic of Crimea or executive bodies of local Cabinets to be responsible for the organizing and holding procurement procedures on a coordinated basis in accordance with this Law;

4) public procurement (hereinafter referred to as "procurement") - purchase of goods, works and services by the client with public funds in accordance with the procedures stipulated in this Law;

5) public funds - funds of the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets, public loan resources, funds of the National Bank of Ukraine, public targeted funds, funds of the Pension Fund of Ukraine, funds of the general mandatory public social security, unemployment insurance funds, funds of the general mandatory public insurance from temporary loss of the ability to work and costs incurred as a result of childbirth and funerals as stipulated in the Law of Ukraine "On the General Mandatory Public Social Insurance against Occupational Accidents and Occupational Diseases that Led to the Loss of the Ability to Work", funds of institutions and organizations established by public authorities, authorities of the Autonomous Republic of Crimea or local self-government bodies following the due procedure, humanitarian aid in monetary form, funds of enterprises;

6) procurement contract - the contract executed between the client and a participant, which is based on results of the procurement procedure and involves provision of services, performance of works or acquisition of the title to goods in exchange for public funds;

7) electronic public procurement - use of information technologies and Internet in the relations that form in the public procurement process between clients and suppliers of goods, works and services under this Law;

8) procurement contract performance guarantee - guarantees of the fulfilment of the participant's obligations under a procurement contract provided by the participant to the client, including such types of security as bond, guarantee, pledge, deposit;

9) tender offer security (hereinafter the "tender security") - guarantees of the fulfilment of the participant's obligations in connection with submission of the tender offer, including such types of security as bond, guarantee, pledge, deposit;

10) procurement on a coordinated basis - fulfilment of the procurement procedure by the general client acting in the clients' interests following the procedure stipulated in this Law;

11) clients - administrators of public funds performing the procurement following the procedure stipulated in this Law;

12) qualification documents - documents prepared by the client and provided to prequalification participants in order for them to prepare qualification offers for prequalification;

13) qualification offers - an offer submitted by a prequalification participant to the client in accordance with requirements of the qualification documents;

14) winner of the procurement procedure - the participant whose tender offer is accepted;

15) enterprises - state-owned enterprises, including military and municipal enterprises and companies, in which the state or a municipality holds over 50% of shares (stocks) in the registered capital, their subsidiaries, as well as enterprises and companies, in which over 50% is owned by state-owned enterprises, including military and municipal enterprises and companies, in which the state or a municipality holds over 50% of shares (stocks) in the registered capital;

16) related person - a person that meets any of the following requirements:

- a legal person that exercises control over the participant or is controlled by the participant, or is controlled jointly with the participant;
- a natural person or members of his/her family who exercise control over the participant;
- an official of the participant, who is authorized to perform, on behalf of the participant, legal actions with the purpose to establish, to change or to bring to an end civil legal relations, as well as members of the official's family.

In this Law, exercise of control shall mean direct or indirect - through related natural or legal persons - holding of the largest share (stock) of the registered capital of the participant or the control of the largest number of votes in the governing body of the participant, or the holding of share (stock) not less than 20 of the participant's

registered capital. In the case of a natural person, the total share in the participant's registered capital (votes in the governing body) is determined as the sum total of the corporate rights owned by this natural person, members of his/her family, and the legal persons owned by this natural person or members of his/her family.

For the purpose of this Law, members of the family include spouses, their children, parents, brothers, sisters, grandchildren, spouses of the children, parents, brothers, sisters and grandchildren;

17) services - any procurement, except for goods and services, including training of specialists, provision of transportation and communication means, introduction of technologies, scientific research, medical and household services, current repair and consultancy services. Consultancy services include services associated with consulting, expert review, assessment, preparation of opinions and recommendations;

18) subject of procurement - goods, works or services, which are procured by the client in the frame of the common procurement procedure, and for which participants are allowed to submit tender offers or offers during negotiations if the single participant procurement procedure is applied. The subject of procurement is defined by the client following the procedure established by the Authorized Body. There may be not more than two tender offers for each subject of procurement;

19) works - design and greenfield construction, expansion, reconstruction, major repair and restoration of production and non-production facilities and installations, geological survey works, technical reequipment of existing enterprises, as well as services associated with works, including geodesic works, drilling, seismic research, aerial and satellite photography and other services, which are included in the cost estimate of the works, if the cost of such services does not exceed the cost of the works;

20) administrator of public funds - state public authorities, public authorities of the Autonomous Republic of Crimea, local self-government bodies, other bodies, agencies, organizations as stipulated in the Constitution and other legislative acts of Ukraine, as well as enterprises, agencies or organizations established following the established procedure by state public authorities, public authorities of the Autonomous Republic of Crimea, local self-government bodies and authorized to receive public funds, assume obligations in connection with them and make payments, as well as enterprises;

21) validity of a tender offer - the term stipulated by the client in the tender documentation, during which participants may not change their tender offers;

22) tender documentation - the documentation, which the client prepares and submits free of charge to persons upon their request so they can prepare tender offers for the subject of procurement or a part thereof;

23) tender offer - a offer for a specific subject of procurement or a part (lot) thereof, which is prepared and submitted to the client by the person that confirmed the intention to participate in the procurement, following the procedure stipulated by this Law and the tender documentation;

24) tender committee - a group of specialists appointed by the client (general client) to be responsible for the organization of a procurement in accordance with this Law;

25) bidding (tender) - competitive selection of participants with the purpose to select the winner of the bidding (tender) in accordance with the procedures (except for the procurement from a single participant procedure) established by this Law;

26) goods - commodities, objects of any kind and purpose, including raw materials, products, equipment, technologies, objects in a solid, liquid and gaseous state, including electricity, as well as services associated with the delivery of goods, provided that the cost of such services does not exceed the cost of the goods;

27) Authorized Body - Ministry of Economy of Ukraine, which is to fulfil the functions of the specially authorized body responsible for public procurement;

28) participant of a procurement (hereinafter the "participant") - a natural person, including natural persons who are entrepreneurs, a legal person (resident or non-resident), which confirmed the intention to participate in the procurement and submitted a tender or a qualification offer;

29) participant of preliminary qualification - a natural person, including natural persons who are entrepreneurs, a legal person (resident or non-resident), which confirmed the intention to participate in the preliminary qualification and submitted or is submitting a qualification offer;

30) part of the subject of procurement (lot) - a part of the goods, works or services identified by the client (as regards the scope, types or place of delivery of goods (performance of works, provision of service), for which participants are

allowed to submit offers within the single procurement procedure or offers during the negotiations if the procurement from a single participant procedure is applied. There may be not more than two tender offers for each subject of procurement.

Article 2. Sphere of application of the Law

1. This Law applies to all procurements of goods, works and services, which are financed fully or partially with public funds provided that the value of the subject of the procurement is equal to or exceeds UAH 100 thousand for a product (products) or a service (services), and UAH 300 thousand for works (UAH 500 thousand if goods, works and services are procured with corporate funds).

2. Conditions for procurement of goods, works and services with public funds may be stipulated or changed only in this Law and only in the cases stipulated in this Law.

The Cabinet of Ministers may define peculiarities of the procurement of goods, works and services related to the state defence contracts for manufacturing of arms and special products, as well as to the procurement of goods and services by enterprises of the defence industrial complex.

3. This Law does not apply to the following subjects of procurement:

1) goods, works and services intended for the preparation and holding of extraordinary elections of the people's deputies of Ukraine;

2) blank forms for securities and official numbered documents;

3) Ukrainian state awards and decorations;

4) Education certificates of the government type;

5) protected paints, paper and other materials, which are used for the production of securities, official numbered documents in accordance with their protection scheme;

6) books procured directly by libraries;

7) lease of public and municipal property;

8) services procured by state-owned banks as they perform bank transactions in accordance with the Law of Ukraine "On Banks and Banking Activity";

- 9) bank services related to payments for municipal services, servicing of current accounts and cash desk services;
- 10) air transportation services for official state delegations;
- 11) administrative services provided exclusively by bodies of the executive power in accordance with the legislation;
- 12) rail transportation services;
- 13) natural gas and services associated with its transportation, distribution and supply;
- 14) mail services, stamps and envelopes;
- 15) prosthetic and orthotic products, prosthetic and orthotic footwear and movement appliances produced for disabled people in accordance with their individual requirements, including their components, as well as repair and prosthetic and orthotic services;
- 16) artworks: paintings, graphic works, sculptures and decorative and folk art works for the State Museum Fund of Ukraine;
- 17) telecommunication services, including rebroadcasting of radio and television signals (except mobile communication and Internet provider services);
- 18) goods and services associated with the design and manufacturing of protected paper, bank notes and coins, their storage, transportation and accounting;
- 19) goods, works and services procured by clients outside Ukraine;
- 20) goods and services procured directly for tours of artistic groups and performers;
- 21) goods and services procured directly for the preparation of Ukrainian Olympic and Para Olympic teams;
- 22) goods, works and services procured by bodies, agencies, academic institutions and enterprises of the criminal and execution system from enterprises of the criminal and execution system;
- 23) centralized water supply, wastewater disposal and maintenance of sewage systems;
- 24) electricity, its transmission and distribution;

- 25) centralized supply of thermal energy;
- 26) nuclear fuel, fresh (unirradiated) fuel elements (TVELs) for nuclear reactors;
- 27) legal services for the protection of rights and interests of Ukraine during litigations in foreign jurisdictions;
- 28) goods and services intended directly for the organization of events and official receptions with the participation of the President of Ukraine, the Chairperson of the Verkhovna Rada of Ukraine and members of the Cabinet of Ministers of Ukraine;
- 29) site fire protection services provided by departments of the State Fire Protection authorities;
- 30) goods, works and services provided by Ukraine to other countries as humanitarian aid;
- 31) goods, works and services, which constitute a state secret because of their special purpose;
- 32) goods, works and services, which are necessary for liquidation of consequences of man-caused and natural emergencies;
- 33) retail automobile fuel purchased directly at fuel stations;
- 34) goods and services, which are necessary for making government borrowings, service and repayment of government debt.

4. If the subject of procurement is products of the food industry, drugs and medical products, fuel, catering services, transport and repair services, the client may during the procurement period purchase the necessary subject of procurement without following the procurement procedures stipulated in this Law, within an amount not exceeding 15% of the expected value of the subject of procurement. The client must notify this to the Authorized Body within 3 calendar days.

The provisions of the first paragraph of this part shall not apply to subsequent procurement of the same subject of procurement by the client.

Article 3. Procurement principles

1. Procurements must meet the following principles:

- Maximum cost-efficiency;
- Fair competition among participants;
- Openness and transparency at every stage of procurement;
- Non-discrimination of participants;
- Objective and unbiased evaluation of tender offers;
- Prevention of corrupt actions and abuses.

Article 4. Procurement planning

1. Procurements must be organized in accordance with an annual plan, which must be approved and disclosed by the client within 30 days after the approval of the cost estimate or a financial plan (plan of appropriations, plan for using the state budget funds). The annual procurement plan must be submitted to the Authorized Body in the cases and in accordance with the procedure stipulated by this Body.

2. The Client may not split one procurement into parts with the purpose to avoid the procurement procedures.

Article 5. Non-discrimination of participants

1. Local and foreign participants participate in procurement procedures on equal terms.

2. Clients and the Authorized Body shall ensure free access for all participants to the procurement information stipulated in this Law.

3. The Client may not apply discriminatory conditions to participants.

Article 6. International obligations of Ukraine in the sphere of procurement

1. If an international agreement of Ukraine ratified by the Verkhovna Rada of Ukraine establishes a procurement procedure other than the procedure stipulated in this Law, the provisions of the international agreement of Ukraine shall apply.

2. Procurement of goods, works and services with loan funds provided in accordance with duly executed international agreements of Ukraine by the International Bank for Reconstruction and Development, International Finance Corporation, Multilateral Investment Guarantee Agency, International Development Association, European Bank for

Reconstruction and Development, European
Investment Bank, Nordic Investment Bank shall follow the
principles and rules established by these organizations.

Section II
STATE REGULATION IN THE SPHERE OF PROCUREMENT

Article 7. State regulation in the sphere of procurement

1. State regulation in the sphere of procurement is performed by the Authorized Body and other bodies in accordance with their competence.

2. The Authorized Body is the Ministry of Economy of Ukraine.

3. The Authorized Body exercises control, supervision and coordination in the sphere of procurement within the authority defined in this Law.

Other bodies exercise control over the activity of clients and participants and received information from them within their authority defined in the Constitution and Laws of Ukraine.

4. State Treasury of Ukraine:

Checks the existence of the procurement contract, its correspondence with the procurement report and the annual procurement plan, as well as the correctness of their preparation in accordance with the legislation;

Takes actions to prevent making payments from the client's account in accordance with its financial obligation under the procurement contract if the procurement is declared invalid or during the suspension period if procurement is suspended under this Law.

5. The State Control and Audit Service exercises control over the observance of the procurement legislation by clients in accordance with this Law and other laws of Ukraine, and cooperates with public authorities in order to prevent corruption in the sphere of procurement.

6. The State Statistics Committee of Ukraine keeps an inventory of procurements by way of collecting information about planned procurements and results of procurement procedures, including misprocurement, and approves statistics reporting forms in the procurement sphere.

7. The Antimonopoly Committee of Ukraine exercises control over observance of the legislation on protection of economic competition in the sphere of procurement.

8. The Accounting Chamber exercises control in the procurement sphere within the competence defined by the

Constitution of Ukraine, the Law of Ukraine "On the Accounting Chamber", this Law and other laws of Ukraine.

Article 8. Authorized Body

1. Main functions of the Authorized Body:

1) drafting and approving regulations, which are necessary for the application of this Law;

2) keeping an inventory of procurements by way of collecting information about planned and performed procurements;

3) providing explanations on the application of the procurement legislation following the procedure defined by the Authorized Body;

4) submitting offers regarding the selection of the General Client to the Cabinet of Ministers of Ukraine;

5) reviewing the procurement experience, including international one;

6) international cooperation in the sphere of procurement;

7) cooperating with law enforcement authorities with the purpose to find violations in the sphere of procurement and submitting materials about found violations to law enforcement authorities in cases stipulated in laws of Ukraine;

8) cooperating with the bodies of the Antimonopoly Committee of Ukraine with the purpose to find violations of the legislation on protection of economic competition in the sphere of procurement;

9) approving the application of the procurement from a limited number of participants or a single participant;

10) consideration of complaints submitted by participants before the execution of the procurement contract and making necessary decisions on them;

11) cooperating with public authorities with the purpose to prevent corruption in the sphere of procurement;

12) approving training programs for training of procurement experts and upgrading their qualification;

13) exercising control over the observance of the procurement;

14) publishing the official state procurement bulletin;

15) ensuring the functioning of the web portal of the Authorized Procurement Body (hereinafter the "Web Portal of the Authorized Body");

16) publishing the international information procurement bulletin;

17) drafting and approving:

standard tender documentation;

strategy for electronic public procurement;

forms:

- annual procurement plan;
- announcement about procurement and its result;
- procurement report;
- list of received tender offers;
- protocol of tender offer disclosure;
- protocol of tender offer evaluation;

procedures:

- definition of the subject of procurement;
- exercising control over the observance of the procurement legislation;
- approving the application of the procurement from a limited number of participants or a single participant;
- consideration of complaints submitted by participants before the execution of the procurement contract.

18) providing explanations regarding the preparation of technical specifications.

2. Authorized Body has the right:

1) to require the clients to submit a report on procurement results under this Law;

2) to check the observance of the procurement legislation;

3) if the Authorized Body finds violations as it takes measures associated with the control over observance of the

public procurement legislation, the Authorized Body may declare results of the procurement as invalid in the following cases:

- If the inspection finds violations of the legislation, which impaired the objectivity of the selection of the winner in the procurement procedure;
- If an administrator of public funds fails to produce requested documents on the procurement in question during the inspection.

A copy of the decision is sent by the Authorized Body to administrators of public funds and the State Treasury of Ukraine (service bank) within 5 days of its adoption. Beginning from the date of receipt of the decision of the Authorized Body to declare the procurement as invalid, the State Treasury (service bank) may not make payments from accounts of the client under the procurement agreement executed based on results of the procurement specified in the decision of the Authorized Body;

4) to prepare administrative offence protocols about violations in the procurement sphere;

5) to set deadlines for clients as regards the provision of information about planned procurements and executed procurement contracts;

6) to define professional requirements to trainers who train or upgrade qualification in organization of procurements.

Article 9. Public involvement in the formation and implementation of the state policy in the procurement sphere

1. Clients and participants of procurement procedures and the Authorized Body must promote the involvement of the general public in the exercise of control over the procurement sphere in accordance with the Laws of Ukraine "On Associations of Citizens", "On Queries of Citizens" and "On Information".

2. The Authorized Body and administrators of public funds must ensure appropriate reaction to queries of citizens, civil organizations and associations thereof.

3. Citizens, civil organizations and associations thereof may not interfere with the activity of the Authorized Body and the selection of the tender winner by the client.

4. Representatives of the mass media may attend the bid opening procedure.

Section III
GENERAL PROCUREMENT CONDITIONS

Article 10. Disclosure of information about procurements

1. The Client discloses information about procurements following the procedure established in this Law, namely:

- Annual procurement plan;
- Announcement of planned procurement (request for price offers, invitation);
- Announcement of prequalification;
- Bid (price offer) opening protocol;
- Bid evaluation protocol;
- Bid acceptance confirmation;
- Announcement of tender results;
- Information about consideration of complaints lodged in accordance with this Law (about the receipt of a complaint and the decision made after its review);
- Tender documentation, changes and explanations thereto, except for cases when information contained in tender documentation may not be disclosed in accordance with the law;
- Procurement report;
- Notice of misprocurement (if appropriate).

2. Announcements of planned procurements (request for price offers, invitation) and announcements of tender results must be published in the official state public procurement bulletin free of charge.

The information specified in part 1 of this Article must be published on the web portal of the Authorized Body free of charge.

The information specified in part 1 of this Article must be published on the web portal of the Authorized Body on the day of its publication in the official state public procurement bulletin free of charge.

If the information published on the web portal of the Authorized Body is different from the information published in the official state public procurement bulletin, the information published in the official state public procurement bulletin is considered authentic.

The information specified in part 1 of this Article may be published additionally at the discretion of the client in other mass media, on the websites of the client, respective public authorities and bodies of local self-government.

The client may also disclose other procurement information except for the information which constitutes a state secret.

3. Procurement may not take place before its announcement (request for price offers, invitation) is published in accordance with paragraph 2 of part 2 of this Article, except for cases when the client applies the procurement from a limited number of participants or the procurement from a single participant procedure in accordance with this Law.

4. Announcement about planned procurements or prequalification of participants are published additionally in an international publication selected by the Authorized Body and on the web portal of the Authorized Body in one of the foreign languages used in international trade if the expected value of the subject of procurement exceeds the equivalent of:

- 200000 EUR for goods,
- 300000 EUR for services,
- 500000 EUR for works.

The euro exchange rate used for the calculations is the official exchange rate set by the National Bank of Ukraine as of date when the announcement of the planned procurement or prequalification is sent for publishing.

5. Disclosure of the information specified in part 1 of this Article in the Internet is not considered to be electronic procurement.

6. Users can access free of charge the information published on the web portal of the Authorized Body.

7. Violation of the disclosure procedure stipulated in this Law may be grounds for the Authorized Body to declare the procurement as invalid.

Article 11. Tender Committee

1. The Tender Committee is established by the client (general client) for organization of procurement procedures.

The Tender Committee functions on a collegiate basis. Its members must be unbiased and there must be no conflicts of interests between them.

2. The composition of the Tender Committee and the Regulation on the Tender Committee are approved by the decision of the client (general client). The Tender Committee may not include officials and representatives of participants, members of their families, as well as people's deputies of Ukraine and deputies of village, settlement, city, city district, rayon and oblast Cabinets.

The Tender Committee must include at least 5 persons.

3. Experts and consultants involved in the work of tender committees on a contractual basis in accordance with the legislation may not be members of the tender committee and are not responsible for decisions, actions or inactivity of the tender committee and officials of the client, participant or other persons, for the fulfilment (non-fulfilment) of procurement contracts, as well as for consequences of such decisions, actions or inactivity.

4. The work of the tender committee is managed by its Chairperson. The Chairperson of the tender committee organizes the work of the committee and is personally responsible for the fulfilment of the committee's functions.

The Chairperson, Deputy Chairperson and Secretary of the tender committee must receive a document certifying that they have received training (qualification upgrade) in the procurement sphere following the procedure established by the Authorized Body.

5. Decisions of the tender committee are presented in the form of a protocol, which must be signed by all members of the committee who participated in the voting.

Members of the tender committee are personally responsible for their decisions in accordance with laws of Ukraine.

6. The Authorized Body drafts and approved a Model Regulation for the tender committee.

Article 12. Procurement procedures

1. Procurement may be organized by way of using one of the following procedures:

- Open bidding;
- Two-stage bidding;
- Request for price offers;
- Bidding with a limited number of participants;
- Procurement from a single participant.

2. The client may organize procurement following one of the procedures specified in part 1 of this Article (except for bidding with a limited number of participants and procurement from a single participant) by way of electronic procurement with the use of an information system in the Internet in accordance with the requirements stipulated in this Law and other legislative acts of Ukraine.

Article 13. Procurement on a coordinated basis

1. Upon a request from the Authorized Body, the Cabinet of Ministers of Ukraine approves a list of goods and service that must be procured on a coordinated basis with funds from the State Budget of Ukraine and selects the general client.

The Cabinet of Ministers of the Autonomous Republic of Crimea and executive bodies of local Cabinets approve a list of goods and service that must be procured on a coordinated basis with funds from the budget of the Autonomous Republic of Crimea and local budgets, and select the general client correspondingly.

The procedure for procurements on a coordinated basis is defined by the Cabinet of Ministers of Ukraine upon a request from the Authorized Body.

2. General Client:

Organizes the procurement procedure in accordance with this Law and selects its winner;

Informs all interested clients about results of the procurement procedure.

3. The client executes a procurement contract with the winner of the procurement procedure selected by the general client except for cases when the goods or services do not meet requirements of the client to their technical characteristics, quality, terms of delivery, price. In this case the client may refuse to accept the tender offer and to conclude a procurement contract, notify this to the general

client and to fulfil the procedure of procurement of such goods or services. Clients must inform the general client about the execution of a procurement contract or their refusal to execute it following the procedure established by the Authorized Body.

4. Having received notices about the execution of procurement contracts or the refusal to execute them from clients, the general contractor submits to the Authorized Body and all interested clients a procurement report where the names of all clients must be indicated.

Article 14. Submission of information during procurement procedures

1. Information must be submitted during the procurement procedure in written.

If during the procurement procedure the client and participants provide information in a form other than written, they must confirm this information in written.

2. During electronic procurement the client and participants provide information in electronic form in accordance with the legislation.

Article 15. Language used during procurement procedures

1. Tender (qualification) offers are submitted in the language (languages) specified by the client in the tender documentation.

2. If the expected value of the subject of procurement exceeds an equivalent of: 200000 EUR for goods, 300000 EUR for services, 500000 EUR for works, the client's documents related to the procurement procedure and required by this Law must be in Ukrainian and another language used in international trade. The texts must be authentic, and the text in Ukrainian must prevail.

Article 16. Qualification requirements for participants

1. The client may require participants to submit information about their compliance with such qualification requirements, which must be supported with documents:

- Availability of equipment, funds and employees with proper qualification, knowledge and expertise;
- Book value of assets;
- Financial turnover;

- Experience in the implementation of similar contracts;
- Payment of taxes and duties (mandatory payments);
- Pursuance of business activity by the participants in accordance with its charter;

Absence of a decision to declare the participant a bankrupt following the established procedure or to open proceedings in a bankruptcy case against the participant.

2. The tender (qualification) documentation must include the qualification requirements and the list of documents, which are prepared by the client in accordance with this article and confirm the statement of the participants that they comply with the requirements.

3. Natural persons, including natural persons who are entrepreneurs, do not include in the tender offer the documents, which are not required from them by the legislation.

4. All tender offers from participants that comply with the qualification requirements stipulated in part 1 of this Article shall be accepted for evaluation.

Article 17. Rejection of tender or qualification offers

1. The client must reject a tender or qualification offer if:

1) the client has strong evidence that a participant or a prequalification participant offers, gives or agrees to give, directly or indirectly, to any official of the client or other public authority a reward in any form (an employment offer, a valuable asset, a service, etc.) with the purpose to influence the decision on the selection of the winner of the procurement procedure or the application of a certain procurement procedure;

2) a natural person who is a participant or a prequalification participant has been convicted of a crime committed during the procurement procedure or other crimes of benefit, and this conviction has not been cancelled or fulfilled following the established procedure;

3) an official of a participant or a prequalification participant authorized by the participant to represent its interests during the procurement procedure has been convicted of a crime committed during the procurement procedure or other crimes of benefit, and this conviction has not been cancelled or fulfilled following the established procedure;

4) a participant or a prequalification participant is a related person;

5) a participant or a prequalification participant has submitted false information about his compliance with qualification requirements;

6) a participant or a prequalification participant does not comply with the established qualification requirements;

7) a participant or a prequalification participant has submitted a offer contrary to requirements of the tender documentation and this Law.

2. The information about rejection of a tender or a qualification offer including the justification for the rejection is to be sent within seven calendar days to the candidate whose offer is rejected.

Article 18. Report about results of procurement procedures

1. A procurement report must include the following information:

- Name of the subject of procurement;
- Number of participants of the procurement procedure, as well as the name and the location of the participant, with which the procurement contract is signed;
- The price of the tender offer and the procurement contract;
- The publication date of the planned procurement, the request for price offers and the announcement of the procurement results or the date of the sending of the invitation to participate in the bidding with a limited number of participants or the procurement from a single participant, and the date of notification of participants about results of the procurement procedure;
- If no procurement contract was signed as a result of the bidding, grounds for this decision must be indicated;
- The date of acceptance of the tender offer and execution of the procurement contract.

2. The client must publish the report about results of the procurement procedure (except for the information that constitutes state and commercial secrets) within 10 calendar

days of the date of its approval in accordance with Article 10 of this Law.

3. The report about results of the procurement procedures and other documents related to the procurement procedures must be kept for three years.

Section IV
OPEN BIDDING PROCEDURE

Article 19. Conditions of application of the open bidding procedure

1. Open bidding is the main procurement procedure.
2. All interested parties may submit tender offers if the open bidding procedure is applied.

Article 20. Informing about the open bidding procedure

1. The announcement*notice about the open bidding procedure must specify:

- Name and location of the client;
- Website, on which the client additionally publishes information about the procurement (if appropriate);
- Name, quantity and place of delivery of goods or the type and place of the performance of works or provision of services;
- Term of delivery of goods, performance of works or provision of services;
- Ways and place of receipt of the tender documentation;
- Place and deadline for submission of tender offers;
- Place, date and time of the opening of tender offers;
- Address of the selected information system on the Internet (in case of electronic procurement);
- Size, type and conditions of provision of the tender security (if required by the client).

The announcement may include other information at the discretion of the client.

2. The deadline for the submission of tender offers may not be less than 30 calendar days of the publication date of the announcement of the open bidding procedure (sending of the invitation).

Article 21. Tender documentation

1. The client shall send free of charge or otherwise provide the tender documentation to the person who intends to participate in the procurement procedure within three business days of the receipt of a corresponding request from this person.

The person who intends to participate in the procurement procedure may download the tender documentation from the web portal of the Authorized Body free of charge.

2. The tender documentation is prepared by the client and must include:

- 1) guidelines for the preparation of tender offers;
- 2) qualification requirements to participants and a list of documents that confirm the information provided by participants that they comply with such requirements;
- 3) a list of criteria set by the tender committee in order to verify the compliance of participants with the established qualification requirements;
- 4) information about necessary technical and quality characteristics of the subject of procurement, including necessary technical specifications (schematics, drawings, images or description of the subject of procurement). The technical specifications must contain a detailed description of the goods, works and services to be procured, including their technical and quality characteristics; requirements to technical and functional characteristics of the subject of procurement if it is not possible to provide a description or if it is more reasonable to specify such data; reference to standard characteristics, requirements, signs and terminology related to the goods, works and services to be procured and stipulated in the existing international or national standards, norms and rules. The technical specifications must not contain references to a specific trade mark or a firm, a patent, design or type of the subject of procurement, its origin or manufacturer. If such reference is necessary, it must be followed with the words "or equivalent" in the specification;
- 5) quantity of the goods and the place of their delivery;
- 6) place where works or services must be performed or provided;
- 7) deadlines for the delivery of goods, performance of works, provision of services;
- 8) draft procurement contract or main terms that will be included in the procurement contract;

- 9) description of a part or parts of the subject of procurement (lot), for which separate offers can be submitted if participants are allowed to submit tender offers for a part of the subject procurement (lot);
- 10) a list of criteria and a methodology for the evaluation of tender offers with a specific weight assigned to each criterion;
- 11) the validity of tender offers is 120 days;
- 12) the approach to the evaluation and comparison of alternative tender offers (if allowed by the client);
- 13) information about the currency, in which the price of the tender offer must be calculated and indicated;
- 14) information about the language (languages), in which tender offers must be prepared;
- 15) way, place and deadline for submission of tender offers;
- 16) procedure for the provision of clarifications to the tender documentation;
- 17) validity of tender offers;
- 18) place, date and time of the opening of tender offers;
- 19) full name, position and address of one or several officials of the client who are authorized to maintain the contact with participants.

Tender documentation may also include other information at the discretion of the client.

3. Tender documentation may not contain requirements that restrict competition and lead to discrimination of participants.

Article 22. Clarifications and changes to the tender documentation

1. A person who has received tender documentation from the client may request the client to provide clarifications to the tender documentation not later than 7 days before the deadline for the submission of tender offers. The client must provide clarifications upon the request within three calendar days of the date of its receipt to all persons who have received tender documentation.

If the client receives requests from two or more persons who have received tender documentation, the client must extend the deadline for submission of tender offers.

If a meeting is organized with the purpose to provide clarifications upon any requests about tender documentation, the client must ensure the keeping of the minutes of the meeting including all clarifications upon the request and to send it to all persons who have been issued tender documentation regardless of their attendance of the meeting.

The clarifications mentioned in this part are disclosed by the client in accordance with Article 10 of this Law.

2. The client has the right to change the tender documentation not later than 7 calendar days before the deadline for submission of the tender offers on his own initiative or based on results of requests. In this case the client must extend the deadline for submission and disclosure of the tender offers by at least seven calendar days and to notify such changes in written immediately to all persons who received the tender documentation.

In case the client fails to provide clarifications about the content of the tender documentation or change it timely, the client must extend the deadline for submission and disclosure of the tender offers, but not less than by seven calendar days, and notify this to all persons who received the tender documentation.

The information stipulated in this part is disclosed by the client in accordance with Article 10 of this Law.

Article 23. Tender offer security

1. The client has the right to include the requirement to provide a tender security in the tender announcement and in the tender documentation.

If the client requires a tender security, the tender documentation must specify conditions for its provision, in particular the type, size, validity term and the warning about cases, in which the tender security will not be returned to the participant. In this case the participant provides the tender security at the time of submission of the tender offer.

The size of the tender security in monetary form may not exceed 1 percent of the expected value of the procurement for procurement of works and 5 percent for procurement of goods or services in accordance with the conditions specified in the tender documentation.

2. If tender offers are submitted for a part of the subject of procurement (lot), the client determines the size of the tender security in accordance with the size of the subject of procurement for each part (lot) thereof.

3. The client does not return tender security in the following cases:

- A participant withdrew or changed the tender offer after the deadline for its submission;
- The participant who won the bidding procedure fails to sign the procurement contract;
- The participant who won the bidding procedure fails to provide a performance guarantee for the procurement contract after the acceptance of its tender offer if such performance guarantee is required by the tender documentation.

4. The client must return the tender security to the participant within 10 calendar days after the occurrence of the grounds to return the tender security in the following cases:

- The validity term of the tender offer security indicated in the tender documentation has expired;
- The procurement contract is concluded with the participant which won the tender;
- The tender offer is withdrawn before the deadline for its submission;
- The procurement procedure is over because no procurement contract has been signed with any of the participants who submitted tender offers.

5. The funds provided as the tender security (if not returned to the participant) must be transferred to the corresponding budget or to the company's account if the procurement involves corporate funds.

Article 24. Procedure for submission of tender offers

1. Tender offers are submitted in written with the signature of the authorized official of the participant in a sealed envelope or in any other form specified in the tender documentation. Upon the participant's request the client confirms the receipt of its tender offer stating the date and the time.

Each participant has the right to submit only one tender offer (including to the part of the subject of procurement (lot), as well as to submit an alternative tender offer if this is allowed by the tender documentation. The client registers received tender offers in a register. The procedure of keeping of this register is stipulated by the Authorized Body.

2. A tender offer must include a document confirming that the participant has provided the tender security if such security is required by the tender documentation.

3. Tender offers received by the client after the deadline for their submission are not opened and are not returned to the participant which submitted them.

4. Tender offers are valid during the term specified in the tender documentation. Before the expiry of this term the client may require the participants to extend the validity of tender offers. The participants have the right:

- To decline such a request without losing the tender security provided by the participant;
- To accept the request and to extend the validity of the tender offer and the tender security provided by the participant.

5. The participant may change or withdraw its tender offer before the deadline for its submission without losing its tender security. Such changes or a request to withdraw the tender offer are accepted if the client receives them before the deadline for submission of tender offers.

6. Before the deadline for submission of tender offers the client may decide to extend it if one or more persons who have received the tender documentation from the client cannot submit their tender offers due to objective reasons, and the client has been notified about this in written. Announcements of extensions, possible changes of the place and the procedure for opening of the tender offers are sent immediately to all persons who have received tender documentation, and disclosed in accordance with Article 10 of this Law.

Article 25. Performance guarantee for the procurement contract

1. The client may require the participant who won the tender to provide a contract performance guarantee in accordance with the conditions stipulated in the tender documentation no later than on the date of execution of the procurement contract. The client returns the procurement contract

performance guarantee in accordance with the terms of the contract.

2. The procurement contract performance guarantee*bond may not exceed 10% of the contract value for procurement of goods and 5% of the contract value for procurement of works.

3. The funds provided as the contract performance guarantee (if not returned) must be transferred to the corresponding budget or to the company's account if the procurement involves corporate funds.

Article 26. Opening of tender offers

1. Tender offers are opened on the date of the deadline for their submission at the time and place specified in the tender documentation.

2. The client allows all participants or their authorized representatives, as well as representatives of the public authorities (including deputies of all levels) to participate in the tender opening procedure. If a participant or its authorized representative is not present during the tender opening procedure, this does not constitute grounds for the refusal to open or to consider its tender offer or to reject it.

3. In the course of the tender opening procedure the availability of all necessary documents required by the tender documentation is checked, the name and location of each participant, as well as the price of each offer are announced.

4. In the course of the tender opening procedure a protocol is prepared in accordance with the form established by the Authorized Body.

A copy of the tender opening protocol is provided to any participant upon its request within three calendar days of the date of receipt of the request.

Article 27. Consideration and evaluation of tender offers

1. The client may ask the participants to clarify the content of their tender offers with the purpose to simplify their consideration and evaluation.

2. The client and the participants cannot initiate any negotiations as to making changes in the submitted tender offer, including changes and adjustments of its price, except for the case when arithmetical errors must be corrected in accordance with part 3 of this Article.

3. The client has the right to correct arithmetical errors discovered in the tender offer during its evaluation following the procedure specified in the tender documentation provided that the participant which submitted the tender offer has given its consent thereto.

4. The client must evaluate tender offers that have not been rejected in accordance with this Law.

5. The client selects the winner of the tender from among the participants whose tender offers that have not been rejected in accordance with this Law (not less than two) based on the evaluation criteria and methodology specified in the tender documentation.

The evaluation criteria are as follows:

In the case of procurement of goods, works and services, for which there is a constant market, which are not manufactured, performed or provided in accordance with a specially developed specification (technical design) - price;

In the case of a procurement of a complex or a specialized nature (including advisory*consultancy services, scientific research, experiments or designs, research and design works) - price and other evaluation criteria such as:

- guarantee service;
- operating costs;
- transfer of a technology and training of management, scientific and production personnel, including the use of local resources, including production means, labour force and materials for production of the goods, performance of the works or provision of the services offered by the participant.

6. If criteria other than price are used to select the most economically viable tender offer, the tender documentation must indicate their value equivalent or their weight in the total evaluation of the tender offers. The weight of the price criterion may not be less than 70%.

7. The client has the right to require any participant to resubmit documents confirming its compliance with the qualification requirements or to seek such confirmation from public authorities, enterprises, agencies, organizations in accordance with their competence. If a participant refuses to submit such confirmation or if reliable information about its incompliance with the qualification requirements or if the tender offer contains any false information, the client

rejects the tender offer of the participant and selects the winner of the bidding from among the remaining participants whose offers are valid.

8. Relevant expert organizations or separate experts may be involved in the review of tender offers on a contractual basis.

9. After the review and evaluation of tender offers the winner of the procurement procedure is selected.

If the procurement procedure involves splitting the subject of procurement into parts (lots), a winner is selected for each lot.

10. After the review and evaluation of tender offers a protocol is prepared in accordance with the form established by the Authorized Body.

11. The total period of review, evaluation and selection of the winner of the procurement procedure may not exceed 30 calendar days after the opening of tender offers.

Article 28. Rejection of tender offers

1. The client rejects a tender offer if:

1) the participant:

- does not meet the qualification requirements stipulated in the tender documentation;
- does not agree to correct an arithmetical error discovered by the client;
- has not provided the tender security if such security was required by the client;

2) circumstances specified in Article 17 and part 7 of Article 27 of this Law;

3) the tender offer does not comply with requirements of the tender documentation.

2. The client may reject all tender offers before the acceptance of a tender offer if this is stipulated in the tender documentation.

3. The information about the rejection of a tender offer and grounds for such rejection is sent to the participant who submitted this offer within seven calendar days of the date when the client makes the decision to reject it.

Article 29. Cancellation of procurement by the client or misprocurement

1. The client cancels procurement in the following cases:

- Less than two tender offers are submitted;
- All tender offers are rejected in accordance with this Law;
- Offers of less than two participants are eligible for evaluation.

Bidding may be cancelled in parts (by lots).

2. The client may declare misprocurement in the following cases:

The price of the best tender offer exceeds the amount planned by the client for the financing of the procurement;

The procurement does not meet the state needs anymore due to unforeseen objective circumstances (force majeure).

3. The client must send the announcement about cancellation of the bidding or misprocurement to all participants within three calendar days after the client makes the corresponding decision.

Article 30. Acceptance of a tender offer and execution of the procurement contract

1. The client accepts the tender offer, which is considered the most economically viable based on results of the evaluation.

2. Within three calendar days after the date of acceptance the client must send to the winner of the tender a notification about the acceptance of the tender offer, which is still valid. The client must also send to all participants a written notification about results of the tender indicating the name and location of the winner, i.e. the participant whose tender offer was considered to be the most economically viable based on results of the evaluation.

The client must sign a procurement contract with the participant whose tender offer has been accepted in accordance with the requirements of the tender documentation and the accepted offer not earlier than five calendar days after the sending of the written notification to all

participants about their results, but not later than 30 calendar days after the acceptance date.

3. If the tender winner refuses to sign a procurement contract in accordance with the tender documentation requirements, the client must select the most economically viable tender offer from among the offers that are still valid.

Article 31. Informing participants about tender results

1. The announcement about tender results is disclosed in accordance with Article 10 of this Law within seven calendar days after the execution of the procurement contract or after the decision to cancel the tender or to announce misprocurement.

2. The announcement of tender results must specify:

- Name and location of the client;
- Website where additional information of the client about the procurement was placed;
- Type, quantity and the place of the delivery of goods or the type and place of the performance of works or provision of services;
- The date of publication of the announcement of procurement (announcement of preliminary qualification);
- The acceptance date of the tender offer, which is considered the most economically viable;
- The date of execution of the procurement contract;
- The date when the decision to cancel the bidding or to declare misprocurement was made (if this decision was made by the client) and its reason;
- The price of the procurement contract;
- The full name of the procurement winner.

Section V
TWO-STAGE TENDER PROCEDURE

Article 32. Conditions of application and implementation of the two-stage tender procedure

1. The two stage tender procedure may be applied on the following conditions:

- the client cannot prepare a specific list of goods (works) or identify the type of services, or in case preliminary negotiations with participants are needed in order to make an optimal decision about the procurement;
- the subject of procurement is scientific research, experiments or designs, performance of design works, provision of consultancy and other special services.

Article 33. Implementation of the two-stage tender procedure

1. A two-stage tender is implemented in accordance with the procedure intended for open bidding taking into account the peculiarities specified in this section.

2. A two-stage tender is implemented in two stages:

- At the first stage all participants are invited to submit preliminary tender offers without prices. The tender documentation may require only offers regarding technical, quality and other characteristics of the subject of procurement, terms of delivery, evidence of the professional and technical competence of participants and their compliance with the qualification requirements. The deadline for the submission of preliminary tender offers is at least 21 calendar days after the date of publication of the announcement of the two-stage tender.
- When reviewing preliminary tender offers, the client may hold preliminary negotiations with any participant. After receiving preliminary offers, the client may introduce changes in the tender documentation as regards the technical requirements and requirements to the quality of the subject of procurement or to propose new characteristics and criteria for evaluation of offers in accordance with this Law. The client informs all participants about changes in the conditions of the tender documentation as it sends them invitations for participation in the second stage of the tender;

- At the second stage the client invites the participants whose preliminary tender offers were not rejected at the first stage to submit final tender offers with prices. The deadline for submission of tender offers at the second stage is not less than 11 calendar days after the date of the notification of the participants about results of the first stage.

3. The participants whose tender offers were not rejected at the first stage provide a tender security upon the request of the client for the participation in the second stage of the tender.

Section VI
THE REQUEST FOR PRICE OFFERS PROCEDURE

Article 34. Conditions for the application and implementation of the request for price offers

1. The client may organize procurement by way of the application of the request for price offer procedure for goods and services, for which there is a constant market provided that their value does not exceed UAH 200,000.

Article 35. Implementation of the request for price offers

1. In order to receive price offers, the client sends a request to at least three participants and discloses it (on the day of sending of the request) in accordance with Article 10 of this Law.

2. The request must specify:

- Name and location of the client;
- Description of the subject of procurement or its parts (if the client invites price offers for its separate parts), including their necessary technical and other parameters;
- Website where additional information of the client about the procurement is placed; (in case of its additional placement);
- The time of delivery of goods or provision of services;
- The place and time of submission of price offers;
- The place and date of opening of price offers;
- Main terms of the procurement contract.

The request must specify whether or not the price includes the costs of transportation, insurance, taxes and duties (mandatory payments).

3. Each participant may submit only one price offer, which cannot be changed later on. The offer is submitted in a sealed envelope or any other form defined by the client before the deadline established by the client.

4. Price offers are opened at the time specified by the client. All the participants who submitted their offers are invited to participate in the price offer opening procedure.

When price offers are opened, a protocol is prepared in accordance with the form established by the Authorized Body.

A copy of the price offer opening protocol is provided to any participant upon his request within one day of the receipt of such a request.

5. The client shall accept the price offer and to execute a procurement contract with the participant who submitted the offer, which meets the client's requirements and has the lowest price, not earlier than after three calendar days of the date when a written notice of the procurement results is sent to all participants, but not later than 14 calendar days after the date when the winner is selected.

6. The client declines price offers if they do not meet the requirements of the client specified in the request or on the grounds specified in Article 18 of this Law.

7. The client declares the request of price offer procedure as invalid in the following cases:

- Less than three offers have been received;
- All offers have been rejected;
- The lowest price offer exceeds the amount of funds planned by the client for the financing of the procurement.

8. Announcements about results of the price offer request procedure are published in accordance with the procedure intended for open bidding.

Section VII
BIDDING WITH A LIMITED NUMBER OF PARTICIPANTS

Article 36. Conditions of application of bidding with a limited number of participants procedure

1. The tender with a limited number of participants procedure is applied if goods, works or services have a complex or specialized nature and can be offered by a limited number of participants.

Article 37. Tender with a limited number of participants

1. A tender with a limited number of participants is organized in accordance with the procedure intended for open bidding taking into account the peculiarities specified in this section.

The client invites all participants who can offer the necessary goods, works or services to participate in a tender with a limited number of participants.

2. Before a tender with a limited number of participants, the client may organized prequalification. If prequalification is organized, all prequalified participants are eligible to participate in the tender with a limited number of participants. The client publishes information about prequalification of participants in accordance with Article 10 of this Law.

3. Announcement of prequalification of participants must include:

- Name and location of the client;
- Website, on which the client additionally publishes information about the procurement (if appropriate);
- Name, quantity and place of delivery of goods or the type and place of the performance of works or provision of services;
- Term of delivery of goods, performance of works or provision of services;
- Ways and place of receipt of the qualification documentation;

- Place and deadline for submission of qualification offers;
- Place, date and time of the opening of qualification offers.

4. The qualification documentation must contain:

- 1) instructions on the preparation and submission of a qualification offer;
- 2) qualification requirements to the participant and a list of documents confirming the compliance of participants with such requirements;
- 3) criteria and the procedure for the assessment of compliance with the qualification requirements;
- 4) information about necessary technical and quality characteristics of the subject of procurement, including necessary technical specifications (schematics, drawings, images or description of the subject of procurement). The technical specifications must not contain references to a specific trade mark or a firm, a patent, design or type of the subject of procurement, its origin or manufacturer;
- 5) quantity of the goods and the place of their delivery;
- 6) place where works or services must be performed or provided;
- 7) deadlines for the delivery of goods, performance of works, provision of services;
- 8) information about the language (languages), in which tender offers must be prepared;
- 9) way, place and deadline for submission of qualification offers;
- 10) procedure for the provision of clarifications to the qualification documentation;
- 11) place, date and time of the opening of qualification offers;
- 12) full name, position and address of one or several officials of the client who are authorized to maintain the contact with participants.

Qualification documentation may also include other information at the discretion of the client.

5. The deadline for the submission of qualification offers may not be less than 15 calendar days after the publication date of the prequalification announcement.

The client selects participants for participation in the tender with a limited number of participants solely on the basis of their compliance with the requirements specified in the qualification documentation within 14 calendar days after the opening date of qualification offers.

6. Qualification offers of participants are opened on the date of the deadline for their submission at the time and place specified in the prequalification announcement. The client allows the participation in the opening of qualification offers for all participants who submitted qualification offers or their authorized representatives. During the opening of qualification offers the client checks and announces the availability of all necessary documents required by the qualification documentation as regards their preparation and its correctness, as well as the name and the address of each participant. During the opening of tender offers a protocol is prepared in accordance with the form specified by the Authorized Body. A copy of this protocol is sent to all participants upon their request within three calendar days after receiving the request from the participant.

7. In case of prequalification the client informs each participant about its results within five calendar days after its completion.

Only prequalified participants are eligible to participate in further tender procedures. After the prequalification participants must submit tender offers after at least 10 calendar days after the date when the announcement of prequalification results is sent.

Article 38. Peculiarities of a tender with a limited number of participants

1. The client invites (in particular, based on prequalification results) for participation in the tender with a limited number of participants a number of persons, which ensures the selection of the best offer and competition, but not less than two. The invitation containing the information specified in Article 21 of this Law, is to be sent in written form to the persons specified in this part.

2. The invitation to participate in a tender with a limited number of participants is published on the web-portal of the Authorized Body within three calendar days after the date of its sending. Publication of the invitation is not considered

as an invitation for an undefined number of persons to participate in the procurement procedure.

3. If a tender with a limited number of participants is organized, tender offers may be submitted only by the persons who have been invited to participate in the procurement procedure by the client following the procedure stipulated in part 1 of this Article. The deadline for submission of the tender offers must be not less than 15 calendar days after the date indicated in the invitation (or 10 calendar days after prequalification for a tender with a limited number of participants).

4. A tender with a limited number of participants procedure may be used by the client for procurement of goods, works and services after the Authorized Body has approved its use (except for the case when prequalification of participants is organized).

Section VIII
PROCUREMENT FROM A SINGLE PARTICIPANT

Article 39. Conditions of application of the procurement from a single participant procedure

1. Single tendering is a procedure whereby the client concludes a procurement contract with a participant after negotiations with him.

2. The client can use single tendering after it is agreed with the Authorized Body in the following cases:

1) procurement of pieces of art or other procurement related to protection of intellectual property rights, and conclusion of a procurement contract with the winner of an architectural or art contest;

2) there is no competition (including for technical reasons) for the goods, works or services, which can be supplied, manufactured or provided only by a certain participant and there are no alternatives;

3) it is necessary to perform additional construction works, which are not included in the initial design but became necessary for the project completion due to unexpected circumstances provided that their value does not exceed 50% of the initial contract value, that the contract will be concluded with the contractor that performs the works, and that the works are technically or economically related to the initial contract;

4) it is necessary that the initial participant provides additional supplies (not exceeding 50% of the initial contract value) intended for partial replacement or enhancement of supplies if changes made by the client may lead to procurement of goods or services that are not interchangeable.

5) there is urgent necessity to procure due to special economic, social or legal circumstances, which the client could not predict;

6) procurement of services provided in halls for official delegations to members of state, parliamentary, government, diplomatic delegations and officials of public authorities.

Section IX
PROCUREMENT CONTRACT

Article 40. Main requirements to a procurement contract

1. A procurement contract is concluded in written in accordance with provisions of the Civil Code of Ukraine and the Commercial Code of Ukraine.

A model procurement contract is approved by the Authorized Body.

2. Validity of a procurement contract may be extended by a period, which is sufficient to organize procurement in the beginning of the following year for an amount not exceeding 15% of the value specified in the contract concluded in the previous year provided that such expenses have been allocated following the established procedure. Conditions of the procurement contract may change only following the procedure established by the Authorized Body.

3. The client may include in procurement contracts the requirement of advance payment in accordance with the budget legislation if funds of the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets are used. If other public funds are used for procurement, the client may include the advance payment in the contract in accordance with the Civil Code of Ukraine and the Commercial Code of Ukraine.

Article 41. Material conditions of a procurement contract

1. Material conditions of a procurement contract include:

- Subject of procurement (name (types, range); quantity of goods, works and services, as well as quality requirements);
- Terms of payment;
- Price of the contract;
- Validity of the contract;
- Rights and responsibilities of the parties;
- The condition of the possibility to decrease the procurement scope depending on actual*available financing of expenses;

- Responsibility of the parties;
- Other conditions, which must be agreed between the parties as required by one of the parties.

If the parties cannot reach agreement on all material conditions, the procurement contract is not considered to be executed. If one of the parties has taken actual steps to fulfil the contract, the legal consequences of such steps must be determined in accordance with the Civil Code of Ukraine.

Article 42. Payment under a procurement contract

1. When payments under procurement contracts are made, the State Treasury of Ukraine (the service bank) checks the availability of:

- Report about procurement results;
- A copy of the announcement of planned procurement (request for price offers) and the announcement of results of the procurement procedure;
- The decision to approve the use of the bidding with a limited number of participants procedure and single bidding in accordance with this Law.

2. The State Treasury of Ukraine (the service bank) may not make payments from the client's account in accordance with the financial obligation under the procurement contract if results of the procurement have been declared invalid following the established procedure. The State Treasury of Ukraine (the service bank) sends information about such cases to the Authorized Body and law-enforcement authorities.

Article 43. Termination and cancellation of a procurement contract

1. If the participant who is the winner of the procurement procedure refuses to fulfil the procurement contract, the client has the right to terminate the contract unilaterally and to organize a new procurement procedure.

In this case such procurement contract becomes invalid.

2. The procurement contract is null and void if concluded during the suspension of the procurement procedure as a result of a complaint.

Article 44. Submission of information about concluded procurement contracts

1. Information about concluded procurement contracts is submitted upon a request of the Authorized Body or the general client (if the procurement was organized on a coordinated basis) by way of submission of a copy of the executed procurement contract.

2. A copy of the executed procurement contract is submitted within the deadline established by the Authorized Body or the general client.

Article 45. Submission and consideration of complaints

1. Before execution of a procurement contract, participants may submit complaints about a violation of the procurement procedure, adopted decisions, actions or non-activity of the client to the client or the Authorized Body. If a complaint is received, the Authorized Body must notify this to the client within three working days after its receipt.

2. If a complaint is submitted in accordance with part 1 of this Article, the client or the Authorized Body suspends the procurement procedure for a period not exceeding 15 working days after the date when the complaint is received by the client or the Authorized Body, of which the State Treasury of Ukraine (the service bank) must be notified within one day. After this period the client may resume the procurement procedure, except for the case where the Authorized Body adopts a decision to invalidate the procurement procedure results within the established period.

3. The client or the Authorized Body notify the participant who submitted a complaint, the participant who won the tender and the client about the content of the complaint, time and place of its consideration within three working days after the receipt of the complaint. These persons may participate in consideration of the complaint.

4. Within 15 working days of the receipt of a complaint, the client or the Authorized Body adopts a substantiated decision, which must specify:

- If the complaint is not satisfied - reasons for the decision;
- If the complaint is satisfied fully or partially - measures that will be taken to settle the conflict, obligations of the client to eliminate the violations of the procurement procedure.

If a complaint is considered by the client, the decision about the consideration of the complaint is sent to the Authorized Body within three working days after its adoption.

5. If violations of the established procurement procedure are discovered after a complaint from participants, which affect the objectivity of the selection of the procurement procedure winner or lead to discrimination of participants, the Authorized Body may declare results of the procurement procedure invalid, oblige the client to start a new procurement procedure.

A decision of the Authorized Body adopted in accordance with this article is binding for both the client and participants.

6. The client or the Authorized Body sends a copy of the decision taken after consideration of a complaint to the participant who submitted the complaint, the client and the State Treasury of Ukraine (the service bank) within five working days of its adoption.

7. Having received a decision after consideration of a complaint, the State Treasury of Ukraine (the service bank) makes the following payments:

- If results of a procurement procedure are declared invalid and the client is obliged to organize a new procurement procedure - the payments from the client's account in accordance with the existing financial obligation are resumed after the client has submitted the documents confirming results of the new procurement procedure;
- If the decision of the Authorized Body does not require to declare the procurement procedure results invalid and to oblige the client to organize a new procurement procedure - the payments from the client's account in accordance with the existing financial obligation are resumed after the client has submitted the documents confirming results of the procurement procedure.

8. The time limit for challenging a decision of the client or the Authorized Body adopted after consideration of a complaint is 30 calendar days after the date of adoption of the decision.

9. The client may challenge a decision, action or inactivity of the client in court following the established procedure.

Article 46. Responsibility for violation of this Law

1. For violation of requirements established in this Law and normative and legal acts prepared in accordance with this Law, officials of clients, participants, and members of the tender committee bear criminal, administrative and civil legal responsibility in accordance with the law.

Section XI
FINAL PROVISIONS

1. This Law becomes effective one month after its publication.

2. Procurement procedures started before the effectiveness of this Law are conducted in accordance with the procedure established before effectiveness of this Law.

3. Within two months after the effectiveness date of this Law, the Cabinet of Ministers must:

- Bring its normative and legal acts in compliance with this Law;
- Ensure that ministries, other central bodies of executive power bring their normative and legal acts in compliance with this Law;
- Ensure the adoption of normative and legal acts, which are necessary for implementation of provisions of this Law.

4. Before other normative and legal acts are brought in compliance with norms of this Law, they remain effective insofar as they do not contradict this Law.

5. To amend the following legislative acts of Ukraine:

1) in clause 1, part 1 of article 255 of the Ukrainian Code of Administrative Offences (Vidomosti Verkhvnoi Rady URSR (Bulletin of the Verkhovna Rada of the USSR), 1984, Appendix to N 51, p. 1122) the figures "16414," must be deleted from the following paragraphs:

"organs of the Antimonopoly Committee of Ukraine (Articles 1643, 16414, 1661 - 1664)";

"Accounting Chamber (Articles 16412, 16414, 18819)";

and the following paragraph must be added in the clause:

"a specially authorized body responsible for public procurement issues (Article 16414)";

2) part 5 of Article 4 of the Commercial Procedure Code of Ukraine (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 1992, N 6, p. 56; 1997, N 25, p. 171; 2001, N 36, p. 188; 2007, N 9, p. 67) must be deleted;

3) part 7 of Article 8 of the Civil Procedure Code of Ukraine (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 2004, N 40 - 42, p. 492; 2007, N 9, p. 67) must be deleted;

4) paragraph 2, part 2 of Article 5 of the Code of Administrative Justice of Ukraine (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 2005, N 35- 37, p. 446; 2007, N 9, p. 67) must be deleted;

5) in the Law of Ukraine "On the State Control and Audit Service in Ukraine" (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 1993, N 13, p. 110; 2006, N 18, p. 117; 2007, N 9, p. 67), the following provisions must be deleted:

in Article 2:

part 8;

in part 9 - the words "both in the process of inspection of public procurement and";

clause 8, part 1 of Article 8;

6) in the Law of Ukraine "On the Antimonopoly Committee of Ukraine" (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 1993, N 50, p. 472; 2001, N 41, p. 343; 2004, N 13, p. 181; 2006, N 14, p. 118; 2007, N 9, p. 67), the following provisions must be deleted:

in part 1 of Article 1 - the words "and in the public procurement sphere";

clause 17¹, part 1 of Article 7;

in clause 18, part 1 and clause 19, part 3 of Article 7, clause 20, part 1 of Article 16, clause 20, part 1 of Article 17 - the words "and the Law of Ukraine "On Public Procurement of Goods, Works and Services";

7) paragraph 2, part 2 of Article 15 of the Law of Ukraine "On Education" (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 1996, N 21, p. 84; 2007, N 9, p. 67) must be deleted;

8) clause 13, Article 6 of the Law of Ukraine "On the Accounting Chamber" (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 1996, N 43, p. 212; 1998, N 24, p. 137; 2006, N 14, p. 118) must be deleted;

9) part 4, Article 2 of the Law of Ukraine "On Licensing of Certain Types of Economic Activity" (Vidomosti Verkhvnoi Rady

Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 2000, N 36, p. 299; 2001, N 11, p. 45; 2002, N 1, p. 1, N 20, p. 134; 2004, N 12, p. 155; 2005, N 42, p. 465; 2006, N 18, p. 155; 2007, N 9, p. 67, N 10, p. 89, N 34, p. 444) must be deleted;

10) clause 30, part 1 of Article 16 of the Law of Ukraine "On the State Service of Special Communication and Protection of Information of Ukraine" (Vidomosti Verkhvnoi Rady Ukrainy (Bulletin of the Verkhovna Rada of Ukraine), 2006, N 30, p. 258) must be deleted.

CABINET OF MINISTERS OF UKRAINE

DECREE

of 19 November 2008 No.1017

Kyiv

On Amendments to Provision on Procurement of Goods, Works and Services for Public Funds

Cabinet of Ministers of Ukraine hereby **resolves**:

1. The Regulation on Procurement of Goods, Works and Services for Public Funds approved by the Decree of the Cabinet of Ministers of Ukraine of 17 October 2008 No.921 (Official Bulletin of Ukraine, 2008, No. 80, page 2692), as amended by the Decree of the Cabinet of Ministers of Ukraine of 5 November 2008, No.986, shall have the language as attached.

2. The Ministry of Economy shall bring its normative acts into compliance with this Decree.

To ensure implementing this Decree, the proposal of the Ministry of Economy shall be accepted to use the part of own normative acts concerning government procurement that does not contradict this Decree during the period of their being brought into compliance with this Decree.

Prime Minister of Ukraine

Yu. Timoshenko

APPROVED

by Decree of the Cabinet of Ministers of Ukraine
of 17 October 2008, No. 921

(as amended by Decree of the Cabinet of Ministers of Ukraine
of 19 November 2008 No. 1017)

REGULATION

Procurement of Goods, Works and Services for Public Funds

General issues

1. This Regulation shall stipulate the mechanism for procurement of, works and services for public funds.

2. The below terms used in this Regulation shall have the following meanings:

1) acceptance of tender bid shall mean customer's accepting the tender bid that has been recognized as the most economically viable based on the results of a valuation and granting consent to pay for it.

A tender bid shall be considered accepted, if the customer, within the term established in the tender documents, provided the tenderer with a written verification of the acceptance of the tender bid;

2) alternative tender bid shall mean a bid that may be additionally submitted by the tenderer to the customer together with the tender bid, if it is stipulated in the tender documents, complying with the terms stipulated by the tender documents and being different from the bid developed in accordance with the terms stipulated by the tender documents;

- 3) government procurement (the “procurement”) shall mean purchasing goods, works and services for public funds in accordance with the procedure established by this Regulation;
- 4) public funds shall mean the funds of the State Budget of Ukraine, those of the budget of the Autonomous Republic of Crimea and local budgets, government loan funds as well as the funds of the National Bank, state target funds, the Pension Fund of Ukraine, and social insurance funds used to purchase goods, works and services necessary to support the activities of the said bodies; funds of enterprises;
- 5) procurement contract shall mean a contract entered into between the customer and the tenderer based on the results of the procurement procedure stipulating the provision of services, performance of works or acquiring ownership of goods for public funds;
- 6) electronic government procurement shall mean using information technologies and the Internet in procurement relations arising between the customer and suppliers of goods, works and services in accordance with this Regulation;
- 7) ensuring of a tender bid (the “tender ensuring”) shall mean tenderer’s providing guarantees to the customer of fulfilling its obligations in connection with submitting a tender bid including such forms of ensuring as surety, guarantee, pledge, and an advance;
- 8) ensuring the performance of a procurement contract shall mean tenderer’s providing the customer with guarantees of fulfilling its obligations under the procurement contract including such forms of ensuring as surety, guarantee, pledge, and an advance;
- 9) customer shall mean a budget executor carrying out procurement in accordance with the procedure stipulated by this Regulation;
- 10) qualification documents shall mean the documents developed by the customer and provided to the pre-qualification participants for them to prepare pre-qualification bids when a pre-qualification of tenderers is conducted;
- 11) pre-qualification bid shall mean a bid submitted by a pre-qualification participant to the customer in accordance with the requirements of the qualification documents;
- 12) winner of the procurement procedure shall mean a tenderer whose tender bid, based on the results of the evaluation, has been recognized as the most economically viable and accepted;
- 13) enterprises shall mean state enterprises including government enterprises, institutions and business companies in whose charter capitals the state’s stake of shares (participatory interest, shares) exceeds 50 per cent, their subsidiaries as well as enterprises and business companies whose charter capitals are, 50-per cent and more, owned by state enterprises, including government enterprises and business companies, in whose charter capitals the state’s stake of shares (participatory interest, shares) exceeds 50 per cent;
- 14) related person shall mean a person having any of the following characteristics:
 - a legal entity exercising control over a tenderer or being controlled by such tenderer or being under common control with such tenderer;
 - an individual or their family members exercising control over a tenderer;
 - tenderer’s officer authorized to take legal actions on tenderer’s behalf aimed at establishing, changing or discontinuing civil relations as well as such officer’s family members.Exercising control shall mean, in this Regulation, holding directly or through related individuals or legal entities the largest share (interest, block of shares) in the tenderer’s charter capital or managing the largest number of votes in the governing body of such tenderer or holding a share (interest, block of shares) of at least 20 per cent of tenderer’s charter capital. For an individual, the total holding in the tenderer’s charter capital (votes in the governing body) shall be determined as a total of corporate rights owned by such individual, their family members and legal entities controlled by such individual or their family members.
In this Regulation, family members shall be a married couple and their children, parents, brothers, sisters, grandchildren, spouses of children, parents, brothers, sisters and grandchildren;
- 15) services shall mean any procurement, except for goods and works, including training of specialists, providing means of transportation and communication, mastering technologies, science research, medical and household services, current repairs as well as consultancy services.

Consultancy services shall include services related to consultations, expert inspections, valuations, preparing opinions and recommendations;

16) object of procurement shall mean the goods, works or services specified by the customer (by volume, nomenclature or place of supplying goods (performing works, providing services) for which tender bids may be submitted as part of the single procurement procedure or the bids may be submitted in negotiations, when the procedure for procuring from single tenderer is used. There may not be fewer than two bids for one procurement object in the course of the tender;

17) works shall mean any activity related to designing and constructing new units and buildings of production and non-production purpose as well as expanding, reconstructing, performing capital repairs and restoration of existing units and buildings; installing technical equipment of operating enterprises as well as auxiliary services including geodesic works, drilling, seismic research, aerial and satellite photography, etc., if the cost of providing the said services does not exceed the cost of construction itself;

18) budget executors shall mean the authorities of the Autonomous Republic of Crimea, local governments, other bodies, institutions and organizations stipulated by the Constitution of Ukraine and legislation, enterprises as well as the enterprises, institutions or organizations created in accordance with the established procedure by state authorities, the authorities of the Autonomous Republic of Crimea or local governments authorized to receive state funds, assume obligations in their regard and make payments;

19) tender documents shall mean the documents prepared by the customer and provided for free in accordance with the established procedure to persons upon their relevant requests for them to prepare tender bids regarding the procurement object or its part;

20) tender committee shall mean a group of specialists appointed by the customer as responsible for conducting procurement procedures in accordance with this Regulation;

21) tender bid shall mean a bid on a certain procurement object or its part (lot) that is prepared and submitted to the customer by the person who confirmed their intention to participate in the procurement procedure in accordance with the procedure stipulated by this Regulation and the tender documents;

22) goods shall mean products, objects of any kind and purpose including raw materials, articles, equipment, technologies, objects in a hard, liquid and gaseous state including electric power as well as services related to supplying goods, if their value does not exceed the value of goods themselves;

23) tender shall mean carrying out a competitive selection of tenderers to determine the winner of the tender in accordance with the procedures (except for the procedure for procuring from single tenderer) established by this Regulation;

24) pre-qualification participant shall mean an individual including individual entrepreneurs, a resident or non-resident legal entity that confirmed its intention to participate in the pre-qualification procedure and submitted or is submitting a pre-qualification bid;

25) procurement procedure participant (the "participant") shall mean an individual or a resident or non-resident legal entity that confirmed its intention to participate in the procurement procedure and submitted a tender bid or participated in the negotiations when conducting the procedure for procuring from single tenderer. A branch (representation) of a legal entity may be a procurement procedure participant, if the legal entity grants it relevant powers;

26) part of the procurement object (lot) shall mean a part of the goods, works or services specified by the customer (by volume, nomenclature or place of supplying goods (performing works, providing services) for which tender bids may be submitted as part of the single procurement procedure or the bids may be submitted in negotiations, when the procedure for procuring from single tenderer is used. There may not be fewer than two bids for each separate part of the procurement object in the course of tender.

3. The goods and services procurement object shall be determined by the customer in accordance with subparagraphs 15 and 22 of paragraph 2 of this Regulation and on the basis of the State

Classifier of Products and Services DK 016-97 by the fifth digit (the classification “category”) indicating the specific name of the good or service in brackets.

The customer may specify separate parts of the procurement object (lot) by the sixth and ninth digits of the Classifier (classification “subcategory” and “type”).

In the course of procuring current repairs services, the object of procurement shall be determined based on the Rules for Determining the Cost of Construction DBN D.1.1-1-2000.

In the course of procuring services to perform science research, the name of the procurement object shall be determined based on the State Classifier of Science Research Activities DK 015-97 by the fourth digit (classification “kind”) indicating the specific name of science research work in brackets.

In case of procuring services to perform science research work by different subjects pertaining to one type of science research work in accordance with the Classifier DK 015-97, the customer, to order those, must announce the procurement procedure and determine the procurement object of science research work by different subjects as separate lots.

4. Determining the procurement object in case works are procured shall be carried out by the customer in accordance with subparagraph 17 of paragraph 2 of this Regulation based on the Rules for Determining the Cost of Construction DBN D.1.1-1-2000 as well as departmental construction standards VBN G.1-218-182:2006 “Classification of Public Road Repair Works.”

The unit of construction shall be each separate building (a production house or workshop, a warehouse, a residential house, etc.) or structure (a bridge, a tunnel, a platform, a road, etc.) with all arrangements (passageways, ramps, etc.), installing equipment, furniture, stocks, subsidiary and auxiliary devices that are inalienable as well as adjacent engineering networks. To construct a unit, a separate design and budget must be prepared or a budget calculation (a unit budget or unit budget calculation).

5. This Regulation shall apply to every procurement of goods, works and services that is fully or partly carried out for public funds provided the amount of procurement of the good (goods), service (services) is at least UAH 100 thousand and of works, UAH 300 thousand.

6. This Regulation shall not cover procurement of goods, works and services that, due to their special purpose, is a state secret and procurement of goods and services carried out by defense industry enterprises, which list is stipulated by the Cabinet of Ministers of Ukraine.

Specific relations arising in connection with procurement of goods, works and services carried out in connection with a state defense order as well as procurement of other (specific) goods, works and services specifically determined by the Cabinet of Ministers of Ukraine may be stipulated by separate decisions of the Cabinet of Ministers of Ukraine. Goods, works and services shall be procured only from the immediate manufacturers of goods, performers of works and providers of services or their official representatives (dealers, agents, distributors, etc.).

7. This Regulation shall not cover cases where the object of procurement is:

blank forms of securities and pre-numbered accounting documents;

state decorations of Ukraine;

education documents of the state format;

book-publishing products purchased by libraries;

bank services to process utility bills, service current accounts and perform cash and settlement services;

government official delegations air transportation services;

administrative services provided only by executive authorities in accordance with law;

railroad transportation services;

natural gas and its transportation, distribution and supply services;

postal communication services, postal stamps and stamped envelopes;

prosthetic and orthopedic services, orthopedic footwear and means of transportation manufactured at invalid's individual order including components thereto and repair services, prosthetic and orthopedic services;
works of visual arts: painting, graphics, sculpture as well as decorative and applied art and folk art works to replenish the State Museum Fund of Ukraine;
telecommunication services including re-broadcasting of radio and television signals (except for mobile communication services and Internet Service Provider services);
goods and services related to developing the design, manufacturing the protected paper, bank notes and coins, their keeping, transporting and accounting for;
goods, works and services procured by customers located outside Ukraine;
goods, works and services procured by bodies, institutions, educational institutions and criminal execution system enterprises from criminal execution system enterprises;
centralized water supply, water drainage and maintenance of sewage systems;
electric power, its transmission and distribution;
centralized heating energy supply;
nuclear fuel, new fuel elements for nuclear reactors;
legal services to ensure protecting rights and interests of Ukraine before foreign jurisdiction bodies when considering cases;
goods and services intended for events and official receptions attended by the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine and members of the Cabinet of Ministers of Ukraine;
goods, works and services required to liquidate the consequences of man-caused emergencies and natural calamities;
fuel for road vehicles purchased at retail gas stations;
goods and services required to carry out government borrowings, servicing and repaying the sovereign debt.

8. Procuring goods, works and services shall follow these principles:

maximum saving and efficiency;
good-faith competition amongst participants;
openness and transparency at all procurement stages;
non-discrimination of participants;
objective and unbiased evaluation of tender bids;
preventing corruption and abuse.

Domestic and foreign participants shall participate in the procurement procedure on equal grounds.

Customers and the authorized body shall ensure free access by all participants to information about procurement in accordance with this Regulation.

The customer may not establish discriminatory requirements to participants.

9. Procuring goods, works and services for public funds shall be carried out by the Ministry of Economy – the specially authorized central executive authority (the “executive authority”).

10. The main functions of the executive authority shall be:

- 1) drafting normative acts on the functioning of the procurement system;
- 2) accounting for procurement procedures by collecting information on planned procurement and tenders that were held;
- 3) considering complaints submitted by tenderers before entering into the procurement contract;
- 4) approving the use of the limited participation tender procedure and the procedure for procuring from single tenderer;
- 5) participating in feasibility studies for individual expenditure items of the State Budget of Ukraine;

- 6) preparing and submitting to the Cabinet of Ministers of Ukraine, six-month reports on customer's carrying out procurements;
- 7) providing clarifications of the procedure for applying legislation in the field of procurement;
- 8) drafting and approving:
 - standard tender documents;
 - the strategy for the development of electronic procurement;
 - forms of:
 - the annual procurement plan;
 - the announcement of the procurement procedure and its results;
 - the report on the results of conducting procurement procedures and additional requirements thereto;
 - the registry of submitted tender bids;
 - the protocol of opening tender bids;
 - the protocol of evaluating tender bids;
 - the procedure for:
 - exercising control over observing procurement legislation;
 - considering complaints lodged by participants before entering into the procurement contract;
 - approving the use of the limited participation tender procedure and the procedure for procuring from single tenderer;
 - other normative acts required to fulfill the functions charged with it;
- 9) submitting materials to law enforcement bodies regarding violations of the established procurement procedures entailing administrative or criminal responsibility;
- 10) cooperating with the Antimonopoly Committee bodies to identify violations of legislation on protecting economic competition in the field of procurement;
- 11) providing consultancy and methodological assistance to customers in carrying out procurements including publishing sample tender documents and other information about procurement;
- 12) approving educational curricula for procurement specialists and upgrading their qualifications;
- 13) carrying out international cooperation in the field of procurement and supporting domestic producers for their participation in tenders held outside Ukraine;
- 14) quarterly publishing information on the website about approved uses of the limited participation tender procedure and the procedure for procuring from single tenderer, which content is to be determined by the executive authority;
- 15) publishing the "Government Procurement Bulletin";
- 16) ensuring the functioning of a web portal on government procurement;
- 17) exercising control, within its scope of authority, over observing procurement legislation requirements;
- 18) organizing training of procurement specialists and upgrading their qualifications issuing a relevant certificate in the established format;
- 19) providing clarifications as to preparing technical specifications.

11. The executive authority shall be entitled to request customers' reports on results of procurement procedures and performing the concluded contracts, establish deadlines for customers' providing information about planned procurements, concluded procurement contracts and their performance and, if violations of the established procurement procedures are identified, take measures in accordance with this Regulation.

In the course of controlling over the observance of procurement legislation, the executive authority shall be entitled to resolve on invalidating the results of the procurement procedure in the following cases:

violations of law have been identified that had an impact on the objectivity of choosing the procurement procedure winner;

the budget executor does not provide documents regarding the procurement procedure within the established term upon request of the executive authority.

A copy of the decision approved in accordance with this paragraph shall be sent by the executive authority to budget executors and the State Treasury (servicing bank) within five days after its approval. The State Treasury (servicing bank) shall not make payments from customer's account under the procurement contract resulting from such procurement procedure from the date of receiving a copy of the executive authority's decision on invalidating the procurement procedure results.

12. If rules of Ukraine's international treaty recognized as obligatory by the Verkhovna Rada contain provisions differing from the rules of this Regulation, the rules of Ukraine's international treaty shall apply.

General terms of procurement

13. Announcements of planned procurements or holding a pre-qualification shall be published free-of-charge in the "Government Procurement Bulletin" published by the executive authority and posted free-of-charge on the government procurement web portal established by the executive authority.

Users' access to information posted on the government procurement web portal established by the executive authority shall be free-of-charge.

Announcements of planned procurements may be published on the websites of customers or budget executors under the heading "Government Procurement" and in printed national mass media.

Internet resources on which government procurement information is posted shall meet information protection requirements established by law. The annual government procurement plan and changes thereto shall be posted on the Internet (on their own website or, lacking that, on the website of the main budget executor) within ten calendar days after their approval.

14. The procurement procedure may not be conducted before publishing the announcement about it in the "Government Procurement Bulletin" and on the government procurement web portal, except for cases where the customer uses the procedure for limited participation tender, request for price proposals (quotations) and procuring from single tenderer in accordance with the procedure established by this Regulation.

15. An announcement of a planned procurement or holding a pre-qualification of participants shall be published in an international publication determined by the executive authority or on an international electronic communication network in the event the expected value of the procurement object exceeds an equivalent of:

for goods — 200 thousand euro;

for services — 300 thousand euro;

for works — 500 thousand euro.

16. In the course of procurement procedures, parties shall submit information in writing. If information has been submitted in other than written form, the content of such information shall be verified by the parties in writing.

17. An announcement of the procurement procedure, an invitation to participate in the procurement procedure, an announcement of a pre-qualification of tenderers as well as tender documents shall be prepared in Ukrainian and one of foreign languages used in international trade in cases stipulated by paragraph 15 of this Regulation. The texts shall be authentic, the Ukrainian text being decisive. Tender bids shall be submitted in the language (languages) specified by the customer in the tender documents.

18. To organize and hold procurement procedures, the customer shall set up a tender committee based on collective decision-making, the absence of a conflict of interest among members and their impartiality.

The composition of the tender committee and regulations thereon shall be approved by the customer. The tender committee may not include officers and representatives of tenderers, their close relatives, officers of company associations, their representatives and close relatives. Members of the tender committee shall be customer's employees, their number being at least five.

Proceedings of the tender committee shall be directed by its chairperson who is appointed by decision of the customer and is a person entitled to sign procurement contracts. The chairperson of the tender committee shall organize its work and bear personal responsibility for fulfilling the functions charged with the committee.

The chairperson of the tender committee shall appoint their deputy (deputies), a responsible secretary and delineate the functions of each member of the tender committee.

The chairperson, deputy chairperson and secretary of the tender committee shall receive a document verifying their training (upgrading qualifications) in the field of procurement in accordance with the procedure established by the executive authority.

Decisions of the tender committee shall be formalized in a protocol signed by all members of the tender committee.

Members of the tender committee shall bear personal responsibility for decisions taken by them in accordance with laws.

Experts and consultants involved in proceedings of tender committees on a contract basis in accordance with law may not be members of the tender committee and shall not bear responsibility for decisions, acts or failures to act of the tender committee and officers of the customer, tenderer or other persons, for performing (not performing) procurement contracts as well as for consequences of such decisions, acts or failures to act.

A model regulation on tender committee shall be drafted and approved by the executive authority.

19. Procurement may be carried out through the following procedures:

- open tender;
- limited participation tender;
- two-tier tender;
- request for price proposals (quotations);
- procuring from single tenderer.

20. The main procurement procedure shall be the open tender.

21. Using the limited participation tender procedure to procure goods, works and services requires an approval of the executive authority in accordance with the procedure established by it, except for the case where the limited participation tender procedure is used after a pre-qualification of tenderers.

Using the procedure for procuring from single tenderer requires an approval of the executive authority in accordance with the procedure established by it.

22. The decision of the executive authority to refuse approving the use of the limited participation tender procedure and the procedure for procuring from single tenderer shall be formalized in a letter.

23. The customer shall not be entitled to split the procurement object with a view to avoiding the procurement procedure.

24. The customer may require the tenderer to provide information verifying its meeting the following qualification requirements:

the availability of funds, equipment and personnel having appropriate qualifications, necessary knowledge and experience;

book value of assets;

financial turnover;

experience of performing similar contracts;

payment of taxes and duties (obligatory payments);

tenderer's carrying out business activity in accordance with provisions of its charter;

there are no grounds stipulated by this Regulation for refusing participation in the tender.

Qualification requirements are stipulated by the customer in tender documents or other documents related to submitting tender or qualification bids.

All tender bids of the tenderers meeting qualification requirements established by this paragraph shall be accepted for evaluation.

25. The customer shall be entitled to conduct a pre-qualification of tenderers.

Information about conducting a pre-qualification of tenderers shall be published by the customer in accordance with paragraphs 13 and 15 of this Regulation at least 30 calendar days in advance of providing invitations to participate in the tender procedure. In individual cases, the said term may be reduced to 15 calendar days, the reason of the reduction being indicated in the report on the results of the procurement procedure.

Information about conducting a pre-qualification of tenderers shall contain:

the name and address of the customer;

the type, quantity of goods and the place of their supply, the type and location of performing works or providing services;

the terms of supplying goods (performing works, providing services);

the requirements that the tenderer must meet;

the place and deadline for submitting bids to participate in the pre-qualification of tenderers;

other information that the customer soundly requires.

26. Within three working days after receiving a relevant request, the customer shall provide all tenderers, who expressed their wish to participate in the pre-qualification, with:

instructions to prepare and submit bids to participate in pre-qualification;

information about the criteria and procedures to evaluate one's meeting qualification requirements (briefly);

documents necessary for the tenderer to verify it's meeting the requirements that are put forward;

surnames, titles of persons responsible for holding pre-qualification of participants and means of communicating with customer's representatives.

27. The customer shall select the tenderers to further participate in the procurement procedure, provided they meet the requirements specified in the information about holding pre-qualification.

Within five calendar days after completing the pre-qualification of tenderers, the customer shall notify every tenderer of its results.

Only those tenderers shall be invited to further participate in the procurement procedure, which passed the selection based on pre-qualification results.

28. The customer shall reject a tender or qualification bid in case:

1) it has solid proof that:

the tenderer offers, gives or agrees to give any officer of the customer, other state body a compensation in any form (an offer of employment, a valuable article, a service, etc.) with a

view to impacting the decision on determining the winner of the procurement procedure or the customer's use of a certain procurement procedure;
an individual that is a tenderer has been convicted of a crime committed in the course of a procurement procedure or other crime committed on lucrative impulse, which conviction is outstanding or has not been lifted in accordance with the established procedure;
tenderer's officer who was appointed responsible for conducting the procurement procedure has been convicted of a crime related to violating the procurement procedure or other crime committed on lucrative impulse, which conviction is outstanding or has not been lifted in accordance with the established procedure;

- 2) bids have been submitted by procurement procedure participants that are related persons;
- 3) a tenderer submitted unfair information about its meeting the established qualification requirements;
- 4) a tenderer does not meet the established qualification requirements.

29. Information about rejecting a tender or qualification bid of a tenderer specifying the ground for rejection shall be set out by the customer in the report on results of the procurement procedure and notified to the tenderer, whose bid has been rejected, during seven calendar days from the day of approving the decision on rejecting the relevant bid.

30. The customer shall decide to refuse tenderer's participation in the procurement procedure, if:

- 1) the tenderer has been recognized bankrupt in accordance with the established procedure or a bankruptcy case has been brought against it;
- 2) the customer received information that:
an individual who is a tenderer has been convicted of a crime committed in the course of a procurement procedure or other crime committed on lucrative impulse, which conviction is outstanding or has not been lifted in accordance with the established procedure;
tenderer's officer who was appointed responsible for conducting the procurement procedure has been convicted of a crime related to violating the procurement procedure or other crime committed on lucrative impulse, which conviction is outstanding or has not been lifted in accordance with the established procedure.

Grounds for refusing tenderer's participation in the procurement procedure in accordance with this paragraph shall be specified in the report on results of the procurement procedure and notified to such tenderer during seven calendar days from the day of approving the relevant decision.

31. The report on results of the procurement procedure in the format established by the executive authority shall contain:

- a brief description of the procurement object;
- names and addresses of the tenderers that submitted tender bids, applications to participate in the pre-qualification of participants, the name and address of the tenderer with whom the procurement contract has been concluded as well as the price of this contract;
- the price and brief description of the main terms of each tender bid and the procurement contract as well as additional terms offered by the tenderers;
- a brief description of the criteria for comparing and evaluating tender bids and determining the tenderer who is the winner of the procurement procedure;
- in case some or all tender bids are rejected, a justification of the rejections;
- the date of publishing the announcement of a planned procurement and the announcement of the result of the performed procurement in the "Government Procurement Bulletin" or the date of sending an invitation to participate in the limited participation tender procedures, request for price proposals (quotations) and procuring from single tenderer and the date of notifying the tenderers of the conducted procedure result;

a description of reasons and circumstances that caused customer's choice of the other procurement procedure than the open tender procedure with a justification of the choice;
a brief description of any requests to clarify the terms of holding pre-qualification of participants or the tender documents, answers thereto as well as any changes to these documents;
in case no conclusion of a procurement contract resulted from the tender, the reasons for such decision;

in case a tender bid has been rejected in accordance with this Regulation, the reasons for the rejection;

information about:

- qualifications of tenderers that submitted tender bids;
- applications to participate in pre-qualification of tenderers or an entry stating that there are no such applications;
- grounds for using pre-qualification of tenderers;
- lodged complaints, brought litigation and results of considering those;
- discontinuing the procurement procedure;
- membership of the tender committee;
- the date of acceptance of the tender bid.

The report on the results of procurement procedures and other documents concerning procurement procedures shall be kept for three years.

32. Except for the cases where it is required by decision of the executive authority or a court, the tender committee shall not disclose information:

which submission contradicts legislation, does not meet the state interests, commercial interests of the parties or violates fair competition principles;

which concerns considering, evaluating and comparing tender bids except that specified in passage six of paragraph 31 of this Regulation.

Open tender and limited participation tender procedures

33. In the course of holding open tender, tender bids may be submitted by all interested parties.

34. In the course of holding a limited participation tender, tender bids may be submitted only by the tenderers that were invited by the customer to participate in the procurement procedure.

The limited participation tender procedure may be used, if goods, works or services, due to their complex or specialized nature, may be offered by a limited number of tenderers.

In the course of holding a limited participation tender, the customer shall invite the tenderers to participate in the procurement procedure, whose number would ensure the choice of the most viable offer and proper competition, but there must be at least two.

35. The announcement of holding an open tender and an invitation to participate in the limited participation tender procedure shall specify:

the name and location of the customer;

the type, quantity and place of supplying goods or type and place of performing works or providing services;

the term of supplying goods, performing works or providing services;

qualification requirements that the tenderers must meet;

the methods and the place of obtaining tender documents;

the place and deadline to submit tender bids;

the place and date of opening tender bids;

the terms for providing tender security (if so required by the customer);

the methods of communication to obtain additional information.

36. The term for submitting tender bids shall be 30 calendar days from the date of publishing the announcement of holding the tender or sending the invitation to participate. In some cases, this term may be reduced to 21 calendar days (to 14 calendar days in case of holding a limited participation tender). The reasons for reducing the term shall be set out in the report on the results of holding the procurement procedure and shall not show customer's intent to weaken competition among the tenderers.

37. The customer shall send or submit tender documents free-of-charge to the person that requested them within three working days from the day of receiving such request from this person. In case of holding a limited participation tender to procure goods and services, the customer may send tender documents together with an invitation to participate in tender.

38. Tender documents shall contain:

- 1) instructions to prepare tender bids;
- 2) a list of criteria put forward by the tender committee to evaluate tenderers' meeting the established qualification requirements;
- 3) information about the need to provide documentary proof of tenderers' meeting the established qualification requirements;
- 4) information about the nature and required technical and quality characteristics of the procurement object including:

relevant technical specifications, plans, drawings, pictures, and descriptions of the procurement object.

Technical specifications, plans, drawings, pictures, and descriptions of the procurement object required by the customer shall contain: a detailed description of goods, works or services being procured setting out objective technical and quality characteristics; requirements to technical characteristics of the functioning of the procurement object, if it is impossible to prepare a description or if providing such characteristics is more advisable; references to standard characteristics, requirements, reference designations and terminology of the goods, works or services being procured using current international or national standards, norms and rules. Technical specifications shall not reference a specific trade mark or firm, patent, structure or type of the procurement object, its origin or manufacturer. If such reference is necessary, the specifications shall contain the words "or equivalent";

quantity of goods;

the location where works must be performed or services provided;

additional services that must be provided;

terms for supplying goods, performing works, and providing services;

- 5) a list of criteria and a methodology for their evaluation to determine the most economically viable tender bid;

- 6) determining the principal terms that shall be included in the procurement contract or a draft procurement contract;

- 7) a description of a separate part or parts of the procurement object on which tender bids may be submitted in cases where the tenderer allows submitting tender bids only on parts of goods, works or services being procured;

- 8) the method for evaluating and comparing alternative tender bids;

- 9) the methodology for calculating the price of a tender bid indicating whether or not it should include other elements along with the value of goods, works or services themselves, for example, costs of transportation, insurance, loading and unloading, paying taxes and duties (obligatory payments), etc.;

- 10) information about the currency (currencies), in which the tender bid price must be calculated and denominated;

- 11) information about the language (languages) that must be used in tender bids;

- 12) customer's requirements to providing tender security and securing the performance of the procurement contract;
- 13) conditions of returning or not returning tender security;
- 14) indicating the method, location and deadline for submitting tender bids;
- 15) the procedure for providing clarifications regarding tender documents as well as a notification of the customer's intention to hold a meeting of the tenderers;
- 16) the term of validity of tender bids, it should not be shorter than 120 days;
- 17) the location, date and time of opening tender bids;
- 18) the surname, title and address of one or several officers or other employees of the customer authorized to maintain communication with the tenderers;
- 19) information about additional conditions required for accepting a tender bid.

39. A person who received tender documents shall be entitled, no later than seven calendar days before the deadline to submit tender bids, to ask the customer to provide clarifications of the tender documents. The customer shall respond to the request of the person who received tender documents within three working days.

40. No later than three calendar days in advance if the deadline to submit tender bids, the customer shall be entitled, on its own initiative or based on requests of persons who received tender documents, to make changes to tender documents and notify the said changes in writing to all persons who the customer provided with tender documents.

41. If the customer holds a meeting to provide clarifications to any inquiries regarding tender documents, it shall take minutes of this meeting recording all clarifications regarding the inquiries and send it and the received tender documents to all persons irrespective of whether or not they attended the meeting.

42. If the customer does not timely provide clarifications regarding the content of tender documents, their changes or if the changes to the tender documents are material, the customer shall extend the term to submit tender bids. The decision to extend the term to submit tender bids shall be approved by the customer with due regard to the fact that such term must be sufficient for the persons who received tender documents to take account of the said changes, amendments or clarifications and timely submit tender bids, but it shall be at least seven working days.

If two or more persons who received tender documents submitted requests for clarification of the tender documents, the customer shall extend the term to submit tender bids.

43. The customer shall be entitled to include information in the tender documents regarding the need to provide tender security, its amount, forms and cases where the tender security is not returned to the tenderer.

Upon customer's request, the tenderer shall provide the tender security along with submitting its tender bid, the amount of security not to exceed 1 per cent of the expected value in case of works procurement tender and 5 per cent in case of goods or services procurement tender under the terms stipulated by tender documents. In case of providing tender security in the form of a deposit, the customer shall return the entire amount of deposit together with interest accrued by the bank, in which the deposit was placed.

44. Tender security shall not be returned by the customer, in the following cases:
the tenderer recalls or changes its tender bid after the deadline for submitting bids;
the tenderer who won the tender does not sign a procurement contract;
the tenderer who won the tender does not provide the required guarantees of performing the procurement contract after acceptance of its tender bid, if the provision of such guarantees is stipulated by tender documents.

45. The customer may not claim tender security and shall return the relevant amount to the tenderer within 10 calendar days after the grounds arise to return tender security, in the following cases:

validity expires of tender bid security specified in tender documents;
a procurement contract has been entered into with the winner of the tender;
a tender bid is recalled before the deadline for submitting bids, if tender documents stipulate so;
the procurement procedure has been completed and no procurement contract has been concluded with any of the tenderers who submitted tender bids.

46. Funds received as tender security (in case they are not returned to the tenderer) shall be transferred to the general fund of the relevant budget and, in case of procuring for public funds, except the funds from the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets, to customer's accounts designated in accordance with legislation.

47. Tender bids shall be submitted in writing signed by tenderer's authorized officer in a sealed envelope or in other form specified in the tender documents. Upon tenderer's request, the customer shall confirm the receipt of its tender bid indicating the date and time of receipt within two calendar days from the moment of receiving such request.

A tender bid shall be accompanied by the document verifying tenderer's providing tender security, if the requirement to provide tender security has been established by the tender documents.

48. Tender bids received by the customer after the deadline for their submission shall not be opened and shall be returned to the tenderers who submitted those.

49. The customer shall be entitled, before the deadline for submitting tender bids, to resolve on extending the term for submitting tender bids, in case one or more persons who received the tender documents cannot submit their tender bids before the specified deadline due to objective reasons. A notice of extending the term and possible changes of the location and procedure for opening tender bids shall be immediately sent to each person who was provided with the tender documents.

50. Tender bids shall be valid during the term specified in the tender documents. Before the end of this term, the customer shall be entitled to require the tenderers to extend the validity of their tender bids.

A tenderer shall be entitled to:

waive such requirement not forfeiting the tender security provided by it;
agree to the requirement and extend the validity of the tender bid submitted by it and of the tender security.

Tenderers that have not extended the validity of their tender security shall be considered to have waived the requirement to extend their tender bids.

51. A tenderer shall be entitled to introduce changes to or recall its tender bid before the deadline to submit bids without forfeiting its tender security, if the requirements to provide tender security was established in the tender documents. Such changes or statement on recalling the tender bid may be taken into account if received by the customer before the deadline for submitting tender bids.

52. In the course of procurement, the customer shall be entitled to require the tenderer who is the winner of the procurement procedure to provide, at the time of concluding the procurement

contract, a security for the performance of the contract in accordance with the terms specified in the tender documents.

The amount of security for the performance of a procurement contract may not exceed 10 per cent of its budget value in the case of procuring goods and services and 5 per cent in the case of procuring works, respectively.

The customer shall return the security for the performance of a procurement contract to the tenderer in accordance with the provisions of such contract.

The funds that have been received as security for the performance of a procurement contract (in case they are not returned to the tenderer) shall be transferred to the general fund of the relevant budget and, in case of procuring for public funds, except the funds from the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets, to customer's accounts designated in accordance with legislation.

53. Tender bids shall be opened on the day when the term to submit them ends at the time and place specified in the tender documents.

To ensure openness and transparency of procurement procedures, mass media representatives may attend the opening of tender bids.

All tenderers that submitted tender bids or their authorized representatives shall be admitted to participate in the tender bids opening procedure. Tenderer's or its authorized representative's not attending the tender bids opening procedure shall not be the ground for not opening, not considering or rejecting their tender bid.

During the opening of tender bids, the availability of all required documents stipulated by the tender documents shall be verified and the name and address of each tenderer shall be announced as well as the price of each tender bid.

During the opening of tender bids, a protocol shall be drawn up in the format established by the executive authority, which copies shall be provided to all tenderers at their request within one working day of receiving such request. This information shall be included in the report on results of the procurement procedure.

54. The customer shall be entitled to request the tenderers to clarify their tender bids with a view to facilitating their consideration, evaluation and comparison.

The customer and the tenderers shall not initiate any negotiations to introduce changes to the submitted tender bid including changes of its price and some adjustments, without prejudice to the provisions of paragraph 55 of this Regulation.

55. The customer shall be entitled to correct arithmetic errors identified in the submitted tender bid during the evaluation procedure, provided a written consent of the tenderer who submitted this tender bid has been received to make such correction.

56. The customer shall determine the tender winner out of the tenderers, whose tender bids have not been rejected, based on the criteria and the tender bid evaluation methodology set out in the tender documents.

The evaluation criteria may be, in particular:

the price;

the term of supplying goods, performing works, and providing services;

quality and functional characteristics, environmental friendliness;

post-sale maintenance;

settlement terms;

operating costs;

technology transfer and training administrative, science and production personnel including the use of local resources such as means of production, labor and materials to manufacture goods, perform works and provide services offered by the tenderer.

If other criteria than price are used to determine the most economically viable tender bid, the tender documents shall specify (if possible) their value equivalent or specific weight of these criteria in the overall assessment of tender bids. The specific weight of the price criterion may not be lower than 70 per cent.

57. The total term for evaluating and comparing bids and determining the tender winner may not exceed 30 working days from the day of opening tender bids.

58. The customer shall be entitled to require that the tenderers verify the authenticity of information about tenderer's meeting qualification requirements. The customer shall be entitled to require that the tenderer who is the winner of the procurement procedure verify for the second time its meeting the qualification requirements established in the tender documents. If the tenderer refuses to provide such verification, the customer shall reject its tender bid and determine the most economically viable bid out of those remaining.

59. Relevant expert organizations or individual experts may be involved in evaluating tender bids, whose recommendations may be used in determining the tenderer who is the winner of the procurement procedure.

60. Information about considering, evaluating and comparing tender bids shall not be provided to tenderers or other persons who did not officially participate in the procurement procedure, except for cases where such information is required by the executive authority to consider a complaint regarding the procurement procedure or by court.

61. The customer shall reject a tender bid in the following cases:
a tenderer does not meet the qualification requirements established in the tender documents;
a tenderer has not provided documentary proof that it is the manufacturer of goods, performer of works or provider of services or its official representative;
a tender bid does not meet the requirements of the tender documents;
a tenderer has not provided the tender security, if such requirement was stipulated by the tender documents;
a tenderer who submitted a tender bid does not agree to a correction of an arithmetic error identified by the customer;
the circumstances arise specified in paragraphs 28 and 58 of this Regulation.
The customer may reject all tender bids before acceptance of a tender bid, if the tender documents stipulate such possibility.

62. Tender shall be cancelled by the customer in the following cases:
fewer than two tender bids have been submitted;
all tender bids have been rejected;
tender bids of fewer than two tenderers have been admitted for evaluation.

63. Tender may be disqualified by the customer in the following cases:
the price of the most economically viable bid exceeds the amount allocated by the customer to finance the procurement;
carrying out the procurement no longer meets the state needs as a result of unforeseeable objective circumstances (operation of an invincible force).

64. If the customer decides to cancel the tender or disqualify it, it shall give notice of such decision by publishing an announcement in the "Government Procurement Bulletin" specifying the reasons during seven calendar days after approving the decision.

65. A notice of cancelling the tender as well as of disqualifying it shall be sent by the customer to all tenderers within three working days after approving the relevant decision.

66. The customer shall accept the tender bid that has been recognized the most economically viable based on evaluation results.

Within five calendar days of acceptance, the customer shall send the tender winner a notice of accepting the tender bid that has not expired as well as send all participants in the open tender, two-tier tender and limited participation tender procedures a written notice of the tender results specifying the name and location of the procurement procedure winner, whose tender bid has been recognized as the most economically viable based on evaluation results.

The customer shall enter into a procurement contract with the tenderer, whose bid was accepted, in accordance with the requirements of the tender documents and the terms of the accepted tender bid no earlier than five working days after sending a written notice to all participants in the open tender, two-tier tender and limited participation tender procedures of their results, but no later than 21 working days from the day of acceptance.

67. Within seven calendar days of entering into a procurement contract, the customer shall send an announcement of the results of the open tender, two-tier tender and limited participation tender for publishing in the “Government Procurement Bulletin” in the format established by the executive authority.

68. If the tenderer, whose tender bid was accepted, refuses to sign a procurement contract in accordance with the requirements of the tender documents, the customer shall, for the second time, determine the most economically viable tender bid out of those not expired, except for the cases where all tender bids were rejected.

Two-tier tender procedure

69. The two-tier tender procedure shall be used in the following cases:

the customer cannot compile a specific list of goods (works) or determine the type of services as well as in cases where, to make the best procurement decision, preliminary negotiations with tenderers are required;

the customer rejected all tender bids submitted by tenderers to participate in open tender due to collusion between tenderers concerning the price of the relevant good, works or services as well as where tenderers, who submitted tender bids, do not meet the requirements specified in the tender documents;

to perform new construction work that are a replication of similar construction work in accordance with a model design, in respect of which an original procurement contract was concluded pursuant to provisions of the section “Open tender and limited participation tender procedures” of the present Regulation;

the procurement object is science research, experiments or development, providing consultancy and other special services.

70. The two-tier tender procedure shall be conducted in two stages:

at the first stage all tenderers are offered to submit preliminary tender bids not specifying the price. Tender documents shall only provide proposals regarding technical, qualitative and other characteristics of the procurement object, the terms of supply, a verification of the professional and technical competence of the tenderers and their meeting qualification requirements.

The customer shall conduct negotiations with any single tenderer. After receiving preliminary proposals, the customer shall be entitled to introduce changes to the tender documents regarding technical requirements and requirements to the quality of the procurement object or suggest new characteristics and bids evaluation criteria in accordance with this Regulation, which fact shall

be notified by the customer to all tenderers when providing them with invitations to participate in the second stage of tender;

at the second stage, the customer shall instruct the tenderers, whose preliminary tender bids were not rejected at the first stage, to submit final tender bids specifying the price.

The tenderers, whose preliminary tender bids were not rejected at the first stage, shall provide tender security for their bids before participating in the second stage, in case this is stipulated in the tender documents.

After that, the two-tier tender procedure shall be conducted in the same manner as the open tender procedure.

71. The two-tier tender procedure shall specify:

the name and location of the customer;

the description of the procurement object including its technical and other parameters and, where works are being procured, their type and approximate term of performing the works;

the criteria determined by the customer during the evaluation of tender bids;

the term and place of submitting a preliminary tender bid. The term for tenderers' submitting preliminary tender bids may not be shorter than 30 calendar days from the day of publishing the announcement of holding the two-tier tender procedure.

The procedure for requesting price proposals (quotations).

72. The customer may procure by using the procedure for requesting price proposals (quotations) regarding goods and services for which a permanent market exists, provided the amount of procuring those does not exceed UAH 200 thousand.

73. When using the procedure for requesting price proposals (quotations), the customer shall submit a request for price proposals (quotations) to no fewer than three tenderers.

The request shall specify:

the name and location of the customer;

the type, quantity and location of supplying goods or providing services;

the term of supplying goods or providing services;

the place and term of submitting price proposals;

the place and date of opening the price proposals;

the material terms of the contract;

the term of validity of a price proposal.

Each tenderer receiving a request shall be notified of whether or not the value of goods or services includes costs of transportation, insurance, paying taxes and duties (obligatory payments).

74. The term for submitting price proposals shall be established by the customer but it may not be shorter than ten working days after inviting the tenderer.

75. Each tenderer shall be entitled to submit only one price proposal that may not be changed later.

76. A proposal shall be submitted in a sealed envelope or in other form determined by the customer no later than the deadline established by it.

77. The proposals shall be opened at the time determined by the customer.

To ensure openness and transparency of procurement procedures, representatives of mass media may attend the opening of price proposals.

All tenderers that submitted their proposals shall be invited to the opening of price proposals.

The customer shall inform all tenderers that submitted their price proposals of the results of the request for price proposals procedure within six calendar days of opening the proposals.

A protocol shall be drawn up during the opening of proposals, which copy shall be provided to all tenderers at their request within one working day of receiving the relevant request.

78. No earlier than three working days after sending all tenderers a written notice of the procedure results and no later than 14 working days after determining the winner, the customer shall enter into a procurement contract with the tenderer who is the winner of the procurement procedure and who submitted a bid meeting customer's requirements and having the lowest price.

79. The customer shall reject the bids, if they do not meet customer's requirements specified in the request or if the tenderer's actions caused the occurrence of the circumstances specified in paragraph 28 of this Regulation.

80. The procedure for requesting price proposals (quotations) shall be cancelled, if:
fewer than three proposals have been submitted;
all proposals have been rejected due to their not meeting customer's requirements specified in the request.

81. The procedure for requesting price proposals (quotations) may be disqualified, if the lowest price of the price proposals meeting the requirements of the customer specified in its request exceeds the amount allocated by the customer to finance the procurement.

The procedure for procuring from single tenderer.

82. Procurement from single tenderer shall be a procedure where the customer enters into a procurement contract with a tenderer after conducting negotiations with it.

83. The procedure for procuring from single tenderer shall be used by the customer after obtaining an approval of the executive authority in accordance with the procedure established by it in the following cases:

procurement of art works or procurement related to protecting copyright;

there is no competition (including technical reasons) for goods, works or services that may be supplied, performed or provided only by a certain tenderer and there is no alternative;

there is a need for an original tenderer to make additional supplies intended for partial replacement or extension of supplies, where replacing the tenderer may result in procuring goods or services that do not meet the requirements of interchanging with the available goods or services;

there is a need to perform additional construction work not included in the original construction project but which became necessary due to unforeseeable circumstances to complete the construction project, provided the contract is entered into with a participant in such works, if the works are technically or economically related to the master contract. The total amount of contract for additional works shall not exceed 50 per cent of the amount of the master contract;

a procurement contract is entered into with the winner of an architectural competition;

there is an urgent need to procure due to special economic or social circumstances that the customer could not foresee, including procurement related to liquidating consequences of emergencies.

The procurement contract

84. The procurement contract shall be entered into in writing pursuant to the provisions of the Civil Code of Ukraine and the Economic Code of Ukraine.

The terms of the procurement contract shall not differ from the terms of the tender bid (price proposal) of the tenderer who is the winner of the procurement procedure.

Material terms of the procurement contract shall not be changed after signing the contract, except for the cases stipulated by the procedure for changing procurement contract terms to be approved by the executive authority.

The procurement contract may be extended for a term sufficient to conduct the procurement procedure at the beginning of the following year for the amount not exceeding 15 per cent of the value stipulated in the contract concluded in the prior year, if the expenditures for this purpose have been approved in accordance with the established procedure.

A copy of the concluded procurement contract shall be submitted to the executive authority upon its demand.

A procurement contract entered into during the period when the procurement procedure was suspended due to a lodged complaint shall be recognized null and void in accordance with law.

Challenging procurement procedures

85. Any tenderer, who believes that it has sustained or may sustain losses as a result of customer's violating the procurement procedures established by this Regulation, may challenge customer's actions, decisions or failures to act.

The following may not be challenged:

customer's choice of the procurement procedure;

customer's decision to reject all tender bids.

86. A complaint for customer's breach of the procurement procedure or its decisions, actions or failures to act shall be submitted by the participating tenderer to the customer or the executive authority before entering into a procurement contract. If a complaint is lodged, the executive authority shall inform the customer about it within three working days of receiving it.

Officers of the government procurement structural division of the executive authority who are immediately dealing with complaints may not fulfill responsibilities related to discharging other functions of the executive authority stipulated by this Regulation. The customer or executive authority may refuse considering a complaint, if it was lodged later than during 15 days after the occurrence of the ground to lodge it. The day when the ground for a complaint occurs shall be considered the day when the customer breaches the procurement procedure.

87. In the event of lodging a complaint pursuant to paragraph 86 of this Regulation, the customer or the executive authority shall suspend the procurement procedure for a term that may not exceed 20 working days from the date of customer's or executive authority's receiving the complaint, which shall be notified within one working day to the State Treasury (servicing bank). The date of suspending the procurement procedure shall be considered the date when the customer or the executive authority resolves on suspending the procurement procedure. Upon expiry of the said term, the customer shall be entitled to resume the relevant procurement procedure except for the case where the executive authority approved the decision, within the established term, to cancel tender or invalidate its results.

88. Within five working days of receiving a complaint, the customer or the executive authority shall notify its content, time and place of consideration to the tenderer, the tenderer who is the winner of the procurement procedure and the customer. The said persons shall be entitled to take part in considering the complaint.

89. Within 20 working days of receiving the complaint, the customer or the executive authority shall approve a justified decision specifying:

if the complaint has not been granted, - reasons for approving such decision;

if the complaint has been granted in full or in part, - the measures to be taken to settle the conflict.

If the complaint is considered by the customer, the decision on the complaint shall be provided to the executive authority within three working days of approving it.

90. If the tenderer's complaint leads to identifying violations of the established procurement procedure having an impact on the objectivity of determining the procurement procedure winner or resulting in a discrimination of tenderers, the executive authority shall be entitled to cancel the procurement procedure, invalidate the results of such procurement procedure and mandate the customer to initiate another procurement procedure.

The decision of the executive authority on invalidating the results of the procurement procedure shall be binding upon both the customer and the tenderers.

91. A copy of the decision on the results of considering the complaint shall be sent by the customer or the executive authority to the tenderer who lodged the complaint and the State Treasury (servicing bank) within five working days of approving it.

After receiving the decision on the results of considering the complaint, the State Treasury (servicing bank) shall make expenditures:

if the procurement procedure is cancelled, the results of the procurement procedure are invalidated, the customer is mandated to conduct a new procurement procedure, – payments from the customer's account pursuant to the assumed financial obligations shall be resumed after the customer submits documents verifying the results of the new procurement procedure;

if the decision of the executive authority does not envision cancelling the procurement procedure, invalidating the results of the procurement procedure and the decision does not lay an obligation upon the customer to conduct the new procurement procedure, - payments from the customer's account pursuant to the assumed financial obligations shall be resumed in accordance with the documents verifying the carrying out of the procurement procedure.

Responsibility for violating procurement legislation

92. For violating the requirements established by this Regulation and other normative acts developed to implement it, customers and tenderers shall bear administrative or criminal responsibility in accordance with laws.

Bodies exercising state supervision (control) in the field of procurement

93. State supervision (control) in the field of procurement, within the scope of their authority, shall be exercised by the executive authority, bodies of the state control and audit service, the State Treasury, the State Statistics Committee, the Antimonopoly Committee as well as by the Accounting Chamber and law enforcement bodies.

Bodies exercising state supervision (control) in the field of procurement within the scope of authority stipulated by the Constitution and laws of Ukraine shall fulfill the following functions:

1) bodies of the state control and audit service:

controlling over customer's observing the requirements of this Regulation;

preparing protocols on administrative violations related to breaches of procurement legislation;

cooperating with state authorities in the field of preventing corruption in the field of procurement;

submitting relevant materials to law enforcement bodies;

other functions stipulated by legislation;

2) the State Treasury:

verifying the availability of a concluded procurement contract and its being in line with the report on the results of the procurement procedure and other documents stipulated by this Regulation;

submitting relevant materials to law enforcement bodies;

other functions stipulated by legislation;

3) the State Statistics Committee:

collecting information about the results of the procurement procedure;
approving forms of statistical reports in the field of procurement;
other functions stipulated by legislation;

4) the Antimonopoly Committee:

designing and implementing measures intended to create and enhance the competitive environment in the field of procurement;

controlling over the observance of legislation on protecting economic competition in the field of procurement;

controlling over implementing measures to create a competitive environment and ensure protecting competition in the field of procurement;

providing bodies exercising state supervision (control) in the field of procurement with information about breeches of legislation on protecting economic competition in the field of procurement;

other functions stipulated by legislation.

The Accounting Chamber and law enforcement bodies exercise state supervision (control) in the field of procurement within the scope of their authority stipulated by laws.

Claims Review and Procurement Monitoring Committee

The Authorized body shall set up the Claims Review and Procurement Monitoring Committee (hereinafter referred to as “the Committee”).

The Committee shall:

review claims submitted by bidders in the procedure envisaged by this Law;

submit to the Authorized body the recommendations on approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure;

elaborate and submit to the Authorized body to approve the methods to:

define the amount of damages in the event of violation of the legislation in the sphere of government procurement;

calculate the price of the procurement object with consideration of technical and quality specifications of works, goods and services.

The Committee is made up by single representatives of the Ministry of Economy of Ukraine, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Main Control and Revision Office of Ukraine, State Treasury of Ukraine, Antimonopoly Committee of Ukraine, State Inspection for Prices Control of Ukraine, Chamber of Auditors, Economic Policy Committee of the Verkhonva Rada of Ukraine, the Budget Committee of Verkhovna Rada of Ukraine, the Committee on Combating Organized Crime and Corruption at the Verkhovna Rada of Ukraine.

State officials only can be the members of the Committee.

The list of the members of the Committee shall be approved by the Authorized body and disclosed at the web-portal of this body.

The Head of the Committee shall be appointed Deputy Minister of Economy of Ukraine.

The rules and procedures of the Committee shall be defined by the Committee and disclosed at the web-portal of the Authorized body.

The Committee sitting shall be deemed eligible if it is attended by not less than two third of the members of the Committee. The decision of the Committee shall be deemed made if it was voted for by the two third of the members of the Committee being present at the sitting. Each member of the Committee shall have one vote. In the event of equal distribution of votes the vote of the Head of the Committee shall be deemed casting, and in the event the Head is not present at the sitting – the vote of the Chairman of the sitting. The decision of the Committee shall be filed as the Minutes signed by the Head of the Committee.

The Authorized Body shall be responsible for organizational and logistic Support of the Committee activities.

Article 10.

PRICE REDUCTION PROCUREMENT PROCEDURE

Article 33. Terms of application of the price reduction procurement procedure

1. The price reduction procurement procedure shall be applied in the event of procurement of good or services with a constantly operating market, which are produced or provided beyond purposefully elaborated specifications.

Article 34. Carrying out the price reduction procurement procedure

1. The price reduction procurement procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features as determined by the Chapter.

2. The price reduction procurement procedure shall consist of two stages:

At the first stage all the bidders are offered to submit preliminary bids without specifying the price. The bidding documents must only provide for offers about technical, qualitative, and other characteristics of the procurement object, terms of delivery, and qualification requirements. The period for submission of bids is not less than 15 calendar days from the date of publication of the announcement about the price reduction procurement procedure;

At the second stage the procuring entity suggests that bidders whose preliminary bids have not been rejected during the first stage submit final bids and specify the price. The period for submission of bids during the second stage is not less than seven calendar days from the date of notifying bidders about results of the first stage.

3. During disclosure of bids at the second stage the bidder shall announce the name and address of all the bidders and the price of all bids. Then the bidder suggests that the present representatives of bidders reduce the price of their bid by one step of the price reduction procedure mentioned in the bidding documents. The initial price for the price reduction procurement procedure shall be deemed the minimum price of the bid. Their consent to reduce the price of the bid the present representatives of bidders confirm by raising a card with the mentioned name of the bidder on it. If after the initial and following prices have been announced three times, no bidder suggests a new price, the price reduction procurement procedure terminates and the last bidder who was called and suggested the lowest price is announced the winner.

Chapter VI

This is the alternative draft that was prepared at the request of the World Bank and the EU, and endorsed by these organizations, but which has not been submitted to the Ukrainian parliament.

This version was received from the Ministry of Economy in March 2009 with track changes from the pending draft, as adopted in the first reading and translated by the World Bank. In the present version, all track changes have been accepted.

Apparently, the Ministry of Economy is presently, in September 2009, considering a revision of this alternative draft.

DRAFT

LAW OF UKRAINE
On Procurement of Goods, Works,
and Services with State Funds

This Law establishes the general legal and economic principles for procurement of goods, works, and services with state funds.

The goal of this Law is creation of a competitive environment in the sphere of government procurement, prevention of corrupt practices in this sphere, ensuring rational and effective use of state funds.

Chapter 1

GENERAL PROVISIONS

Article 1. Definition of fundamental terms

1. In this Law, the terms presented below are applied with the following meanings:

1) Acceptance of a bid – adoption by the procuring entity of a bid that is determined to be the most economy efficient according to the results of an assessment, and giving consent and undertaking obligations to pay for a procurement object or a part thereof (lot) according to that proposal. A bid is considered to be accepted, if the procuring entity gives the bidder a written confirmation of the acceptance of the bid in the time period established by this Law;

2) alternative bid – a proposal that may be submitted by the bidder to the procuring entity in addition as part of the bid if this is provided for by the tender documentation and which, in accordance with the terms, is distinguished from the proposal that is developed according to the conditions provided for by the tender documentation;

3) general procuring entity – the state power authority, enterprise, institution or organization defined accordingly by the Cabinet of Ministers of Ukraine, Council of Ministers of the Autonomous Republic of Crimea, or local executive self-governance authorities responsible for organization and conduction of procurement procedures on the basis of coordination according to this Law;

4) government procurement (hereinafter referred to as “procurement”) – acquisition by a procuring entity of goods, works, and services with state funds in a procedure that is established by this Law.

5) state funds – funds of the State Budget of Ukraine, Budget of the Autonomous Republic of Crimea and local budgets, state credit resources, funds of the National Bank of Ukraine, state allocated funds, the Pension Fund of Ukraine, mandatory state social insurance funds, unemployment insurance funds, mandatory state social insurance funds in the event of temporary working disability and birth and burial expenses, the funds envisaged by the Law of Ukraine “On Mandatory State Social Insurance Against Accidents at a Work Place and Occupational Diseases Which Result in Working Disability”,

the funds of the institutions or organizations established by the state authorities, the Autonomous Republic of Crimea authorities or local authorities in the established procedure, humanitarian aid in money terms, funds of enterprises;

6) procurement contract – a contract that is concluded between the procuring entity and the bidder based on the results of a procurement procedure and provides for provision of services, execution of works, or acquisition of ownership rights for goods with state funds;

7) electronic government procurement – use of information technologies and Internet network in relations that arise in the process of government procurement between the procuring entity and the supplier of goods, works and services for public funds, according to the present Law;

8) guarantee of execution of a procurement contract – provision of the procuring entity by the bidder with guarantees of execution of obligations by the bidder including such kinds of guarantees as collaterals, warranties, pledges and security deposits;

9) guarantee of a bid (hereinafter referred to as a “bid security”) – provision of the procuring entity by the bidder with a guarantee of execution of the obligations of the bidder in connection with submission of a bid including such kinds of guarantees as collaterals, warranties, pledges and security deposits;;

10) procurement on the basis of coordination – execution of a procurement procedure by the general procuring entity who acts in the interests of the procuring entities in a procedure determined by this Law;

11) procuring entities – managers of state funds that perform procurement in the procedure determined by this Law;

12) qualification documentation – documentation that is developed by the procuring entity and transferred to the bidders of preliminary qualification for preparation of qualification proposals when conducting preliminary qualification of bidders;

13) qualification proposal – a proposal that is submitted to the procuring entity by the bidder/participant in the preliminary qualification according to the requirements of qualification documentation;

14) winner of the procurement process – the bidder whose bid is accepted;

15) enterprises – state enterprises as well as government ones, utility enterprises and business companies with authorized stock in which the state or utility enterprise owns over 50% of shares, their daughter companies as well as the enterprises, business companies with authorized stock where over 50% of shares is owned by the state as well as government enterprises, and also to the government enterprises, utility enterprises and business companies with authorized stock where municipal share makes up over 50%;

16) connected individual – an individual that conforms to any of the characteristics presented below:

A legal entity that performs supervision of a bidder or supervises said bidder, or remains under joint supervision with said bidder;

An individual or member of their family that performs supervision of the bidder;

A state official of the bidder who is authorized to perform legal acts in the name of the bidder that are directed at establishment, amendment, or suspension of civil-legal relations, as well as the family members of said state official;

When performing supervision in this Law, one should understand direct possession or possession through connected individuals or legal entities of the largest share (stake, package of shares) of the statutory capital of the bidder, or management of the largest number of votes in a leading authority of said bidder, or possession of a share (stake, package of shares), that is no less than 20 percent of the statutory capital of the bidder. For an individual, the total sum of possession of a share of the statutory capital of a bidder (votes in a leading authority) is defined as the total sum of corporate rights that

belong to said individual, a family member of said individual and legal entities that are supervised by said individual or a member of their family.

For the purposes of this Law, spouses and their children, parents, brothers, sisters, and grandchildren as well as the spouses of children, parents, brothers, sisters, and grandchildren are considered to be family members.

17) services – any procurement other than goods and works, including preparation of specialists, provision of means of transport and communications, mastering technologies, research surveys, medical and communal services, routine repairs, and consultation services. Consultation services include services connected with consulting, expertise, assessment, and preparation of conclusions and recommendations;

18) procurement object – goods, works, and services that are procured by a procuring entity in the framework of a uniform procurement procedure, in which the bidders are allowed to submit bids or proposals at negotiations should the single-source procurement procedure be applied. the procurement object is defined as the procuring entity in a procedure established by a specially authorized executive power authority. The number of bids for one procurement object cannot be less than two;

19) works – design, new construction of, expansion, reconstruction, major repairs, and restoration of objects and facilities for manufacturing and non-manufacturing purposes, geological surveys, technical re-equipment of existing enterprises, as well as accompanying works in services, including geodesic works, drilling, seismic surveys, aero- and satellite photography and other services that are included in the estimated cost of works, if the cost of executing such works does not exceed the cost of the works themselves;

20) manager of state funds – state power authorities, power authorities of the Autonomous Republic of Crimea, local self-governance authorities, other authorities, institutions, and organizations stipulated by the Constitution and other legislative acts of Ukraine, as well as enterprises, institutions, , or organizations that are created in the established procedure by state power authorities, power authorities of the Autonomous Republic of Crimea or local self-governance authorities and authorized to receive state funds, and obligations and performance of payments connected thereto as well as enterprises;

21) term of validity of a bid – the period established by the procuring entity over the course of which the bidder does not have the right to amend their bid;

22) tender documentation – documentation that the procuring entity draws up submits to persons free of charge in response to their request for preparation thereby of bids regarding the procurement object or its part;

23) bid – proposal regarding the certain procurement object or part thereof (lot) that is prepared submitted by a person that has confirmed their intention to participate in the procurement procedure to the procuring entity in the order established by this Law and bidding documentation;

24) tender committee – a group of specialists designated by the procuring entity (general procuring entity) as responsible for conducting the procurement procedure in accordance with this Law;

25) auctions (tenders) – performance of a competitive selection of bidders with the goal of determining the winner of the auctions (tenders) in accordance with procedures (with the exception of the procurement procedure for one bidder) established by this Law;

26) goods – products, objects of any type and purpose, including raw materials, manufactured goods, installations, technology, objects in a solid, liquid, or gas form, including electric energy, as well as services connected with delivery of goods if cost of such services does not exceed the cost of the goods themselves;

27) authorized body – the Ministry of Economy of Ukraine, which is given the function of a specially authorized body in on the issues of government procurement;

28) bidder in the procurement procedure (hereinafter referred to as the “bidder”) – an individual, including an individual who is a subject of entrepreneurial activity, a legal entity (resident or non-

resident) that has confirmed intent to participate in procurement procedures and has submitted a bid or a qualification proposal;

29) participant of the preliminary qualification – natural person, including sole proprietor, legal entity (resident or non-resident), that have confirmed their intention to participate in the preliminary qualification procedure and have submitted their qualification proposal;

30) section of the procurement object (lot) – a share of goods, works, or services determined by the procuring entity (according to volume, nomenclature, or the location of supply of goods, execution of work, provision of services) for which in the bounds of a uniform procurement procedure the bidders are allowed to submit bids. The number of bids for each individual share of the procurement object cannot be less than two.

Article 2. Sphere of Application of the Law

1. This Law is applied to procurement of all goods, work, and services that are fully or partially performed using state funds, according to conditions that the cost of the object of procurement of a good (goods), service (services) is equal to or exceeds 100 thousand UAH, or 300 thousand UAH in the case of works, (500 thousand UAH in the case of performance of the procurement of goods, works and serviced with the funds of the enterprises).

2. Terms of carrying out procurement procedures of goods, works, and services using state funds may be established or amended only by this law and only in events foreseen by this Law.

Particularities of procurement of goods, works, and services related to the execution of the state defense order in the area of production of arms and special devices, as well as procurement of goods, works, and services performed by the enterprises of the defense industry complex may be stipulated by the Cabinet of Ministers of Ukraine.

3. The effect of this Law does not extend in the event that the procurement object is:

- 1) goods, works and services assigned for preparation and hold of the snap election of the People’s Deputies of Ukraine;
- 2) forms for securities, strict reporting documents;
- 3) state awards of Ukraine;
- 4) documents regarding education in the state system;
- 5) protected dyes, papers and other materials that are used for preparing forms for securities, strict reporting documents in accordance with their protection scheme;
- 6) publishing products that are purchased directly by libraries;
- 7) leasing state and communal property;
- 8) services that are procured by state banks while their executing bank transactions in accordance with the Law of Ukraine “On Banks and Bank Activities”
- 9) banking services for receiving communal payments, checking account services, and cash processing services;
- 10) services in the sphere of air transport for official state delegations;
- 11) administrative services that are provided exclusively by the state authorities in accordance with the Law;
- 12) railroad transport services;
- 13) natural gas and services in the sphere of its transport, distribution and supply;
- 14) postal services, postage stamps, and stamped envelopes;
- 15) prosthetic-orthopedic goods; orthopedic shoes, means of conveyance prepared exclusively according to individual orders by disabled persons, including added features thereof; and services in repair of such means; prosthetic-orthopedic services;

16) works of descriptive art: paintings, graphics, sculptures, as well as works of decorative-applied and folk art for replenishment of the State Museum Fund of Ukraine;

17) telecommunications services, including those in the sphere of relaying radio and television signals (with the exception of mobile communication services and services of Internet providers);

18) goods and services connected with design development, preparation of protected papers, banknotes, and coins, their storage, transport and record;

19) goods, works, and services, procurement of which is performed by procuring entities located outside the borders of Ukraine;

20) goods and services that are acquired for direct performance of out-of-town tours of creative groups and performers;

21) goods and services that are procured directly for ensuring preparation of national teams of Ukraine for the Olympic and Paralympics Games, development of the Olympic and Paralympic movements, and high-level sports;

22) goods, works, and services that are procured by authorities, institutions, educational institutions, and enterprises in the criminal executive system from enterprises of the criminal executive system;

23) centralized water supplies, water drainage, and servicing sewer systems;

24) electric power, its transmission and distribution;

25) centralized supply of heat energy;

26) atomic fuel, unirradiated fuel elements for nuclear reactors;

27) legal services for ensuring protection of rights and interests of Ukraine during review of cases by authorities in foreign jurisdictions;

28) goods and services assigned exclusively for ensuring execution of the events and formal receptions with participation of the President of Ukraine, the Head of the Verkhovna Rada of Ukraine and members of the Cabinet of Ministers of Ukraine;

29) services to ensure fire prevention of the objects provided by the State fire prevention units;

30) goods, works and services assigned for provision by Ukraine humanitarian aid to other countries;

31) goods, works and services, which due to their special purpose constitute the state secret;

32) goods, works and services needed for the liquidation of the aftereffects of emergencies of anthropogenic and natural character;

33) fuel for the vehicles that is purchased at retail directly at filling stations;

34) goods and services needed to carry out state borrowings, maintenance and repayment of the state debt;

4. In case the procurement object is food manufacturing products, medicinal remedies and goods for medical purposes, fuel, services in the sphere of catering, transportation services, or repair services, during the period of performing the procurement procedure, the procuring entity has the right to current needs to perform procurement of a necessary procurement object without application of the procurement procedure envisioned in this Law for the sum of funds that does not exceed 15 percent of the total anticipated cost of the procurement object, about which they will notify the Authorized Body within 3 calendar days.

The provisions envisioned in Paragraph 1, Part 4 of this Article are not applied during conduction of the upcoming procedure of procuring this specific procurement object by the procuring entity.

1. Procurement is based upon the following principles:

maximum cost-efficiency and effectiveness;

fair competition among bidders;

openness and transparency at all stages of government procurement procedure;

non-discrimination of bidders;

objective and impartial evaluation of bid;

prevention of corrupt practices and abuse.

Article 4. Procedure for procurement planning

1. Procurement is carried out in accordance with the annual procurement plan subject to approval and publication by the procuring entity no later than thirty days after approving the estimated finance plan (plan for funds allocation, plan for budget (public) funds expenditures). The annual procurement plan shall be sent to the Authorized Body compliant with the terms and procedures set forth by said Authorized Body.

2. No procuring entity shall be entitled to split the procurement in parts seeking to avoid the execution of the procurement procedure.

Article 5. Non-discrimination of bidders

1. National and foreign bidders shall participate in the government procurement procedures on the *pari pasu* basis.

2. Procuring entities and the Authorized Body shall ensure equal access for all bidders to government procurement information, as defined by this Law.

3. Procuring entity may not establish discriminatory requirements for bidders.

Article 6. Ukraine's international obligations in the sphere of government procurement

1. In case an international treaty to the obligatoriness of which Ukraine has acceded upon the Verkhovna Rada prior consent sets forth a procurement procedure other than stipulated by this Law, the provisions of an international treaty shall prevail.

2. Procurement of goods, works and services with loan and credit funds granted according to the international treaties of Ukraine concluded in the established procedure:

the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the International Development Association, the European Bank for Reconstruction and Development, the European Investment Bank, the Nordic Investment Bank shall be carried out according to the rules and procedures set forth by said organizations;

Chapter II

STATE REGULATION IN THE SPHERE OF GOVERNMENT PROCUREMENT

Article 7. State regulation in the sphere of government procurement

1. State regulation in the sphere of government procurement shall be carried out by the Authorized Body and other authorities within their competence.
2. The Authorized Body is the Ministry of Economy of Ukraine.
3. The Authorized Body exercises control, supervision and coordination in the sphere of government procurement within its competence, as set forth by this Law.

Other state authorities and law enforcement bodies shall exercise control over the activities of procuring entities and bidders, and shall receive information from them within the competence defined by the Constitution of Ukraine and the laws of Ukraine.

4. State Treasury of Ukraine:

checks the availability and compliance of the concluded procurement contract with the report on the procurement procedure results and the annual procurement plan, as well as the accuracy of their execution according to the Law;

takes measures to debar carrying out payments from the account of the procuring entity in accordance with the financial obligation undertaken under the procurement contract in the event of acknowledgement of the results of the procurement procedure as null or for the period of suspension of the procurement procedure according to this Law.

5. The State Control and Revision Service carries out control over fulfillment by the procuring entities the requirements of the Law in the sphere of government procurement according to this Law and other laws of Ukraine, and cooperates with the state authorities in order to prevent corrupt practices in the sphere of government procurement.

6. The State Committee of Statistics of Ukraine keeps record of the procurement by way of collecting information on the procurement planned and the results of the procurement procedure including the tenders that did not take place, and approves the forms of statistics records in the sphere of the procurement.

7. The Antimonopoly Committee of Ukraine carries out control over compliance with the Law on the protection of economic competition in the sphere of government procurement.

8. The Chamber of Accounts shall carry out control in the sphere of government procurement within the scope of its competences established by the Constitution of Ukraine, the Law of Ukraine "On the Chamber of Accounts", this Law and other laws of Ukraine.

Article 8. The Authorized Body

1. The principal functions of the Authorized Body shall be the following:

- 1) to develop and approve normative and legal acts needed for the execution of this Law;
- 2) to maintain bookkeeping on procurement through collecting information about planned and implemented procurement;
- 3) to interpret legislative provisions in the sphere of government procurement in the procedure stipulated by the Authorized Body;
- 4) to nominate general contractors subject to the Cabinet of Ministers' approval;
- 5) to summarize the practice of execution of government procurement including international procurement;
- 6) to support international cooperation in the sphere of government procurement;
- 7) to cooperate with law enforcement bodies as it pertains to detecting violations in the sphere of government procurement and, if explicitly required by the Law, to submit to law enforcement bodies any and all materials related to detected violations;

8) to cooperate with the Antimonopoly Committee of Ukraine as it pertains to detecting violations in the sphere of economic competition related to government procurement procedures;

9) to approve the application of restricted bidding procedure and the procurement procedure from a sole contractor;

10) examination of complaints submitted by bidders before the procurement contract is conducted, and making corresponding decision about them (complaints).

11) to cooperate with state authorities as it pertains to preventing corrupt practices in the sphere of government procurement;

12) to approve training programs for professionals in the sphere of government procurement;

13) to control compliance with applicable legislation in the sphere of government procurement;

14) to ensure the publication of an official state bulletin on government procurement;

15) to ensure the operation of a web-portal of the Authorized body on government procurement (hereinafter referred to as “web-portal of the Authorized body”);

16) to ensure the publication of an official international bulletin on government procurement;

17) to draw up and approve:

Standard tender documentation

Strategies for electronic government procurement

the form of:

- annual procurement plan;
- announcement on carrying out the procurement procedure and its results;
- the report on the results of the procurement procedure;
- the register of the bids received;
- the minutes of the bids disclosure;
- the minutes of the bids evaluation;

the procedure for:

- defining the object of the procurement;
- carrying out control over compliance with the Law in the sphere of government procurement;
- approving of application of the bidding procedure with restricted participation and a sole-proprietor procurement procedure;
- examination of complaints, submitted by bidders before conclusion of the procurement contract.

18) provision of interpretations regarding preparation of technical specifications.

3. The Authorized Body shall be entitled:

1) to require from the procuring entities to submit a report on the results of a government procurement procedure, as set forth by this Law;

2) to monitor bidders/procuring entities' compliance with legislative provisions in the sphere of government procurement;

3) should the listed below be detected during implementation of control measures to ensure compliance with the government procurement legislation, the Authorized Body shall have the right to make a decision to declare the procurement outcome not valid:

As a result of control, establishment of facts of violation of legislation that influenced the objectivity in the process of selection of a winner in accordance with the proper procedure;

During application of control, failure to provide by a state funds manager/ spending body the required documents about carrying out a certain procurement procedure in the established time period;

The copy of the mentioned decision shall be sent by the Authorized Body to state funds managers and the State Treasury of Ukraine (the operating bank) within a 5-days period from the day it was adopted. The State Treasury of Ukraine (operating bank) from the moment of receipt of a copy of such decision of the Authorized Body about declaring the procurement outcome not valid, shall be obliged not to make payments from the procuring entity's accounts according to the procurement contract, concluded based on the procurement procedure outcome, noted in the decision of the Authorized Body;

4) to file administrative claims in case the legislation in the sphere of government procurement is violated;

5) to set up timeframes for submitting by the procuring entities the information on the planned procurement and the procurement contracts concluded;

6) to set up qualification requirements to trainers involved in training or further training professionals with regard to organization and execution of the government procurement.

Article 9. Participation of the general public in the formation and implementation of the state policy in the sphere of government procurement.

1. Both procuring entities and bidders of procurement procedures and the Authorized Body shall foster the involvement of the general public in carrying out control in the sphere of government procurement in accordance with the Laws of Ukraine "On Unions of Citizens", "On Appeals of Citizens" and "On Information".
2. The Authorized Body, managers of state funds shall ensure a proper feedback to appeals of citizens and public organizations and their unions.
3. Citizens and public organizations and their unions shall not interfere in the work of the Authorized Body and the procedure of the procuring entity's defining a winner of the tender.
4. Representatives of mass media can be present at bids disclosure procedures.

Chapter III

GENERAL PROCUREMENT CONDITIONS

Article 10. Publication of procurement information

1. The procuring entity publishes procurement information according to the established by this Law procedure, in particular:

- annual procurement plan;
- planned procurement announcement (request for price proposals, invitation);
- announcement about holding a preliminary qualification;
- minutes of opening bid (price) proposals;
- minutes of bid proposals evaluation;
- announcement about bid proposal acceptance;
- announcement about procurement procedure results;

information pertaining to the review of complaint submitted according to this Law (on receipt of complaint, decision concerning complaint review);

bidding documentation, amendments to it and explanations, except for cases when information in bidding documentation cannot be disclosed under the law;

report on procurement procedure results;

announcement about procurement procedure cancellation (in case the procedure had been announced).

2. Announcement about planned procurement (demand for price proposals, invitation) and procurement procedure results shall be published in official government procurement newsletter free of charge.

The information listed in part 1 of this article shall be published on web portal of Authorized institution free of charge.

The information listed in part 1 of this article shall be published on web portal of Authorized institution on the day of its publication in state official government procurement newsletter.

In case the information posted on web portal of Authorized institution contains data different from those published in official government procurement newsletter, the information published in official government procurement newsletter is considered to be authentic.

The information noted in part 1 of this article can be additionally published upon decision of the procuring entity in other media, on websites of procuring entities, respective authorities, and local self-governing bodies.

The procuring entity can also publish other information on procurement except for information qualified as state secret.

3. The procurement procedure cannot be held before publication of announcement (demand for price proposals, invitations) about it pursuant to paragraph two of part 2 of this article except for cases when the procuring entity conducts procedures of restricted bidding and procurement from single entity in accordance with this Law.

4. The announcements about planned procurement or holding preliminary qualification of participants are additionally posted in an international publication, decided on by the Authorized Body, and on the web portal of Authorized institutions in one of the foreign languages used in international trade in case the expected value of procurement object exceeds the sum equivalent to:

200 thousand euro, for goods;

300 thousand euro, for services;

500 thousand euro, for works.

The euro exchange rate is determined according to the official exchange rate of the National Bank of Ukraine established for the day of sending planned procurement or preliminary qualification announcement for publication.

5. The publication of information envisaged by part 1 of this article in the Internet is not considered electronic procurement.

6. The access of users to the information published on web portal of the Authorized institution is free of charge.

7. The violation of publication procedure envisaged by this article may serve as a ground for recognizing the procurement procedure outcome null and void by the Authorized Body.

Article 11. Tender committee

1. The tender committee is established by the procuring entity (general procuring entity) for the organization and holding of procurement procedures.

The tender committee acts on collective nature basis with conflict of interest absent among the tender committee members and their being unbiased.

2. The composition of tender committee and the provision of tender committee are approved by the decision of procuring entity (general procuring entity). The tender committee cannot include officials and bidders' representatives, their family members and also people's deputies of Ukraine and deputies of village, town, city district, district and regional councils.

Tender committee consists of no less than five persons.

3. Experts and consultants involved in the work of tender committee on contract terms under the legislation cannot be members of tender committee and are not responsible for the decisions, actions or inaction of tender committee and officials of procuring entity, bidder or other persons, for performance (non-performance) of procurement contracts and also for consequences caused by such decisions, actions or inaction.

4. The work of tender committee is directed by its head. The head of the tender committee organizes the work of the committee and is personally responsible for the committee fulfilling the delegated functions.

Head, deputy head and secretary of the tender committee shall receive the document on completing a training (enhancing qualification) in the procurement field according to the procedure established by the Authorized institution.

5. The decision of the tender committee is documented in minutes signed by all committee members who took part in voting.

Tender committee members are personally responsible for decisions made by them according to the laws of Ukraine.

6. A typical provision on the tender committee is developed and approved by the Authorized institution.

Article 12. Procurement procedures

1. Procurement can be held with the help of one of the following procedures:

Open bidding;

;

;

Two-stage bidding;

Request for price proposals;

Restricted bidding;

Procurement from single entity.

2. The procuring entity has the right to carry out procurement according to one the procedures listed in part 1 of this article (except for restricted bidding and procurement from single entity) by conducting electronic procurement using an informational system in the Internet and adhering to requirements established by this Law and other legal acts of Ukraine.

Article 13. Procurement on coordination basis

1. Upon request of the Authorized institution the Cabinet of Ministers of Ukraine approves the list of goods and services the procurement of which is conducted on coordination basis for the funds from State budget of Ukraine and defines general procuring entity.

The Council of Ministers of the Autonomous Republic of the Crimea and executive bodies of local councils approve the list of goods and services the procurement of which is conducted on coordination basis for the funds from budget of the Autonomous Republic of the Crimea and local budgets and define the general procuring entity.

The order of procurement on coordination basis is established by the Cabinet of Ministers of Ukraine upon request of the Authorized institution.

2. The general procuring entity:

conducts the procurement procedure according to the requirements of this Law and determines the successful bidder;

informs all interested procuring entities about procurement procedure results.

3. The procuring entity concludes a procurement agreement with the successful bidder determined by general procuring entity, except for cases when goods or services do not meet the requirements of the procuring entity due to their technical specifications, quality, supply conditions or price. In such case the procuring entity has the right to refuse from accepting the bid proposal and concluding a procurement contract having informed the general procuring entity about it and to conduct a procurement procedure for such goods or services. The general procuring entity is informed by procuring entities about conclusion of procurement contract or refusal to conclude it according to the procedure established by the Authorized institution.

4. Having received notifications from procuring entities about concluding procurement contracts or refusing to conclude them, the general procuring entity submits to Authorized institution and all interested procuring entities a report on the procurement procedure results listing the names of all procuring entities.

Article 14. Submitting information during the procurement procedure

1. Submitting information during the procurement procedure is done in written form.

In case the procuring entity and bidders have submitted the information during procurement procedure in another form than the written one, the content of such information shall be confirmed in written form.

2. Submitting information during electronic procurement is done by the procuring entity and bidders in the electronic form according to legislation requirements.

Article 15. Language used during the procurement procedure

1. Bid (qualification) proposals are submitted in the language (languages) noted by the procuring entity in bidding (qualification) documentation.

2. If the expected value of procurement object exceeds the sum equivalent to: 200 thousand euro, for goods; 300 thousand euro, for services and 500 thousand euro, for works, the documents of procuring entity on procurement procedure envisaged by this Law are put in Ukrainian and other language used in international trade. The texts shall be authentic, the text in Ukrainian being prevalent.

Article 16. Qualification requirements for bidders

1. The procuring entity may demand that the bidders submit confirmed information on their meeting the following qualification requirements:

equipment, funds and respectively qualified workforce, which has the necessary knowledge and experience;

balance sheet value

financial value

experience in conclusion of similar agreements;

payment of taxes and fees (compulsory payments);

conducting economic activity by the bidder according to the provisions of his statute;

the absence of decision on recognizing the bidder as bankrupt according to the established procedure or on his participation in the case on bankruptcy.

2. The qualification requirements established by the procuring entity according to this article and the list of documents confirming the information of bidders on their adherence to such requirements are noted in bidding (qualification) documentation.

3. The documents not envisaged by the legislation for bidders – natural persons, including natural persons – entrepreneurs are not submitted by them as a part of bid proposal.

4. All tender proposals/ bids from bidders that comply with the qualification requirements, established by the part 1 of this Article, shall be allowed for the appraisal.

Article 17. Bid (or qualification) proposals rejection

1. The procuring entity shall reject a bid (or qualification) proposal in case:

1) it has irrefutable evidence that the bidder, or the participant of the preliminary qualification, offers, provides or agrees to provide directly or indirectly to any official of the procuring entity or other state institution a remuneration in any form (employment proposal, valuable object, service etc.) with the aim to influence the decision about the successful bidder or the application of certain procurement procedure by the procuring entity;

2) the bidding natural person, or the participant of the preliminary qualification, was convicted of a crime committed during the procurement procedure or other crime committed on lucrative impulse, and the conviction was not lifted or cleared off according to the established procedure;

3) the official of the bidder, or the participant of the preliminary qualification, who has been authorized by the bidder to represent his interests during the procurement procedure was convicted of a crime committed during the procurement procedure or other crime committed on lucrative impulse, and the conviction was not lifted or cleared off according to the established procedure;

4) the bidder is a connected person;

5) the bidder submitted inadequate information on his adherence to the established qualification requirements;

6) the bidder, or the participant of the preliminary qualification, does not meet the established qualification requirements;

7) the bidder or the participant of the preliminary qualification, submitted the proposal against the requirements of bidding documentation and this Law.

2. The information on rejection of bid or qualification proposal with the indication of reason is sent within seven calendar days to the bidder whose proposal had been rejected.

Article 18. The report on procurement procedure results

1. The report on procurement procedure results shall include:

name of procurement object;

number of procurement procedure participants and the name and location of bidder with whom the procurement contract had been concluded;

bid proposal and procurement contract price;

date of publication of announcement about planned procurement, request for price proposals and procurement procedure results or the date of sending an invitation for participation in the restricted bidding, procuring from single entity and the date of informing the bidders about procurement procedure results;

in case procurement contract was not concluded as a result of bidding procedure – the grounds for such decision;

date of bid proposal acceptance and conclusion of procurement contract.

2. The report on procurement procedure results (except for information of state and commercial secret) is published by the procuring entity within 10 days after its approval according to Article 10 of this Law.

3. The term of keeping the report on procurement procedure results and other documents concerning procurement procedures amounts to three years.

Chapter IV

PROCEDURES OF OPEN BIDDING

Article 19. Conditions of using procedures of open

1. Open bidding is the principal procurement procedure.

2. During the open bidding procedure all interested persons have the right to submit bid proposals.

Article 20. Informing about the procedures of open bidding and open bidding with reduction of price

1. The announcement about holding open bidding and open bidding with reduction of price shall mandatory include:

name and location of procuring entity;

web site where the procuring entity additionally posts procurement information (in case of such procedure planned);

name, number and place of supplying goods, or kind and place of conducting works or providing services;

term of supplying goods, conducting works or providing services;

ways and place of obtaining bidding documentation;

place and term of submitting bid proposals;

place, date and time of opening bid proposals;

address of the chosen informational system in the Internet (in case of electronic procurement);

amount, type and conditions of providing bid security (if the procuring entity so requires).

The announcement may include additional information determined by the procuring entity.

2. The term for submitting bid proposals cannot be less than 30 calendar days from the date of publication of announcement about holding the procedure of open bidding (sending an invitation)

Article 21. Bidding documentation

1. The procuring entity sends or provides for the person who intends to participate in the procurement procedure free bidding documentation within three working days after receiving a respective request from this person.

Bidding documentation can be taken free of charge by the person who intends to participate in the procurement procedure on the web portal of the Authorized institution.

2. The bidding documentation is developed by the procuring entity shall contain:

1) instruction on preparation of bid proposals;

2) qualification requirements for bidders and the list of documents confirming the information of bidders on their adherence to such requirements;

3) list of criteria put forward by the tender committee to evaluate the adherence of bidders to the established qualification requirements;

4) information on the necessary technical and quality specifications of procurement object, including respective technical specification (if necessary, plans, sketches, drawings or description of procurement object). At that, the technical specification shall contain detailed description of goods, works and services procured, including their technical and quality specifications; requirements concerning technical and functional specifications of procurement object in case the description is impossible to make or when it is more reasonable to indicate such specifications; references to standard specifications, requirements, notation conventions and terminology associated with goods, works or services procured and envisaged by existing international or national standards, norms and rules. Technical specification shall not contain references to specific trademark or company, patent, procurement object construction or type, source of its origin or producer. In case such reference is necessary, the specification shall contain the words "or equivalent";

5) amount of goods and place of their supplying;

6) place where works shall be conducted or services provided;

7) terms of supplying goods, conducting works or providing services;

8) draft contract or principal conditions which shall be included in the procurement contract;

9) description of separate part or parts of the procurement object (lot) pertaining to which bid proposals can be submitted in case the bidders are allowed to submit bid proposals for part of procurement object (lot);

10) list of criteria and method of bid proposals evaluation with the indication of criteria's weight;

11) term of validity of bids shall constitute 120 days;

12) method of evaluation and comparison of alternative bid proposals (if they are allowed by the procuring entity);

13) information on currency used for calculation and indication of bid proposal price;

14) information on language (languages) used to compile bid proposals;

15) indication of means, place and deadline for submitting bid proposals;

16) procedure of providing explanations concerning bidding documentation;

17) term of validity for bid proposals;

18) place, date and time of opening bid proposals;

19) last name, first name and patronymic, post and address of one or several officials of the procuring entity who are authorized to communicate with the bidders.

Bidding documentation may also contain other information which the procuring entity deems necessary.

3. Bidding documentation shall not contain requirements limiting competition and discriminating bidders.

Article 22. Providing explanations concerning bidding documentation and making amendments to it

1. The person who has obtained bidding documentation from the procuring entity has the right to address the procuring entity for explanations concerning bidding documentation no later than seven calendar days before the end of term for submitting bid proposals. The procuring entity shall provide explanations to the query within three calendar days from the day of its receipt to all persons who have obtained bidding documentation.

If requests from two or more persons who received the bidding documentation have been submitted, the procuring entity shall extend the bid submission period.

In case of holding a meeting to explain any queries concerning bidding documentation the procuring entity shall provide the minutes of such meeting, which contains all query explanations and send it to all persons who have received bidding documentation regardless of their presence at the meeting.

The explanations mentioned in this part are published by the procuring entity according to Article 10 of this Law.

2. The procuring entity has the right no later than seven calendar days before the end of term for submitting bid proposals on one's own initiative or according to the results of queries make amendments to bidding documentation having extended the term of submitting and opening bid proposals by no less than seven calendar days and immediately send a written notification about the abovementioned changes to all persons who received bidding documentation.

In case of late provision of explanations concerning the content of bidding documentation or late amendments to it by the procuring entity it shall extend the term for submitting and opening bid proposals by no less than seven calendar days and inform about it all persons who received bidding documentation.

The information listed in this part is published by the procuring entity according to Article 10 of this Law.

Article 23. Provision of bid security

1. The procuring entity has the right to include in the announcement about procurement procedure and in bidding documentation the requirements for providing bid security.

In case the procuring entity requires provision of bid security the bidding documentation shall contain conditions of its provision, in particular type, amount, term of validity and also cases when bid security is not returned to the bidder. In such case the bidder submits bid security together with the bid proposal.

The amount of bid security in monetary value cannot exceed 1 per cent of the expected procurement value in case of holding bidding for procuring works and 5 per cent in case of holding bidding for procuring goods or services on the conditions defined by bidding documentation.

2. In case bid proposals are submitted concerning a part of procurement object (lot) the amount of bid security is determined by the procuring entity on the basis of expected value of procurement object pertaining to each of its parts (lots).

3. Bid security is not returned by the procuring entity in case of:

Withdrawal or change of bid proposal by the bidder after the expiration of term for submitting a bid;

Non-signing of procurement contract by the successful bidder;

Non-provision of contract performance security by the successful bidder after the acceptance of his bid proposal, if bidding documentation envisages providing such security.

4. The procuring entity shall return bid security to the bidder within 10 calendar days from the day of emerging grounds for the return of bid security in case of:

expiration of bid security term noted in bidding documentation;

conclusion of procurement contract with the successful bidder;

withdrawal of bid proposal before the end of term for submitting bids;

end of procurement procedure in case of non-conclusion of procurement contract with any of the bidders who submitted their bid proposals.

5. The funds which came as bid security (in case they are not returned to the bidder) are subject to transfer to respective budget, and in case of procurement for the funds of an enterprise are transferred to the enterprise's account.

Article 24. Procedure of submitting bid proposals

1. The bid proposal is submitted in written form with the signature of bidder's authorized person in a sealed envelope or in another form mentioned in bidding documentation. Upon request of the bidder, the procuring entity confirms the receipt of bid proposal indicating date and time.

Every participant has the right to submit only one bid proposal (including a proposal for a part of procurement object (lot) listed in bidding documentation) and can also submit an alternative bid proposal if it is envisaged by bidding documentation. The received bid proposal is entered by the procuring entity into the register the form of which is defined by the Authorized institution.

2. The bidding documentation is accompanied by the document confirming the provision of bid security by the bidder if such provision is envisaged by bidding documentation.

3. Bid proposals received by the procuring entity after the expiration of term for their submitting are not opened and returned to the bidders who have submitted them.

4. Bid proposals are valid during the term noted in bidding documentation. Before the end of this term the procuring entity has the right to require that the bidders extend the terms of their bid proposals. The bidder has the right:

to decline such request not losing the bid security provided;

to agree to the demand and to extend the term of bid proposal and bid security submitted.

5. The bidder has the right to modify or withdraw the bid proposal before the end of term for its submitting not losing the bid security as a result. Such modifications or the bid withdrawal application are taken into account in case they are received by the procuring entity before the end of term for submitting bid proposals.

6. The procuring entity has the right before the end of established term for submitting bid proposals to make a decision on its extension in case one or more persons who have received bidding documentation from the procuring entity cannot submit their bid proposals before the specified deadline due to objective reasons and have informed the procuring entity about it in written form. The notification about term extension or about possible changes in place and procedure of opening bid proposals is immediately sent to each person who received the bidding documentation and is published according to Article 10 of this Law.

Article 25. Procurement contract performance security

1. Procuring entity has the right to require the successful bidder to provide not later than the date of concluding the procurement contract a security of such contract performance according to the conditions defined in the bidding documentation. The procuring entity returns contract performance security according to conditions listed in the contract.

2. The amount of contract performance security cannot exceed 10 per cent of contract price in case of procuring goods and services and 5 per cent in case of procuring works.

3. The funds which arrived as contract performance security (in case they are not returned) are subject to transfer to respective budget and in case of procurement conducted by enterprise, to the enterprise's account.

Article 26. Opening of bid proposals

1. Opening of bid proposals is conducted on the day of expiration of term for their submitting at the time and place listed in bidding documentation.

2. Participation in the procedure of opening bid proposals is allowed by the procuring entity for all bidders or their authorized representatives and also representatives of state power institutions (including deputies of all levels). The absence of bidder or his authorized representative at the procedure of opening bid proposals is not a reason for refusal to open or to reject his bid proposal.

3. During the opening of bid proposals the presence of all necessary documents envisaged by bidding documentation is checked and announced; name and location of each bidder and price of each bid proposal are also announced.

4. During the opening of bid proposals minutes is drawn according to the form established by the Authorized institution.

A copy of minutes of bid proposals opening is provided to any bidder upon his request within three calendar days after receipt of such request.

Article 27 Review and evaluation of bids

1. The procuring entity is entitled to appeal to the bidders for explanation of the essence of their bids in order to simplify the procedure of review and evaluation of bids.

2. The procuring entity and the bidders shall not initiate any negotiations regarding amending the submitted bid, including changing its price and adjusting, except for correcting any arithmetic errors in accordance with the requirements of the chapter three of this Article.

3. The procuring entity is entitled to correct arithmetic errors found in the submitted bid during its evaluation according to the procedure envisaged by the bidding documents provided that the bidder who submitted the bid gave their written consent thereto.

4. The procuring entity shall evaluate the bids that have not been rejected according to the Law.

5. The procuring entity defines the winner of the bidding procedure from among the bidders whose bids were not rejected under this Law (not less than two) on the basis of the criteria and evaluation methods indicated in the bidding documents.

The evaluation criteria shall be as follows:

In the event of procurement of goods, works and services with a constantly existing market, which are produced, executed or provided beyond purposefully elaborated specifications (technical project) – price;

In the event of procurement of a complicated or specialized nature (including consulting services, scientific research, experiments or developments, research and engineering works) - price together with other evaluation criteria, in particular such as:

After-sales service;

Operational costs;

Transfer of technology and education of administrative, scientific and production staff including exploitation of local resources, including the means of production, labor force and the materials needed for production of goods, execution of work, and provision of services offered by the bidder.

6. In the event that in order to define the most economically advantageous bid, criteria other than price are applied, the value equivalent or specific weight of these criteria in the general evaluation of the bids shall be indicated in the bidding documents. Specific weight of the price criterion shall not be lower than 70 percent.

7. The procuring entity is entitled to request from any of the bidders the submission of the documents on the reaffirmation of its compliance with qualification requirements or apply for confirmation of this information to public authorities, agencies, organizations in accordance with their competence field. In the event of refusal of the bidder to submit the documents on such a confirmation or credible information with regard to its noncompliance with the qualification requirements or the fact of indicating in the bid inadequate information, the customer shall reject the bid of this bidder and defines a winner of the tender from among the bidders left with the duration of their bids valid.

8. To consider the bids relevant expert organizations or particular experts can be attracted on a contractual basis.

9. Upon the results of consideration and evaluation of the bids one winner of the procurement procedure shall be defined.

In the event of procurement procedure with the subject of procurement broken into parts (lots), the winner shall be determined for every separate lot.

10. Relevant minutes shall be drawn up on the basis of the results of consideration and evaluation of the bids in accordance with the form envisaged by the Authorized body.

11. The general duration of consideration, evaluation and determination of the procurement procedure winner shall not exceed 30 calendar days following the date of disclosure of the bids.

Article 28 Rejection of bids

1. The procuring entity rejects a bid in the event that:

1) the bidder:

does not meet the qualification requirements envisaged by the bidding documents;

does not agree with the correction of the arithmetic error detected by the procuring entity;

failed to provide a bid security if such a security was requested by the procuring entity;

2) circumstances mentioned in Article 17 and part seven of Article 27 hereof have arisen;

3) the bidding documents do not comply with requirements to bidding documents.

2. The procuring entity has the right to reject all the bids before the acceptance of the bid, provided that it is envisaged by the bidding documentation.

3. Information about bid rejection and relevant grounds for such rejection shall be forwarded to the bidder who submitted the bid within seven calendar days following the date when the procuring entity made a relevant decision.

Article 29 Cancellation of the bidding procedure by the procuring entity or acknowledgement of the bidding procedure as such that has never taken place

1. The procuring entity shall cancel the bidding procedure in the event of:

submission of less than two bids for participation in the bidding procedure;

rejection of all the bids according to the Law;

Bids from less than two bidders have been admitted for bid evaluation.

The bidding procedure may be cancelled in part (with regard to a lot).

2. The procuring entity has the right to acknowledge the bidding procedure as such that has never taken place if:

the price of the most advantageous bid exceeds the one envisaged by the procuring entity to fund the procurement;

the procurement no longer meets government needs as a result of occurrence of unpredictable objective circumstances (acts of God).

3. Notification of the cancellation of the bidding procedure as well as acknowledgement of the bidding procedure as such that has never taken place shall be forwarded by the procuring entity to all the bidders within three calendar days after making the corresponding decision.

Article 30 Acceptance of the bid and signing procurement agreement

1. The procuring entity shall accept the bid that has been defined the most economically advantageous one based upon the results of the evaluation.

2. Within three calendar days following the date of the acceptance the procuring entity shall send a notification of the acceptance of the bid that has not expired to the winner, and all the bidders shall receive a written notification of the results of the bidding procedure specifying the name and location of the winning bidder whose bid has been recognized the most economically advantageous one as per evaluation results.

The procuring entity shall sign a procurement agreement with the bidder whose bid has been accepted in accordance with the requirements to the bidding documentation and accepted bid within the period not earlier than five calendar days following the date of sending a written notification to all the bidders about their results, but not later than within 30 calendar days of the date of acceptance.

3. In the event of the bidding winner's refusal to sign a procurement agreement in accordance with the requirements of the bidding documentation the procuring entity shall re-determine the most economically advantageous bid from the bids that have not yet expired.

Article 31 Informing the bidders of the results of the bidding procedure

1. Announcement of the results of the bidding procedure shall be published in accordance with Article 10 of this Law within seven calendar days after signing a procurement agreement or after making a decision on cancellation of the bidding procedure or acknowledgement of the bidding procedure as such that has never taken place.

2. The announcement of the results of the bidding procedure shall include the following information:

name and location of the procuring entity;

web-site where additional information of the procuring entity about the procurement procedure was placed;

kind, number and place of delivery of goods or kind and place of carrying out work or providing services;

date of the procurement announcement publication (announcement of the previous qualification);

date of acceptance of the bid recognized as the most economically advantageous one;

date of signing a procurement agreement:

the date of making a decision about canceling the bidding procedure or acknowledging the bidding such that has never taken place (if such a decision was made by the procuring entity), and their reason;

price under the procurement agreement;

full name of the winner of the bidding procedure.

Chapter V

TWO-STAGE BIDDING PROCEDURE

Article 32 Terms of application and execution of a two-stage bidding procedure

1. A two-stage bidding procedure can be applied under the following conditions:

the procuring entity can not draw up a specific list of goods (work) or indicate the kind of the services as well as in the event that to make the best decision on the procurement it is necessary to hold preliminary negotiations with the bidders;

the subject of the procurement is carrying out scientific research, experiments or development, research and engineering work, provision of consulting and other specific services.

Article 33. Two-stage bidding procedure

1. Two-stage bidding shall be carried out according to the procedure envisaged for the open bidding procedure with due account taken of the peculiarities envisaged by this Chapter.

2. Two-stage bidding shall be carried out in two stages:

at the first stage all the bidders are offered to submit preliminary bids without price specification. In this case tender documentation can include only the bids with regard to technical, quality and other characteristics of the subject of procurement, the terms of supplies, confirmation of professional and technical competence of the participants and their compliance with qualification requirements. The bidders shall submit their preliminary bids within a period not less than 21 calendar days of from the date of publication of the announcement of the two-stage bidding.

The customer is entitled to hold negotiations with any of the participants during the consideration of preliminary tender offers. After the receipt of the preliminary offers the customer is entitled to amend tender documentation on the subject of technical requirements and the requirements to the quality of the procurement subject or offer new characteristics and criteria of evaluation of the offers under this Law. The customer shall inform all the participants about the change of conditions of the tender documentation during his provision of invitations to the second stage of the bidding process;

at the second stage the customer offers the participants, whose preliminary tender offers have not been rejected at the first stage, to submit their final tender offers with price specification. The tender offers shall be submitted within a period not less than 11 calendar days from the date of the notification of the bidder of the results of the first stage.

3. The bidders whose preliminary bids have not been rejected at the first stage shall submit a bid security upon request of the procuring entity for participation in the second stage.

Chapter VI

PROCEDURE FOR REQUEST OF PRICE OFFERS (QUOTATIONS)

Article 34. Terms of application and execution of the procedure for request of price offers

1. The customer can carry out procurement by way of application of such procedure for request of price offers with regard to products and services, which enjoy secular market, provided that their value does not exceed UAH 200 thousand.

Article 35. Procedure for carrying out requests of price offers

1. To receive price offers the procuring entity shall send a request to not less than three bidders and publish the request (at the date of sending thereof) according to Article 10 hereof.

2. The request shall include:

the name and location of the customer;

the description of the subject of the procurement or its parts (if the customer envisages submission of the price offers with regard to particular parts) including their necessary technical and other characteristics;

the website where additional information of the procuring entity about the procurement has been placed (if appropriate);

period of delivery of goods and provision of services;

place and period of submission of price offers;

place and date of disclosure of price offers;

principal conditions of the procurement agreement.

The request must contain information whether the price includes costs pertaining to transportation, insurance, payment of taxes and duties (mandatory payments).

3. Each bidder has a right for submission of only one price proposition (quotation), which shall not be subject to further changes. The offer shall be submitted in a sealed enveloped or other form envisaged by the customer, within the period envisaged by the latter.

4. Price offers shall be disclosed at the time established by the procuring entity. All the bidders who have submitted their offers shall be invited to participate in the procedure of disclosing price offers.

During the disclosure of price offers relevant minutes shall be drawn up in the form established by the Authorized body.

A copy of the minutes of the disclosure of price offers shall be provided to any of the participants upon their request within one calendar day from the day of receipt of such a request.

5. The procuring entity accepts the price offer and signs a procurement agreement with the bidder who has submitted the offer, which meets the requirements of the procuring entity and has the lowest price within the period not less than 3 calendar days from the date of sending a written notification of the results of the procedure to all the participants, but not later than 14 calendar days from the date of identification of the winner.

6. The procuring entity rejects price offers in the event that they do not meet requirements of the procuring entity specified in the request, on the grounds mentioned in Article 18 of the Law.

7. The procuring entity acknowledges the procedure for request of price offers as such that has never taken place in the event of:

receipt of less than three offers;

rejection of all the offers;

excess of the lowest price offer of the amount envisaged by the customer to fund the procurement.

8. Notification of the results of the request for price offers shall be published according to the procedure envisaged for the open bidding.

Chapter VII

RESTRICTED BIDDING PROCEDURE

Article 36. The terms of application and execution of the restricted bidding procedure

1. The restricted bidding procedure shall be applied in the event that the goods, work or services are of complicated or specialized nature and can be offered by a limited number of participants.

Article 37. Carrying out the restricted bidding procedure

1. The restricted bidding procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features determined in the Chapter.

The procuring entity shall invite all bidders who may offer relevant goods, works or services to participate in the restricted bidding procedure.

2. Before applying the restricted bidding procedure the procuring entity may conduct preliminary qualification. In the event of preliminary qualification any and all bidders who have been so qualified shall be admitted to the restricted bidding procedure. Information about the preliminary qualification of bidders must be published by the procuring entity according to Article 10 hereof.

3. The announcement about preliminary qualification of bidders must include the following information:

name and location of the customer;

website where additional information of the procuring entity about the procurement has been placed (if applicable);

name, quantity of goods and place of delivery, type of works and place of their execution or the type of services and the place of their provision;

period of delivery of goods, execution of works, and provision of services;

methods and place of receipt of qualification documents;

place and submission period for qualification offers;

place and date of disclosure of qualification offers.

4. Qualification documentation shall include:

1) guidelines re: preparation and submission of qualification offers;

2) qualification requirements to the bidder and a list of documents confirming information of bidders about their compliance with such requirements;

3) criteria and procedure for evaluation of compliance with qualification requirements;

4) information about required technical and qualitative characteristics of the procurement object, including relevant technical specification (plans, charts, drawings or descriptions of the procurement object if required). Technical specification, plans, charts, drawings or descriptions of the procurement object required by the procuring entity shall not contain references to a specific trade mark or firm, patent, construction or type of the object of procurement, source of its origin or producer;

- 5) quantity and place of delivery of goods;
- 6) place of executing works or rendering services;
- 7) period of delivery of goods, execution of works, and provision of services;
- 8) information about the language (languages) in which qualification offers must be made in;
- 9) method, place and deadline for submission of qualification offers;
- 10) procedure for providing clarifications with regard to qualification documents;
- 11) place, date and time of disclosure of qualification offers;
- 12) fist, middle and last name, position and address of one or several officials or other employees of the procuring entity authorized to communicate with bidders.

Qualification documents may also contain other information that the procuring entity deems appropriate for inclusion.

5. The period for submitting qualification offers may not be less than 15 calendar days following publication of the announcement about preliminary qualification.

The customer selects bidders for further participation in the restricted participation procurement solely based on their compliance with the requirements stipulated in the qualification documentation within 14 calendar days from the date of disclosure of qualification offers.

6. Qualification offers of the bidders shall be disclosed on the day of expiry of the period for submission thereof at the time and at the place mentioned in the announcement about preliminary qualification. The procuring entity shall allow any bidders who have submitted qualification offers or their authorized representatives to participate in the disclosure of qualification offers. During disclosure of qualification offers the procuring entity shall check and announce the presence of all required documents envisaged by qualification documentation with regard to their preparation and correct execution, as well as announce the name and address of each bidder. During the disclosure of qualification offers relevant minutes shall be taken in the form determined by the Authorized body whose copy shall be forwarded to any and all bidders upon their request within three calendar days following receipt of a relevant request from the bidder.

7. In the event of carrying out preliminary qualification the procuring entity shall inform each bidder about the results of the preliminary qualification within five calendar days after its completion.

Only those bidders who have been selected upon the results of the preliminary qualification of the participants shall be invited for further participation in the bidding procedure. The period for submission of bids after preliminary qualification of bidders shall be not less than 10 calendar days from the date of forwarding a notification of its results

Article 38. Peculiarities of application of the restricted bidding procedure

1. For participation in the restricted bidding procedure (specifically as per results of conducted preliminary qualification) the procuring entity shall invite the number of persons that will secure the selection of the most commercially reasonable offer and competition, however not less than two. The invitation containing the information envisaged by Article 21 of the Law shall be forwarded to the persons indicted in this part in writing.

2. The invitation to participate in the restricted bidding procedure shall be published on the official website of the Authorized body within three calendar days after it has been sent. Publication of the invitation shall not be deemed invitation to participate in the restricted bidding procedure for an undefined pool of persons.

3. In the event of restricted bidding procedure only the persons invited by the procuring entity for participation in the procurement procedure according to the procedure envisaged by part one of this Article shall have the right to submit bids. The period for submission of bids may not be less than 15 calendar days following the date mentioned in the invitation (in the event of applying restricted bidding procedure following preliminary qualification of bidders -10 calendar days).

4. The restricted bidding procedure for procurement of goods, works and services shall be applied by the procuring entity after its application has been approved by the Authorized body (except in the event of preliminary qualification of bidders).

Chapter VIII

SINGLE SOURCE PROCUREMENT PROCEDURES

Article 39. Terms of application of the single source procurement procedure

1. Single source procurement is a procedure according to which the procuring entity enters into a procurement agreement with the bidder after relevant negotiations with the latter.

2. Single source procurement shall be applied by the procuring entity after it has been approved by the Authorized body in the event of:

1) procurement of works of art or procurement related to protection of rights of intellectual property and execution of a procurement agreement with the winner of architecture or art contest;

2) lack of competition (as well as due to technical reasons) for the goods, work or services that can be delivered, carried out or provided by a particular bidder only, and there is no option in this case.

3) need for carrying out additional construction works not included into the original project, the value of which does not exceed 50 percent of the primary agreement, but which due to acts of God became necessary for execution of the project, provided that the agreement will be signed with the performer of these works and these works are technically or economically linked to the primary agreement;

4) needs for additional deliveries by the primary bidder (not over 50 percent of the value specified in the primary agreement), intended for partial replacement or increase of deliveries, when any changes made by the bidder may lead to procurement of goods or services which do not meet the requirements of interchange.

5) occurrence of an urgent need for procurement due to specific economic or social, legal, other circumstances, which the procuring entity could not foresee;

6) procurement of services in the official delegation halls for government, parliamentary, diplomatic delegations and officials of state bodies.

Chapter IX

PROCUREMENT AGREEMENT

Article 40. Basic requirements to the procurement agreement

1. The procurement agreement shall be concluded in writing according to the provisions of the Civil Code of Ukraine and the Commercial Code of Ukraine.

A sample procurement agreement shall be approved by the Authorized body.

2. The procurement agreement may be prolonged for the period sufficient for conducting procurement at the beginning of the following year for the amount not exceeding 15 per cent of the value determined in the agreement concluded in the preceding year if funds have been approved for the purpose according to the established procedure. Terms and conditions of the procurement agreement may be amended exclusively according to the procedure established by the authorized body.

3. The procuring entity has the right to envisage prepayment in the procurement agreement according to the requirements of budget legislation at the expense of the funds of the State Budget of

Ukraine, the budget of the Autonomous Republic of the Crimea and local budgets. In the event of procurement at the expense of other government funds the procuring entity may introduce terms and conditions to the procurement agreement pertaining to prepayment according to the Civil Code of Ukraine and the Commercial Code of Ukraine.

Article 41. Essential terms of the procurement agreement

1. Essential terms of the procurement agreement are as follows:

the object of procurement (name (nomenclature, range); quantity of goods, works, and services, as well as quality requirements);

payment procedure;

contractual price;

period of validity of the agreement;

rights and obligations of the parties;

specification of the condition concerning the possibility to reduce procurement volumes conditional upon actual funding of the expenses;

responsibility of the parties;

other terms and conditions which the parties must agree upon request of one of the parties.

If the parties fail to reach agreement about all essential terms and conditions, the procurement agreement shall be deemed as such that has not been concluded. If one of the parties has taken actions to implement the agreement, legal consequences of such actions shall be determined according to the Civil Code of Ukraine.

Article 42. Payment under the procurement agreement

1. During the settlement of payment under procurement agreements, the State Treasury of Ukraine (servicing bank) inspects the availability of:

A report about results of the procurement procedure;

A copy of the announcement about the planned procurement procedure (request for price offers) and of the announcement about results of the procurement procedure;

The decision about approving application of the restricted participation procedure and single source procurement procedure according to this Law.

2. The State Treasury of Ukraine (servicing bank) does not have the right to effect payments from the account of the procuring entity according to the undertaken financial obligation under the procurement agreement if the procurement procedure results have been recognized according to the established procedure as invalid. Information about such events the State Treasury of Ukraine (servicing bank) shall forward within two business days to the Authorized body, and law enforcing bodies.

Article 43. Termination of the procurement agreement and invalidation thereof

1. In the event that the bidder-winner of the procurement procedure refuses to perform the procurement agreement, the procuring entity has the right to unilaterally terminate the agreement and carry out another procurement procedure.

In this event the period of validity of the agreement shall be terminated.

2. The procurement agreement shall be null and void if it has been concluded during the period of termination of the procurement procedure in relation to a claim submitted.

Article 44. Procedure for provision of information about signed procurement agreements

1. Information about signed procurement agreements shall be submitted upon the request of the Authorized body or the general procuring entity (in the event that the procurement was carried out on the coordination basis) by submission of a copy of the concluded procurement agreement certified by the procuring entity.

2. A copy of the concluded procurement agreement shall be submitted within the period stipulated by the Authorized body or the general procuring entity.

Article 45. Procedure for submission and consideration of complaints

1. Before signing a procurement agreement the bidder shall submit a complaint on the subject of the procuring entity's violation of the procurement procedure or decisions made, actions or lack of actions to the procuring entity or the authorized body. If the claim has been submitted the authorized body shall inform the procuring entity thereof within three business days upon receipt of such claim.

2. According to the first part of this Article the procuring entity or the authorized body brings the procurement procedure to a halt for the period, which can not exceed 15 business days from the date of its receipt by the procuring entity of the authorized body and the State Treasury of Ukraine (servicing bank) will be informed thereof within one business day. After expiry of the mentioned period the procuring entity has the right to prolong the relevant procurement procedure unless the authorized body has made a decision within the established period about invalidation of the results of the procurement procedure.

3. The procuring entity or the authorized body shall inform the bidder who submitted the claim, the bidder – winner of the procurement procedure, and the procuring entity of the content of the claim, time and place of review of the claim not later than three business days after receipt of the claim. During review of the claim the said persons have the right to participate in the review process.

4. Within 15 business days following receipt of the claim the procuring entity or the authorized body shall make a well-grounded decision specifying the following:

in the event that the complaint was not settled, – the reasons for making such a decision;

in the event that the complaint was settled fully or partially, - measures that will be taken to settle the conflict, obligations of the procuring entity to eliminate violations of the procurement procedure.

In the event that the complaint is considered by the procuring entity, the decision about review of the complain shall be sent to the authorized body within a three business day period from the date it was made.

5. In the event that submission of the claim by the bidder leads to detection of any violations of the established procedure for government procurement that affect objectiveness of determining the winner of the procurement procedure or lead to discrimination of bidders, the authorized body has the right to invalidate results of such procurement procedure and to oblige the procuring entity to start a new procurement procedure.

The Decision of the authorized body made according to this Article is binding for both the procuring entity and the bidders.

6. The authorized body or the procuring entity shall send a copy of the decision following review of the complaint to the bidder, who has submitted the complaint, the procuring entity and the State Treasury of Ukraine (servicing bank) within five business days from the date it was made.

7. After receipt of the decision based upon review of the claim the State Treasury of Ukraine (servicing bank) shall effect the following expenditures:

If results of the procurement procedure has been invalidated and the procuring entity has been obliged to conduct new procurement procedure – settlement of relevant payments from the account of the procuring entity according to the undertaken financial obligations shall continue after submission by the procuring entity of documents confirming results of a new conducted procurement procedure;

If the decision of the authorized body does not envisage invalidation of the results of the procurement procedure and does not oblige the procuring entity to conduct a new procurement procedure, - settlement of relevant payments from the account of the procuring entity according to the undertaken financial obligations shall continue according to the documents confirming results of the conducted procurement procedure.

8. The limitation period with regard to the dispute of the decision of the procuring entity or the authorized body made upon the result of the complaint consideration, shall constitute 30 calendar days from the date such a decision was made.

9. The bidder has the right to appeal against the decision, actions or inactivity of the procuring entity in court according to the established procedure.

Article 46. Responsibility of the parties for violation of the requirements of this Law

1. For the violation of the requirements stipulate by this Law and regulatory norms elaborated according to the provisions hereof, the officials of the procuring entities, bidders, members of the bidding committee face criminal, administrative and civil charges under the Law.

Chapter XI

FINAL PROVISIONS

1. This Law comes in force within a month of the date of its publication.

2. The procurement procedures, started before this Law has come into force, shall be carried out according to the procedure stipulated before this Law has come into force.

3. Within a two-month period of the date this Law comes into force the Cabinet of Ministers of Ukraine shall:

Harmonize its normative and legal acts with requirement of this Law;

Ensure harmonization of relevant normative and legal acts by ministries and other central executive authorities with the Law;

Ensure adoption of regulatory norms necessary for implementation of provisions hereof.

4. Before other normative and legal acts have been harmonized with requirements of the Law, they remain in force, partially or entirely, to the extent that this is in line with this Law.

5. Amend the following legislation of Ukraine:

1) in paragraph 1 of part one of Article 255 of the Code of Ukraine on Administrative Violations (Vidomosti Verkhovnoyi Rady URSR, 1984, Annex to No. 51, p. 1122) numbers “164¹⁴,” shall be deleted in the following paragraphs:

“bodies of the Antimonopoly Committee of Ukraine (Articles 164³, 164¹⁴, 166¹—166⁴)”;

“the Accounting Chamber (Articles 164¹², 164¹⁴, 188¹⁹)”;

The paragraph will be supplemented as follows:

“specially authorized body in the sphere of government procurement (Article 164¹⁴)”;

2) part five of Article 4 of the Commercial Code of Procedure of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 1992., No. 6, p. 56; 1997, No. 25, p. 171; 2001, No. 36, p. 188; 2007, No. 9, p. 67) shall be deleted;

3) part seven of Article 8 of the Civil Code of Procedure of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 2004, No. 40 — 42, p. 492; 2007, No. 9, p. 67) shall be deleted;

4) paragraph two of part two of Article 5 of the Code of Administrative Legal Proceedings of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 2005, No. 35— 37, p. 446; 2007, No. 9, p. 67) shall be deleted;

5) in the law of Ukraine “On the State Control and Revision Office of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1993, No. 13, p. 110; 2006, No. 18, p. 117; 2007, No. 9, p. 67) the following shall be deleted:

in Article 2:

part eight;

in part nine the words “both according to the procedure for inspecting government procurement and”;

paragraph 8 of part one of Article 8;

6) in the Law of Ukraine “On the Antimonopoly Committee of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1993, No. 50, p. 472; 2000, No. 41, p. 343; 2004, № 13, p. 181; 2006 , № 14, p. 118; 2007, № 9, p. 67) the following shall be deleted:

In part one of Article 1 the words “and in the sphere of government procurement”;

Paragraph 17¹ of part one of Article 7;

In paragraph 18 of part one and paragraph 19 of part three of Article 7, paragraph 20 of part one of Article 16, paragraph 20 of part one of Article 17 the words “and the Law of Ukraine “On Government Procurement of Goods, Works, and Services”;

7) paragraph two of part two of Article 15 of the Law of Ukraine “On Education” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1996., № 21, p. 84; 2007, № 9, p. 67) shall be deleted;

8) paragraph 13 of Article 6 of the Law of Ukraine “On the Accounting Chamber” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1996., № 43, p. 212; 1998., № 24, p. 137; 2006., № 14, p. 118) shall be deleted;

9) paragraph four of Article 2 of the Law of Ukraine “On Licensing Certain Types of Commercial Activities” (Vidomosti Verkhovnoyi Rady Ukrayiny, 2000, № 36, p. 299; 2001, № 11, p. 45; 2002, № 1, p. 1, № 20, p. 134; 2004., № 12, p. 155; 2005, № 42, p. 465; 2006, № 18, p. 155; 2007., № 9, p. 67, № 10, p. 89, № 34, p. 444) shall be deleted;

10) paragraph 30 of part one of Article 16 of the Law of Ukraine “On the State Service of Special Communication and Information Protection of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 2006., № 30, p. 258) shall be deleted.

This is the alternative draft that was prepared at the request of the World Bank and the EU, and endorsed by these organizations, but which has not been submitted to the Ukrainian parliament. Apparently, the Ministry of Economy is presently, in September 2009, considering a revision of this alternative draft.

This version was received from the Ministry of Economy in March 2009 with track changes from the pending draft, as adopted in the first reading and translated by the World Bank.

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LAW OF UKRAINE
**On Procurement of Goods, Works,
and Services with State Funds**

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This Law establishes the general legal and economic principles for procurement of goods, works, and services with state funds.

The goal of this Law is creation of a competitive environment in the sphere of government procurement, prevention of corrupt practices in this sphere, ensuring rational and effective use of state funds.

Chapter 1

GENERAL PROVISIONS

Article 1. Definition of fundamental terms

1. In this Law, the terms presented below are applied with the following meanings:

1) Acceptance of a bid – adoption by the procuring entity of a bid that is determined to be the most economy efficient according to the results of an assessment, and giving consent and undertaking obligations to pay for a procurement object or a part thereof (lot) according to that proposal. A bid is considered to be accepted, if the procuring entity gives the bidder a written confirmation of the acceptance of the bid in the time period established by this Law;

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2) alternative bid – a proposal that may be submitted by the bidder to the procuring entity in addition as part of the bid if this is provided for by the tender documentation and which, in accordance with the terms, is distinguished from the proposal that is developed according to the conditions provided for by the tender documentation;

3) general procuring entity – the state power authority, enterprise, institution or organization defined accordingly by the Cabinet of Ministers of Ukraine, Council of Ministers of the Autonomous Republic of Crimea, or local executive self-governance authorities responsible for organization and conduction of procurement procedures on the basis of coordination according to this Law;

4) government procurement (hereinafter referred to as “procurement”) – acquisition by a procuring entity of goods, works, and services with state funds in a procedure that is established by this Law.

5) state funds – funds of the State Budget of Ukraine, Budget of the Autonomous Republic of Crimea and local budgets, state credit resources, funds of the National Bank of Ukraine, state allocated funds, the Pension Fund of Ukraine, mandatory state social insurance funds, unemployment insurance funds, mandatory state social insurance funds in the event of temporary working disability and birth and burial expenses, the funds envisaged by the Law of Ukraine “On Mandatory State Social Insurance Against Accidents at a Work Place and Occupational Diseases Which Result in Working Disability”, the funds of the institutions or organizations established by the state authorities, the Autonomous

Republic of Crimea authorities or local authorities in the established procedure, humanitarian aid in money terms, funds of enterprises;

6) procurement contract – a contract that is concluded between the procuring entity and the bidder based on the results of a procurement procedure and provides for provision of services, execution of works, or acquisition of ownership rights for goods with state funds;

7) electronic government procurement – use of information technologies and Internet network in relations that arise in the process of government procurement between the procuring entity and the supplier of goods, works and services for public funds, according to the present Law;

Deleted: 7) electronic state procurement – execution by the procuring entity of the procurement procedure established by this Law with the help of an information system on the Internet with use of a system of electronic filing;

8) guarantee of execution of a procurement contract – provision of the procuring entity by the bidder with guarantees of execution of obligations by the bidder including such kinds of guarantees as collaterals, warranties, pledges and security deposits;

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9) guarantee of a bid (hereinafter referred to as a “bid security”) – provision of the procuring entity by the bidder with a guarantee of execution of the obligations of the bidder in connection with submission of a bid including such kinds of guarantees as collaterals, warranties, pledges and security deposits;;

10) procurement on the basis of coordination – execution of a procurement procedure by the general procuring entity who acts in the interests of the procuring entities in a procedure determined by this Law;

11) procuring entities – managers of state funds that perform procurement in the procedure determined by this Law;

12) qualification documentation – documentation that is developed by the procuring entity and transferred to the bidders of preliminary qualification for preparation of qualification proposals when conducting preliminary qualification of bidders;

13) qualification proposal – a proposal that is submitted to the procuring entity by the bidder/participant in the preliminary qualification according to the requirements of qualification documentation;

14) winner of the procurement process – the bidder whose bid is accepted;

15) enterprises – state enterprises as well as government ones, utility enterprises and business companies with authorized stock in which the state or utility enterprise owns over 50% of shares, their daughter companies as well as the enterprises, business companies with authorized stock where over 50% of shares is owned by the state as well as government enterprises, and also to the government enterprises, utility enterprises and business companies with authorized stock where municipal share makes up over 50%;

16) connected individual – an individual that conforms to any of the characteristics presented below:

A legal entity that performs supervision of a bidder or supervises said bidder, or remains under joint supervision with said bidder;

An individual or member of their family that performs supervision of the bidder;

A state official of the bidder who is authorized to perform legal acts in the name of the bidder that are directed at establishment, amendment, or suspension of civil-legal relations, as well as the family members of said state official;

When performing supervision in this Law, one should understand direct possession or possession through connected individuals or legal entities of the largest share (stake, package of shares) of the statutory capital of the bidder, or management of the largest number of votes in a leading authority of said bidder, or possession of a share (stake, package of shares), that is no less than 20 percent of the statutory capital of the bidder. For an individual, the total sum of possession of a share of the statutory capital of a bidder (votes in a leading authority) is defined as the total sum of corporate rights that belong to said individual, a family member of said individual and legal entities that are supervised by said individual or a member of their family.

For the purposes of this Law, spouses and their children, parents, brothers, sisters, and grandchildren as well as the spouses of children, parents, brothers, sisters, and grandchildren are considered to be family members.

17) services – any procurement other than goods and works, including preparation of specialists, provision of means of transport and communications, mastering technologies, research surveys, medical and communal services, routine repairs, and consultation services. Consultation services include services connected with consulting, expertise, assessment, and preparation of conclusions and recommendations;

18) procurement object – goods, works, and services that are procured by a procuring entity in the framework of a uniform procurement procedure, in which the bidders are allowed to submit bids or proposals at negotiations should the single-source procurement procedure be applied, the procurement object is defined as the procuring entity in a procedure established by a specially authorized executive power authority. The number of bids for one procurement object cannot be less than two;

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19) works – design, new construction of, expansion, reconstruction, major repairs, and restoration of objects and facilities for manufacturing and non-manufacturing purposes, geological surveys, technical re-equipment of existing enterprises, as well as accompanying works in services, including geodesic works, drilling, seismic surveys, aero- and satellite photography and other services that are included in the estimated cost of works, if the cost of executing such works does not exceed the cost of the works themselves;

20) manager of state funds – state power authorities, power authorities of the Autonomous Republic of Crimea, local self-governance authorities, other authorities, institutions, and organizations stipulated by the Constitution and other legislative acts of Ukraine, as well as enterprises, institutions, , or organizations that are created in the established procedure by state power authorities, power authorities of the Autonomous Republic of Crimea or local self-governance authorities and authorized to receive state funds, and obligations and performance of payments connected thereto as well as enterprises;

21) term of validity of a bid – the period established by the procuring entity over the course of which the bidder does not have the right to amend their bid;

22) tender documentation – documentation that the procuring entity draws up submits to persons free of charge in response to their request for preparation thereby of bids regarding the procurement object or its part;

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23) bid – proposal regarding the certain procurement object or part thereof (lot) that is prepared submitted by a person that has confirmed their intention to participate in the procurement procedure to the procuring entity in the order established by this Law and bidding documentation;

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24) tender committee – a group of specialists designated by the procuring entity (general procuring entity) as responsible for conducting the procurement procedure in accordance with this Law;

25) auctions (tenders) – performance of a competitive selection of bidders with the goal of determining the winner of the auctions (tenders) in accordance with procedures (with the exception of the procurement procedure for one bidder) established by this Law;

26) goods – products, objects of any type and purpose, including raw materials, manufactured goods, installations, technology, objects in a solid, liquid, or gas form, including electric energy, as well as services connected with delivery of goods if cost of such services does not exceed the cost of the goods themselves;

27) authorized body – the Ministry of Economy of Ukraine, which is given the function of a specially authorized body in on the issues of government procurement;

Deleted: a central executive power authority to ensure implementation of the state economy policy that is stipulated by the Cabinet of Ministers of Ukraine to execute the function of

28) bidder in the procurement procedure (hereinafter referred to as the “bidder”) – an individual, including an individual who is a subject of entrepreneurial activity, a legal entity (resident or non-resident) that has confirmed intent to participate in procurement procedures and has submitted a bid or a qualification proposal;

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29) participant of the preliminary qualification – natural person, including sole proprietor, legal entity (resident or non-resident), that have confirmed their intention to participate in the preliminary qualification procedure and have submitted their qualification proposal;

30) section of the procurement object (lot) – a share of goods, works, or services determined by the procuring entity (according to volume, nomenclature, or the location of supply of goods, execution of work, provision of services) for which in the bounds of a uniform procurement procedure the bidders are allowed to submit bids. The number of bids for each individual share of the procurement object cannot be less than two.

Article 2. Sphere of Application of the Law

1. This Law is applied to procurement of all goods, work, and services that are fully or partially performed using state funds, according to conditions that the cost of the object of procurement of a good (goods), service (services) is equal to or exceeds 100 thousand UAH, or 300 thousand UAH in the case of works, (500 thousand UAH in the case of performance of the procurement of goods, works and serviced with the funds of the enterprises).

2. Terms of carrying out procurement procedures of goods, works, and services using state funds may be established or amended only by this law and only in events foreseen by this Law.

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Particularities of procurement of goods, works, and services related to the execution of the state defense order in the area of production of arms and special devices, as well as procurement of goods, works, and services performed by the enterprises of the defense industry complex may be stipulated by the Cabinet of Ministers of Ukraine.

3. The effect of this Law does not extend in the event that the procurement object is:

- 1) goods, works and services assigned for preparation and hold of the snap election of the People's Deputies of Ukraine;
- 2) forms for securities, strict reporting documents;
- 3) state awards of Ukraine;
- 4) documents regarding education in the state system;
- 5) protected dyes, papers and other materials that are used for preparing forms for securities, strict reporting documents in accordance with their protection scheme;
- 6) publishing products that are purchased directly by libraries;
- 7) leasing state and communal property;
- 8) services that are procured by state banks while their executing bank transactions in accordance with the Law of Ukraine "On Banks and Bank Activities"
- 9) banking services for receiving communal payments, checking account services, and cash processing services;
- 10) services in the sphere of air transport for official state delegations;
- 11) administrative services that are provided exclusively by the state authorities in accordance with the Law;
- 12) railroad transport services;
- 13) natural gas and services in the sphere of its transport, distribution and supply;
- 14) postal services, postage stamps, and stamped envelopes;
- 15) prosthetic-orthopedic goods; orthopedic shoes, means of conveyance prepared exclusively according to individual orders by disabled persons, including added features thereof; and services in repair of such means; prosthetic-orthopedic services;
- 16) works of descriptive art: paintings, graphics, sculptures, as well as works of decorative-applied and folk art for replenishment of the State Museum Fund of Ukraine;

17) telecommunications services, including those in the sphere of relaying radio and television signals (with the exception of mobile communication services and services of Internet providers);

18) goods and services connected with design development, preparation of protected papers, banknotes, and coins, their storage, transport and record;

19) goods, works, and services, procurement of which is performed by procuring entities located outside the borders of Ukraine;

20) goods and services that are acquired for direct performance of out-of-town tours of creative groups and performers;

21) goods and services that are procured directly for ensuring preparation of national teams of Ukraine for the Olympic and Paralympics Games, development of the Olympic and Paralympic movements, and high-level sports;

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22) goods, works, and services that are procured by authorities, institutions, educational institutions, and enterprises in the criminal executive system from enterprises of the criminal executive system;

23) centralized water supplies, water drainage, and servicing sewer systems;

24) electric power, its transmission and distribution;

25) centralized supply of heat energy;

26) atomic fuel, unirradiated fuel elements for nuclear reactors;

27) legal services for ensuring protection of rights and interests of Ukraine during review of cases by authorities in foreign jurisdictions;

28) goods and services assigned exclusively for ensuring execution of the events and formal receptions with participation of the President of Ukraine, the Head of the Verkhovna Rada of Ukraine and members of the Cabinet of Ministers of Ukraine;

29) services to ensure fire prevention of the objects provided by the State fire prevention units;

30) goods, works and services assigned for provision by Ukraine humanitarian aid to other countries;

31) goods, works and services, which due to their special purpose constitute the state secret;

32) goods, works and services needed for the liquidation of the aftereffects of emergencies of anthropogenic and natural character;

33) fuel for the vehicles that is purchased at retail directly at filling stations;

34) goods and services needed to carry out state borrowings, maintenance and repayment of the state debt;

4. In case the procurement object is food manufacturing products, medicinal remedies and goods for medical purposes, fuel, services in the sphere of catering, transportation services, or repair services, during the period of performing the procurement procedure, the procuring entity has the right to current needs to perform procurement of a necessary procurement object without application of the procurement procedure envisioned in this Law for the sum of funds that does not exceed 15 percent of the total anticipated cost of the procurement object, about which they will notify the Authorized Body within 3 calendar days.

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The provisions envisioned in Paragraph 1, Part 4 of this Article are not applied during conduction of the upcoming procedure of procuring this specific procurement object by the procuring entity.

Article 3. The Principles of government procurement

1. Procurement is based upon the following principles:
- maximum cost-efficiency and effectiveness;
 - fair competition among bidders;
 - openness and transparency at all stages of government procurement procedure;
 - non-discrimination of bidders;
 - objective and impartial evaluation of bid;
 - prevention of corrupt practices and abuse.

Article 4. Procedure for procurement planning

1. Procurement is carried out in accordance with the annual procurement plan subject to approval and publication by the procuring entity no later than thirty days after approving the estimated finance plan (plan for funds allocation, plan for budget (public) funds expenditures). The annual procurement plan shall be sent to the Authorized Body compliant with the terms and procedures set forth by said Authorized Body.

2. No procuring entity shall be entitled to split the procurement in parts seeking to avoid the execution of the procurement procedure.

Article 5. Non-discrimination of bidders

1. National and foreign bidders shall participate in the government procurement procedures on the *pari passu* basis.

2. Procuring entities and the Authorized Body shall ensure equal access for all bidders to government procurement information, as defined by this Law.

3. Procuring entity may not establish discriminatory requirements for bidders.

Article 6. Ukraine's international obligations in the sphere of government procurement

1. In case an international treaty to the obligatoriness of which Ukraine has acceded upon the Verkhovna Rada prior consent sets forth a procurement procedure other than stipulated by this Law, the provisions of an international treaty shall prevail.

2. Procurement of goods, works and services with loan and credit funds granted according to the international treaties of Ukraine concluded in the established procedure:

the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the International Development Association, the European Bank for Reconstruction and Development, the European Investment Bank, the Nordic Investment Bank shall be carried out according to the rules and procedures set forth by said organizations;

Chapter II

STATE REGULATION IN THE SPHERE OF GOVERNMENT PROCUREMENT

Deleted: international organizations shall be carried out according to the procedures set forth by the Cabinet of Ministers of Ukraine.¶

Article 7. State regulation in the sphere of government procurement

1. State regulation in the sphere of government procurement shall be carried out by the Authorized Body and other authorities within their competence.
2. The Authorized Body is the Ministry of Economy of Ukraine.
3. The Authorized Body exercises control, supervision and coordination in the sphere of government procurement within its competence, as set forth by this Law.

Other state authorities and law enforcement bodies shall exercise control over the activities of procuring entities and bidders, and shall receive information from them within the competence defined by the Constitution of Ukraine and the laws of Ukraine.

4. State Treasury of Ukraine:

checks the availability and compliance of the concluded procurement contract with the report on the procurement procedure results and the annual procurement plan, as well as the accuracy of their execution according to the Law;

takes measures to debar carrying out payments from the account of the procuring entity in accordance with the financial obligation undertaken under the procurement contract in the event of acknowledgement of the results of the procurement procedure as null or for the period of suspension of the procurement procedure according to this Law.

5. The State Control and Revision Service carries out control over fulfillment by the procuring entities the requirements of the Law in the sphere of government procurement according to this Law and other laws of Ukraine, and cooperates with the state authorities in order to prevent corrupt practices in the sphere of government procurement.

6. The State Committee of Statistics of Ukraine keeps record of the procurement by way of collecting information on the procurement planned and the results of the procurement procedure including the tenders that did not take place, and approves the forms of statistics records in the sphere of the procurement.

7. The Antimonopoly Committee of Ukraine carries out control over compliance with the Law on the protection of economic competition in the sphere of government procurement.

~~8. The Chamber of Accounts shall carry out control in the sphere of government procurement within the scope of its competences established by the Constitution of Ukraine, the Law of Ukraine "On the Chamber of Accounts", this Law and other laws of Ukraine.~~

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Article 8. The Authorized Body

1. The principal functions of the Authorized Body shall be the following:

- 1) to develop and approve normative and legal acts needed for the execution of this Law;
- 2) to maintain bookkeeping on procurement through collecting information about planned and implemented procurement;
- 3) to interpret legislative provisions in the sphere of government procurement in the procedure stipulated by the Authorized Body;
- 4) to nominate general contractors subject to the Cabinet of Ministers' approval;
- 5) to summarize the practice of execution of government procurement including international procurement;
- 6) to support international cooperation in the sphere of government procurement;
- 7) to cooperate with law enforcement bodies as it pertains to detecting violations in the sphere of government procurement and, if explicitly required by the Law, to submit to law enforcement bodies any and all materials related to detected violations;

8) to cooperate with the Antimonopoly Committee of Ukraine as it pertains to detecting violations in the sphere of economic competition related to government procurement procedures;

9) to approve the application of restricted bidding procedure and the procurement procedure from a sole contractor;

10) examination of complaints submitted by bidders before the procurement contract is conducted, and making corresponding decision about them (complaints).

Deleted: given the relevant recommendations from the Claims Review and Procurement Monitoring Committee

11) to cooperate with state authorities as it pertains to preventing corrupt practices in the sphere of government procurement;

12) to approve training programs for professionals in the sphere of government procurement;

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13) to control compliance with applicable legislation in the sphere of government procurement;

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14) to ensure the publication of an official state bulletin on government procurement;

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15) to ensure the operation of a web-portal of the Authorized body on government procurement (hereinafter referred to as "web-portal of the Authorized body");

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16) to ensure the publication of an official international bulletin on government procurement;

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17) to draw up and approve:

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Standard tender documentation

Strategies for electronic government procurement

the form of:

- annual procurement plan;
- announcement on carrying out the procurement procedure and its results;
- the report on the results of the procurement procedure;
- the register of the bids received;
- the minutes of the bids disclosure;
- the minutes of the bids evaluation;

the procedure for:

- defining the object of the procurement;
- carrying out control over compliance with the Law in the sphere of government procurement;
- approving of application of the bidding procedure with restricted participation and a sole-proprietor procurement procedure;

- examination of complaints, submitted by bidders before conclusion of the procurement contract.

18) provision of interpretations regarding preparation of technical specifications.

3. The Authorized Body shall be entitled:

1) to require from the procuring entities to submit a report on the results of a government procurement procedure, as set forth by this Law;

2) to monitor bidders/procuring entities' compliance with legislative provisions in the sphere of government procurement;

3) should the listed below be detected during implementation of control measures to ensure compliance with the government procurement legislation, the Authorized Body shall have the right to make a decision to declare the procurement outcome not valid:

Deleted: 17) to approve the methods elaborated by the Claims Review and Procurement Monitoring Committee:¶ to define the amount of damages in the event of failure to meet the requirements of the Law during the procurement process;¶ to calculate the price of the procurement object with consideration of technical and quality specifications of works, goods and services. ¶

As a result of control, establishment of facts of violation of legislation that influenced the objectivity in the process of selection of a winner in accordance with the proper procedure;

During application of control, failure to provide by a state funds manager/ spending body the required documents about carrying out a certain procurement procedure in the established time period;

The copy of the mentioned decision shall be sent by the Authorized Body to state funds managers and the State Treasury of Ukraine (the operating bank) within a 5-days period from the day it was adopted. The State Treasury of Ukraine (operating bank) from the moment of receipt of a copy of such decision of the Authorized Body about declaring the procurement outcome not valid, shall be obliged not to make payments from the procuring entity's accounts according to the procurement contract, concluded based on the procurement procedure outcome, noted in the decision of the Authorized Body;

4) to file administrative claims in case the legislation in the sphere of government procurement is violated;

5) to set up timeframes for submitting by the procuring entities the information on the planned procurement and the procurement contracts concluded;

6) to set up qualification requirements to trainers involved in training or further training professionals with regard to organization and execution of the government procurement.

Article 9. Participation of the general public in the formation and implementation of the state policy in the sphere of government procurement.

1. Both procuring entities and bidders of procurement procedures and the Authorized Body shall foster the involvement of the general public in carrying out control in the sphere of government procurement in accordance with the Laws of Ukraine "On Unions of Citizens", "On Appeals of Citizens" and "On Information".
2. The Authorized Body, managers of state funds shall ensure a proper feedback to appeals of citizens and public organizations and their unions.
3. Citizens and public organizations and their unions shall not interfere in the work of the Authorized Body and the procedure of the procuring entity's defining a winner of the tender.
4. Representatives of mass media can be present at bids disclosure procedures.

Chapter III

GENERAL PROCUREMENT CONDITIONS

Article 10. Publication of procurement information

1. The procuring entity publishes procurement information according to the established by this Law procedure, in particular:

- annual procurement plan;
- planned procurement announcement (request for price proposals, invitation);
- announcement about holding a preliminary qualification;
- minutes of opening bid (price) proposals;
- minutes of bid proposals evaluation;
- announcement about bid proposal acceptance;
- announcement about procurement procedure results;

Deleted: 4) to set up timeframes for submitting by the Claims Review and Procurement Monitoring Committee the recommendations on approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure;¶
5) to make decisions on the approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure without consideration of the recommendations of the Claims Review and Procurement Monitoring Committee in the event of delay in submitting these recommendations and given the motivated reasons to reject the corresponding recommendations;¶

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<#>The Authorized body shall set up the Claims Review and Procurement Monitoring Committee (hereinafter referred to as "the Committee").¶
The Committee shall:¶
review claims submitted by bidders in the procedure envisaged by this Law;¶
submit to the Authorized body the recommendations on approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure;¶
elaborate and submit to the Authorized body to approve the methods to: ¶
define the amount of damages in the event of violation of the legislation in the sphere of government procurement;¶
calculate the price of the procurement object with consideration of technical and quality specifications of works, goods and services.¶
<#>The Committee is made up by single representatives of the Ministry of Economy of Ukraine, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Main Control and Revision Office of Ukraine, State Treasury of Ukraine, Antimonopoly Committee of Ukraine, State Inspection for Prices Control of Ukraine, Chamber of Auditors, Economic Policy Committee of the Verkhovna Rada of Ukraine, the Budget Committee of Verkhovna Rada of Ukraine, the Committee on Combating Organized Crime and Corruption at the Verkhovna Rada of Ukraine.¶
State officials only can be the members of the Committee. ¶
The list of the members of the Committee shall be approved by the Authorized body and disclosed at the web-portal of this body.¶
The Head of the Committee shall be appointed Deputy Minis... [1]

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information pertaining to the review of complaint submitted according to this Law (on receipt of complaint, decision concerning complaint review);

bidding documentation, amendments to it and explanations, except for cases when information in bidding documentation cannot be disclosed under the law;

report on procurement procedure results;

announcement about procurement procedure cancellation (in case the procedure had been announced).

2. Announcement about planned procurement (demand for price proposals, invitation) and procurement procedure results shall be published in official government procurement newsletter free of charge.

The information listed in part 1 of this article shall be published on web portal of Authorized institution free of charge.

The information listed in part 1 of this article shall be published on web portal of Authorized institution on the day of its publication in state official government procurement newsletter.

In case the information posted on web portal of Authorized institution contains data different from those published in official government procurement newsletter, the information published in official government procurement newsletter is considered to be authentic.

The information noted in part 1 of this article can be additionally published upon decision of the procuring entity in other media, on websites of procuring entities, respective authorities, and local self-governing bodies.

The procuring entity can also publish other information on procurement except for information qualified as state secret.

3. The procurement procedure cannot be held before publication of announcement (demand for price proposals, invitations) about it pursuant to paragraph two of part 2 of this article except for cases when the procuring entity conducts procedures of restricted bidding and procurement from single entity in accordance with this Law.

4. The announcements about planned procurement or holding preliminary qualification of participants are additionally posted in an international publication, decided on by the Authorized Body, and on the web portal of Authorized institutions in one of the foreign languages used in international trade in case the expected value of procurement object exceeds the sum equivalent to:

200 thousand euro, for goods;

300 thousand euro, for services;

500 thousand euro, for works.

The euro exchange rate is determined according to the official exchange rate of the National Bank of Ukraine established for the day of sending planned procurement or preliminary qualification announcement for publication.

5. The publication of information envisaged by part 1 of this article in the Internet is not considered electronic procurement.

6. The access of users to the information published on web portal of the Authorized institution is free of charge.

7. The violation of publication procedure envisaged by this article may serve as a ground for recognizing the procurement procedure outcome null and void by the Authorized Body.

Article 11, Tender committee

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1. The tender committee is established by the procuring entity (general procuring entity) for the organization and holding of procurement procedures.

The tender committee acts on collective nature basis with conflict of interest absent among the tender committee members and their being unbiased.

2. The composition of tender committee and the provision of tender committee are approved by the decision of procuring entity (general procuring entity). The tender committee cannot include officials and bidders' representatives, their family members and also people's deputies of Ukraine and deputies of village, town, city district, district and regional councils.

Tender committee consists of no less than five persons.

3. Experts and consultants involved in the work of tender committee on contract terms under the legislation cannot be members of tender committee and are not responsible for the decisions, actions or inaction of tender committee and officials of procuring entity, bidder or other persons, for performance (non-performance) of procurement contracts and also for consequences caused by such decisions, actions or inaction.

4. The work of tender committee is directed by its head. The head of the tender committee organizes the work of the committee and is personally responsible for the committee fulfilling the delegated functions.

Head, deputy head and secretary of the tender committee shall receive the document on completing a training (enhancing qualification) in the procurement field according to the procedure established by the Authorized institution.

5. The decision of the tender committee is documented in minutes signed by all committee members who took part in voting.

Tender committee members are personally responsible for decisions made by them according to the laws of Ukraine.

6. A typical provision on the tender committee is developed and approved by the Authorized institution.

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Article 12, Procurement procedures

1. Procurement can be held with the help of one of the following procedures:

Open bidding;

;

;

Two-stage bidding;

Request for price proposals;

Restricted bidding;

Procurement from single entity.

Deleted: Open bidding with reduction of price

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2. The procuring entity has the right to carry out procurement according to one the procedures listed in part 1 of this article (except for restricted bidding and procurement from single entity) by conducting electronic procurement using an informational system in the Internet and adhering to requirements established by this Law and other legal acts of Ukraine.

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Article 13, Procurement on coordination basis

1. Upon request of the Authorized institution the Cabinet of Ministers of Ukraine approves the list of goods and services the procurement of which is conducted on coordination basis for the funds from State budget of Ukraine and defines general procuring entity.

The Council of Ministers of the Autonomous Republic of the Crimea and executive bodies of local councils approve the list of goods and services the procurement of which is conducted on coordination basis for the funds from budget of the Autonomous Republic of the Crimea and local budgets and define the general procuring entity.

The order of procurement on coordination basis is established by the Cabinet of Ministers of Ukraine upon request of the Authorized institution.

2. The general procuring entity:

conducts the procurement procedure according to the requirements of this Law and determines the successful bidder;

informs all interested procuring entities about procurement procedure results.

3. The procuring entity concludes a procurement agreement with the successful bidder determined by general procuring entity, except for cases when goods or services do not meet the requirements of the procuring entity due to their technical specifications, quality, supply conditions or price. In such case the procuring entity has the right to refuse from accepting the bid proposal and concluding a procurement contract having informed the general procuring entity about it and to conduct a procurement procedure for such goods or services. The general procuring entity is informed by procuring entities about conclusion of procurement contract or refusal to conclude it according to the procedure established by the Authorized institution.

4. Having received notifications from procuring entities about concluding procurement contracts or refusing to conclude them, the general procuring entity submits to Authorized institution and all interested procuring entities a report on the procurement procedure results listing the names of all procuring entities.

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Article 14, Submitting information during the procurement procedure

1. Submitting information during the procurement procedure is done in written form.

In case the procuring entity and bidders have submitted the information during procurement procedure in another form than the written one, the content of such information shall be confirmed in written form.

2. Submitting information during electronic procurement is done by the procuring entity and bidders in the electronic form according to legislation requirements.

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Article 15, Language used during the procurement procedure

1. Bid (qualification) proposals are submitted in the language (languages) noted by the procuring entity in bidding (qualification) documentation.

2. If the expected value of procurement object exceeds the sum equivalent to: 200 thousand euro, for goods; 300 thousand euro, for services and 500 thousand euro, for works, the documents of procuring entity on procurement procedure envisaged by this Law are put in Ukrainian and other language used in international trade. The texts shall be authentic, the text in Ukrainian being prevalent.

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Article 16, Qualification requirements for bidders

1. The procuring entity may demand that the bidders submit confirmed information on their meeting the following qualification requirements:

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~~equipment, funds and respectively qualified workforce, which has the necessary knowledge and experience;~~

Deleted: permission or licence for conducting a certain type of economic activity (in cases envisaged by the legislation); ¶

~~balance sheet value~~

~~financial value~~

~~experience in conclusion of similar agreements;~~

payment of taxes and fees (compulsory payments);

conducting economic activity by the bidder according to the provisions of his statute;

the absence of decision on recognizing the bidder as bankrupt according to the established procedure or on his participation in the case on bankruptcy.

2. The qualification requirements established by the procuring entity according to this article and the list of documents confirming the information of bidders on their adherence to such requirements are noted in bidding (qualification) documentation.

3. The documents not envisaged by the legislation for bidders – natural persons, including natural persons – entrepreneurs are not submitted by them as a part of bid proposal.

~~4. All tender proposals/ bids from bidders that comply with the qualification requirements, established by the part 1 of this Article, shall be allowed for the appraisal.~~

Deleted: The procuring entity cannot establish discriminatory requirements for the bidders.

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Article 17. Bid (or qualification) proposals rejection

1. The procuring entity shall reject a bid (or qualification) proposal in case:

1) it has irrefutable evidence that the bidder, ~~or the participant of the preliminary qualification,~~ offers, provides or agrees to provide directly or indirectly to any official of the procuring entity or other state institution a remuneration in any form (employment proposal, valuable object, service etc.) with the aim to influence the decision about the successful bidder or the application of certain procurement procedure by the procuring entity;

2) the bidding natural person, ~~or the participant of the preliminary qualification,~~ was convicted of a crime committed during the procurement procedure or other crime committed on lucrative impulse, and the conviction was not lifted or cleared off according to the established procedure;

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3) the official of the bidder, ~~or the participant of the preliminary qualification,~~ who has been authorized by the bidder to represent his interests during the procurement procedure was convicted of a crime committed during the procurement procedure or other crime committed on lucrative impulse, and the conviction was not lifted or cleared off according to the established procedure;

4) the bidder is a connected person;

5) the bidder submitted inadequate information on his adherence to the established qualification requirements;

6) the bidder, ~~or the participant of the preliminary qualification,~~ does not meet the established qualification requirements;

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7) the bidder ~~or the participant of the preliminary qualification,~~ submitted the proposal against the requirements of bidding documentation and this Law.

2. The information on rejection of bid (or qualification) proposal with the indication of reason is sent within seven calendar days to the bidder whose proposal had been rejected.

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Article 18. The report on procurement procedure results

1. The report on procurement procedure results shall include:

name of procurement object;

number of procurement procedure participants and the name and location of bidder with whom the procurement contract had been concluded;

bid proposal and procurement contract price;

date of publication of announcement about planned procurement, request for price proposals and procurement procedure results or the date of sending an invitation for participation in the restricted bidding, procuring from single entity and the date of informing the bidders about procurement procedure results;

in case procurement contract was not concluded as a result of bidding procedure – the grounds for such decision;

Deleted: information on bidders providing a calculation of price for procurement object according to its method of calculation confirmed by the Authorized institution; ¶

date of bid proposal acceptance and conclusion of procurement contract.

2. The report on procurement procedure results (except for information of state and commercial secret) is published by the procuring entity within 10 days after its approval according to Article 10 of this Law.

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3. The term of keeping the report on procurement procedure results and other documents concerning procurement procedures amounts to three years.

Chapter IV

PROCEDURES OF OPEN BIDDING

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Article 19. Conditions of using procedures of open

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1. Open bidding is the principal procurement procedure.

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2. During the open bidding procedure all interested persons have the right to submit bid proposals.

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Article 20. Informing about the procedures of open bidding and open bidding with reduction of price

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1. The announcement about holding open bidding and open bidding with reduction of price shall mandatory include:

name and location of procuring entity;

web site where the procuring entity additionally posts procurement information (in case of such procedure planned);

name, number and place of supplying goods, or kind and place of conducting works or providing services;

term of supplying goods, conducting works or providing services;

ways and place of obtaining bidding documentation;

place and term of submitting bid proposals;

place, date and time of opening bid proposals;

address of the chosen informational system in the Internet (in case of electronic procurement);

amount, type and conditions of providing bid security (if the procuring entity so requires).

The announcement may include additional information determined by the procuring entity.

2. The term for submitting bid proposals cannot be less than 30 calendar days from the date of publication of announcement about holding the procedure of open bidding (sending an invitation) **Article 21, Bidding documentation**

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1. The procuring entity sends or provides for the person who intends to participate in the procurement procedure free bidding documentation within three working days after receiving a respective request from this person.

Bidding documentation can be taken free of charge by the person who intends to participate in the procurement procedure on the web portal of the Authorized institution.

2. The bidding documentation is developed by the procuring entity shall contain:

1) instruction on preparation of bid proposals;

2) qualification requirements for bidders and the list of documents confirming the information of bidders on their adherence to such requirements;

3) list of criteria put forward by the tender committee to evaluate the adherence of bidders to the established qualification requirements;

4) information on the necessary technical and quality specifications of procurement object, including respective technical specification (if necessary, plans, sketches, drawings or description of procurement object). At that, the technical specification shall contain detailed description of goods, works and services procured, including their technical and quality specifications; requirements concerning technical and functional specifications of procurement object in case the description is impossible to make or when it is more reasonable to indicate such specifications; references to standard specifications, requirements, notation conventions and terminology associated with goods, works or services procured and envisaged by existing international or national standards, norms and rules. Technical specification shall not contain references to specific trademark or company, patent, procurement object construction or type, source of its origin or producer. In case such reference is necessary, the specification shall contain the words "or equivalent";

5) amount of goods and place of their supplying;

6) place where works shall be conducted or services provided;

7) terms of supplying goods, conducting works or providing services;

8) draft contract or principal conditions which shall be included in the procurement contract;

9) description of separate part or parts of the procurement object (lot) pertaining to which bid proposals can be submitted in case the bidders are allowed to submit bid proposals for part of procurement object (lot);

10) list of criteria and method of bid proposals evaluation with the indication of criteria's weight;

11) term of validity of bids shall constitute 120 days;

12) method of evaluation and comparison of alternative bid proposals (if they are allowed by the procuring entity);

13) information on currency used for calculation and indication of bid proposal price;

14) information on language (languages) used to compile bid proposals;

15) indication of means, place and deadline for submitting bid proposals;

16) procedure of providing explanations concerning bidding documentation;

17) term of validity for bid proposals;

18) place, date and time of opening bid proposals;

19) last name, first name and patronymic, post and address of one or several officials of the procuring entity who are authorized to communicate with the bidders.

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Deleted: requirement for the bidder to submit a calculation of procurement object price according to the method of its calculation approved by the Authorized institution. ¶ The bidder has no right to include in the bid proposal price any expenses incurred during participation in the procurement procedure; ¶ 14)

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Bidding documentation may also contain other information which the procuring entity deems necessary.

3. Bidding documentation shall not contain requirements limiting competition and discriminating bidders.

Article 22. Providing explanations concerning bidding documentation and making amendments to it

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1. The person who has obtained bidding documentation from the procuring entity has the right to address the procuring entity for explanations concerning bidding documentation no later than seven calendar days before the end of term for submitting bid proposals. The procuring entity shall provide explanations to the query within three calendar days from the day of its receipt to all persons who have obtained bidding documentation.

If requests from two or more persons who received the bidding documentation have been submitted, the procuring entity shall extend the bid submission period.

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In case of holding a meeting to explain any queries concerning bidding documentation the procuring entity shall provide the minutes of such meeting, which contains all query explanations and send it to all persons who have received bidding documentation regardless of their presence at the meeting.

The explanations mentioned in this part are published by the procuring entity according to Article 10 of this Law.

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2. The procuring entity has the right no later than seven calendar days before the end of term for submitting bid proposals on one's own initiative or according to the results of queries make amendments to bidding documentation having extended the term of submitting and opening bid proposals by no less than seven calendar days and immediately send a written notification about the abovementioned changes to all persons who received bidding documentation.

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In case of late provision of explanations concerning the content of bidding documentation or late amendments to it by the procuring entity it shall extend the term for submitting and opening bid proposals by no less than seven calendar days and inform about it all persons who received bidding documentation.

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The information listed in this part is published by the procuring entity according to Article 10 of this Law.

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Article 23. Provision of bid security

1. The procuring entity has the right to include in the announcement about procurement procedure and in bidding documentation the requirements for providing bid security.

In case the procuring entity requires provision of bid security the bidding documentation shall contain conditions of its provision, in particular type, amount, term of validity and also cases when bid security is not returned to the bidder. In such case the bidder submits bid security together with the bid proposal.

The amount of bid security in monetary value cannot exceed 1 per cent of the expected procurement value in case of holding bidding for procuring works and 5 per cent in case of holding bidding for procuring goods or services on the conditions defined by bidding documentation.

2. In case bid proposals are submitted concerning a part of procurement object (lot) the amount of bid security is determined by the procuring entity on the basis of expected value of procurement object pertaining to each of its parts (lots).

3. Bid security is not returned by the procuring entity in case of:

Deleted: In case bid security is provided for the bidder by any other enterprise, institution or organization the bidder shall agree this decision with the procuring entity before submitting a bid proposal. ¶
4.

Withdrawal or change of bid proposal by the bidder after the expiration of term for submitting a bid;

Non-signing of procurement contract by the successful bidder;

Non-provision of contract performance security by the successful bidder after the acceptance of his bid proposal, if bidding documentation envisages providing such security.

4. The procuring entity shall return bid security to the bidder within 10 calendar days from the day of emerging grounds for the return of bid security in case of:

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expiration of bid security term noted in bidding documentation;

conclusion of procurement contract with the successful bidder;

withdrawal of bid proposal before the end of term for submitting bids;

end of procurement procedure in case of non-conclusion of procurement contract with any of the bidders who submitted their bid proposals.

5. The funds which came as bid security (in case they are not returned to the bidder) are subject to transfer to respective budget, and in case of procurement for the funds of an enterprise are transferred to the enterprise's account.

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Article 24. Procedure of submitting bid proposals

1. The bid proposal is submitted in written form with the signature of bidder's authorized person in a sealed envelope or in another form mentioned in bidding documentation. Upon request of the bidder, the procuring entity confirms the receipt of bid proposal indicating date and time.

Every participant has the right to submit only one bid proposal (including a proposal for a part of procurement object (lot) listed in bidding documentation) and can also submit an alternative bid proposal if it is envisaged by bidding documentation. The received bid proposal is entered by the procuring entity into the register the form of which is defined by the Authorized institution.

2. The bidding documentation is accompanied by the document confirming the provision of bid security by the bidder if such provision is envisaged by bidding documentation.

Deleted: and by the calculation of procurement object price according to the method approved by the Authorized institution

3. Bid proposals received by the procuring entity after the expiration of term for their submitting are not opened and returned to the bidders who have submitted them.

4. Bid proposals are valid during the term noted in bidding documentation. Before the end of this term the procuring entity has the right to require that the bidders extend the terms of their bid proposals. The bidder has the right:

to decline such request not losing the bid security provided;

to agree to the demand and to extend the term of bid proposal and bid security submitted.

5. The bidder has the right to modify or withdraw the bid proposal before the end of term for its submitting not losing the bid security as a result. Such modifications or the bid withdrawal application are taken into account in case they are received by the procuring entity before the end of term for submitting bid proposals.

6. The procuring entity has the right before the end of established term for submitting bid proposals to make a decision on its extension in case one or more persons who have received bidding documentation from the procuring entity cannot submit their bid proposals before the specified deadline due to objective reasons and have informed the procuring entity about it in written form. The notification about term extension or about possible changes in place and procedure of opening bid proposals is immediately sent to each person who received the bidding documentation and is published according to Article 10 of this Law.

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Article 25. Procurement contract performance security

1. Procuring entity has the right to require the successful bidder to provide not later than the date of concluding the procurement contract a security of such contract performance according to the conditions defined in the bidding documentation. The procuring entity returns contract performance security according to conditions listed in the contract.

2. The amount of contract performance security cannot exceed 10 per cent of contract price in case of procuring goods and services and 5 per cent in case of procuring works.

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3. The funds which arrived as contract performance security (in case they are not returned) are subject to transfer to respective budget and in case of procurement conducted by enterprise, to the enterprise's account.

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Article 26. Opening of bid proposals

1. Opening of bid proposals is conducted on the day of expiration of term for their submitting at the time and place listed in bidding documentation.

2. Participation in the procedure of opening bid proposals is allowed by the procuring entity for all bidders or their authorized representatives and also representatives of state power institutions (including deputies of all levels). The absence of bidder or his authorized representative at the procedure of opening bid proposals is not a reason for refusal to open or to reject his bid proposal.

3. During the opening of bid proposals the presence of all necessary documents envisaged by bidding documentation is checked and announced; name and location of each bidder and price of each bid proposal are also announced.

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4. During the opening of bid proposals minutes is drawn according to the form established by the Authorized institution.

Deleted: In case of procuring entity conducting a procedure of open bidding with reduction of price or the second stage of two-stage bidding the procuring entity after opening bid proposals offers the present bidders' representatives to reduce the proposed bid proposal price by a step defined by the scale. If after a three-time announcement of a price a lower price is not offered, the procuring entity gives an opportunity to present bidders' representatives to voluntarily reduce the proposal price until each of the bidders announces that he has offered a final price, which shall be noted in the minutes of bid proposals opening. ¶
5.

A copy of minutes of bid proposals opening is provided to any bidder upon his request within three calendar days after receipt of such request.

Article 27. Review and evaluation of bids

1. The procuring entity is entitled to appeal to the bidders for explanation of the essence of their bids in order to simplify the procedure of review and evaluation of bids.

2. The procuring entity and the bidders shall not initiate any negotiations regarding amending the submitted bid, including changing its price and adjusting, except for correcting any arithmetic errors in accordance with the requirements of the chapter three of this Article.

3. The procuring entity is entitled to correct arithmetic errors found in the submitted bid during its evaluation according to the procedure envisaged by the bidding documents provided that the bidder who submitted the bid gave their written consent thereto.

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4. The procuring entity shall evaluate the bids that have not been rejected according to the Law.

5. The procuring entity defines the winner of the bidding procedure from among the bidders whose bids were not rejected under this Law (not less than two) on the basis of the criteria and evaluation methods indicated in the bidding documents.

The evaluation criteria shall be as follows:

In the event of procurement of goods, works and services with a constantly existing market, which are produced, executed or provided beyond purposefully elaborated specifications (technical project) – price;

In the event of procurement of a complicated or specialized nature (including consulting services, scientific research, experiments or developments, research and engineering works) - price together with other evaluation criteria, in particular such as:

After-sales service;

Operational costs;

Transfer of technology and education of administrative, scientific and production staff including exploitation of local resources, including the means of production, labor force and the materials needed for production of goods, execution of work, and provision of services offered by the bidder.

6. In the event that in order to define the most economically advantageous bid, criteria other than price are applied, the value equivalent or specific weight of these criteria in the general evaluation of the bids shall be indicated in the bidding documents. Specific weight of the price criterion shall not be lower than 70 percent.

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7. The procuring entity is entitled to request from any of the bidders the submission of the documents on the reaffirmation of its compliance with qualification requirements or apply for confirmation of this information to public authorities, agencies, organizations in accordance with their competence field. In the event of refusal of the bidder to submit the documents on such a confirmation or credible information with regard to its noncompliance with the qualification requirements or the fact of indicating in the bid inadequate information, the customer shall reject the bid of this bidder and defines a winner of the tender from among the bidders left with the duration of their bids valid.

8. To consider the bids relevant expert organizations or particular experts can be attracted on a contractual basis.

9. Upon the results of consideration and evaluation of the bids one winner of the procurement procedure shall be defined.

In the event of procurement procedure with the subject of procurement broken into parts (lots), the winner shall be determined for every separate lot.

10. Relevant minutes shall be drawn up on the basis of the results of consideration and evaluation of the bids in accordance with the form envisaged by the Authorized body.

11. The general duration of consideration, evaluation and determination of the procurement procedure winner shall not exceed 30 calendar days following the date of disclosure of the bids.

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Article 28 Rejection of bids

1. The procuring entity rejects a bid in the event that:

1) the bidder:

does not meet the qualification requirements envisaged by the bidding documents;

does not agree with the correction of the arithmetic error detected by the procuring entity;

failed to provide a bid security if such a security was requested by the procuring entity;

2) circumstances mentioned in Article 17 and part seven of Article 27 hereof have arisen;

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3) the bidding documents do not comply with requirements to bidding documents.

2. The procuring entity has the right to reject all the bids before the acceptance of the bid, provided that it is envisaged by the bidding documentation.

3. Information about bid rejection and relevant grounds for such rejection shall be forwarded to the bidder who submitted the bid within seven calendar days following the date when the procuring entity made a relevant decision.

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Article 29 Cancellation of the bidding procedure by the procuring entity or acknowledgement of the bidding procedure as such that has never taken place

1. The procuring entity shall cancel the bidding procedure in the event of:

submission of less than two bids for participation in the bidding procedure;

rejection of all the bids according to the Law;

Bids from less than two bidders have been admitted for bid evaluation.

The bidding procedure may be cancelled in part (with regard to a lot).

2. The procuring entity has the right to acknowledge the bidding procedure as such that has never taken place if:

the price of the most advantageous bid exceeds the one envisaged by the procuring entity to fund the procurement;

the procurement no longer meets government needs as a result of occurrence of unpredictable objective circumstances (acts of God).

3. Notification of the cancellation of the bidding procedure as well as acknowledgement of the bidding procedure as such that has never taken place shall be forwarded by the procuring entity to all the bidders within three calendar days after making the corresponding decision.

Article 30 Acceptance of the bid and signing procurement agreement

1. The procuring entity shall accept the bid that has been defined the most economically advantageous one based upon the results of the evaluation.

2. Within three calendar days following the date of the acceptance the procuring entity shall send a notification of the acceptance of the bid that has not expired to the winner, and all the bidders shall receive a written notification of the results of the bidding procedure specifying the name and location of the winning bidder whose bid has been recognized the most economically advantageous one as per evaluation results.

The procuring entity shall sign a procurement agreement with the bidder whose bid has been accepted in accordance with the requirements to the bidding documentation and accepted bid within the period not earlier than five calendar days following the date of sending a written notification to all the bidders about their results, but not later than within 30 calendar days of the date of acceptance.

3. In the event of the bidding winner's refusal to sign a procurement agreement in accordance with the requirements of the bidding documentation the procuring entity shall re-determine the most economically advantageous bid from the bids that have not yet expired.

Article 31 Informing the bidders of the results of the bidding procedure

1. Announcement of the results of the bidding procedure shall be published in accordance with Article 10 of this Law within seven calendar days after signing a procurement agreement or after making a decision on cancellation of the bidding procedure or acknowledgement of the bidding procedure as such that has never taken place.

2. The announcement of the results of the bidding procedure shall include the following information:

name and location of the procuring entity;

web-site where additional information of the procuring entity about the procurement procedure was placed;

kind, number and place of delivery of goods or kind and place of carrying out work or providing services;

date of the procurement announcement publication (announcement of the previous qualification);

date of acceptance of the bid recognized as the most economically advantageous one;

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date of signing a procurement agreement:

the date of making a decision about canceling the bidding procedure or acknowledging the bidding such that has never taken place (if such a decision was made by the procuring entity), and their reason;

price under the procurement agreement;

full name of the winner of the bidding procedure.

Chapter V

TWO-STAGE BIDDING PROCEDURE

Article 32 Terms of application and execution of a two-stage bidding procedure

1. A two-stage bidding procedure can be applied under the following conditions:

the procuring entity can not draw up a specific list of goods (work) or indicate the kind of the services as well as in the event that to make the best decision on the procurement it is necessary to hold preliminary negotiations with the bidders;

the subject of the procurement is carrying out scientific research, experiments or development, research and engineering work, provision of consulting and other specific services.

Article 33 Two-stage bidding procedure

1. Two-stage bidding shall be carried out according to the procedure envisaged for the open bidding procedure with due account taken of the peculiarities envisaged by this Chapter.

2. Two-stage bidding shall be carried out in two stages:

at the first stage all the bidders are offered to submit preliminary bids without price specification. In this case tender documentation can include only the bids with regard to technical, quality and other characteristics of the subject of procurement, the terms of supplies, confirmation of professional and technical competence of the participants and their compliance with qualification requirements. The bidders shall submit their preliminary bids within a period not less than 21 calendar days of from the date of publication of the announcement of the two-stage bidding.

The customer is entitled to hold negotiations with any of the participants during the consideration of preliminary tender offers. After the receipt of the preliminary offers the customer is entitled to amend tender documentation on the subject of technical requirements and the requirements to the quality of the procurement subject or offer new characteristics and criteria of evaluation of the offers under this Law. The customer shall inform all the participants about the change of conditions of the tender documentation during his provision of invitations to the second stage of the bidding process;

at the second stage the customer offers the participants, whose preliminary tender offers have not been rejected at the first stage, to submit their final tender offers with price specification. The tender offers shall be submitted within a period not less than 11 calendar days from the date of the notification of the bidder of the results of the first stage.

3. The bidders whose preliminary bids have not been rejected at the first stage shall submit a bid security upon request of the procuring entity for participation in the second stage.

Chapter VI

PROCEDURE FOR REQUEST OF PRICE OFFERS (QUOTATIONS)

Deleted: PRICE REDUCTION PROCUREMENT PROCEDURE ¶
 Article 33. Terms of application of the price reduction procurement procedure ¶
 1. The price reduction procurement procedure shall be applied in the event of procurement of good or services with a constantly operating market, which are produced or provided beyond purposefully elaborated specifications. ¶
Article 34. Carrying out the price reduction procurement procedure ¶
 1. The price reduction procurement procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features as determined by the Chapter. ¶
 2. The price reduction procurement procedure shall consist of two stages: ¶
 At the first stage all the bidders are offered to submit preliminary bids without specifying the price. The bidding documents must only provide for offers about technical, qualitative, and other characteristics of the procurement object, terms of delivery, and qualification requirements. The period for submission of bids is not less than 15 calendar days from the date of publication of the announcement about the price reduction procurement procedure; ¶
 At the second stage the procuring entity suggests that bidders whose preliminary bids have not been rejected during the first stage submit final bids and specify the price. The period for submission of bids during the second stage is not less than seven calendar days from the date of notifying bidders about results of the first stage. ¶
 3. During disclosure of bids at the second stage the bidder shall announce the name and address of all the bidders and the price of all bids. Then the bidder suggests that the present representatives of bidders reduce the price of their bid by one step of the price reduction procedure mentioned in the bidding documents. The initial price for the price reduction procurement procedure shall be deemed the minimum price of the bid. Their consent to reduce the price of the bid the present representatives of bidders confirm by raising a card with the mentioned name of the bidder on it. If after the initial and following prices have been announced three times, no bidder suggests a new price, the price reduction procurement procedure terminates and the last bidder who was called and suggested the lowest price [2]

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Article 34. Terms of application and execution of the procedure for request of price offers

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1. The customer can carry out procurement by way of application of such procedure for request of price offers with regard to products and services, which enjoy secular market, provided that their value does not exceed UAH 200 thousand.

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Article 35. Procedure for carrying out requests of price offers

1. To receive price offers the procuring entity shall send a request to not less than three bidders and publish the request (at the date of sending thereof) according to Article 10 hereof.

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2. The request shall include:

the name and location of the customer;

the description of the subject of the procurement or its parts (if the customer envisages submission of the price offers with regard to particular parts) including their necessary technical and other characteristics;

the website where additional information of the procuring entity about the procurement has been placed (if appropriate);

period of delivery of goods and provision of services;

place and period of submission of price offers;

place and date of disclosure of price offers;

principal conditions of the procurement agreement.

The request must contain information whether the price includes costs pertaining to transportation, insurance, payment of taxes and duties (mandatory payments).

3. Each bidder has a right for submission of only one price proposition (quotation), which shall not be subject to further changes. The offer shall be submitted in a sealed enveloped or other form envisaged by the customer, within the period envisaged by the latter.

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4. Price offers shall be disclosed at the time established by the procuring entity. All the bidders who have submitted their offers shall be invited to participate in the procedure of disclosing price offers.

During the disclosure of price offers relevant minutes shall be drawn up in the form established by the Authorized body.

A copy of the minutes of the disclosure of price offers shall be provided to any of the participants upon their request within one calendar day from the day of receipt of such a request.

5. The procuring entity accepts the price offer and signs a procurement agreement with the bidder who has submitted the offer, which meets the requirements of the procuring entity and has the lowest price within the period not less than 3 calendar days from the date of sending a written notification of the results of the procedure to all the participants, but not later than 14 calendar days from the date of identification of the winner.

6. The procuring entity rejects price offers in the event that they do not meet requirements of the procuring entity specified in the request, on the grounds mentioned in Article 18 of the Law.

7. The procuring entity acknowledges the procedure for request of price offers as such that has never taken place in the event of:

receipt of less than three offers;

rejection of all the offers;

excess of the lowest price offer of the amount envisaged by the customer to fund the procurement.

8. Notification of the results of the request for price offers shall be published according to the procedure envisaged for the open bidding.

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Chapter VII

RESTRICTED BIDDING PROCEDURE

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Article 36. The terms of application and execution of the restricted bidding procedure

1. The restricted bidding procedure shall be applied in the event that the goods, work or services are of complicated or specialized nature and can be offered by a limited number of participants.

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Article 37. Carrying out the restricted bidding procedure

1. The restricted bidding procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features determined in the Chapter.

The procuring entity shall invite all bidders who may offer relevant goods, works or services to participate in the restricted bidding procedure.

2. Before applying the restricted bidding procedure the procuring entity may conduct preliminary qualification. In the event of preliminary qualification any and all bidders who have been so qualified shall be admitted to the restricted bidding procedure. Information about the preliminary qualification of bidders must be published by the procuring entity according to Article 10 hereof.

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3. The announcement about preliminary qualification of bidders must include the following information:

name and location of the customer;

website where additional information of the procuring entity about the procurement has been placed (if applicable);

name, quantity of goods and place of delivery, type of works and place of their execution or the type of services and the place of their provision;

period of delivery of goods, execution of works, and provision of services;

methods and place of receipt of qualification documents;

place and submission period for qualification offers;

place and ate of disclosure of qualification offers.

4. Qualification documentation shall include:

1) guidelines re: preparation and submission of qualification offers;

2) qualification requirements to the bidder and a list of documents confirming information of bidders about their compliance with such requirements;

3) criteria and procedure for evaluation of compliance with qualification requirements;

4) information about required technical and qualitative characteristics of the procurement object, including relevant technical specification (plans, charts, drawings or descriptions of the procurement object if required). Technical specification, plans, charts, drawings or descriptions of the procurement object required by the procuring entity shall not contain references to a specific trade mark or firm, patent, construction or type of the object of procurement, source of its origin or producer;

- 5) quantity and place of delivery of goods;
- 6) place of executing works or rendering services;
- 7) period of delivery of goods, execution of works, and provision of services;
- 8) information about the language (languages) in which qualification offers must be made in;
- 9) method, place and deadline for submission of qualification offers;
- 10) procedure for providing clarifications with regard to qualification documents;
- 11) place, date and time of disclosure of qualification offers;
- 12) fist, middle and last name, position and address of one or several officials or other employees of the procuring entity authorized to communicate with bidders.

Qualification documents may also contain other information that the procuring entity deems appropriate for inclusion.

5. The period for submitting qualification offers may not be less than 15 calendar days following publication of the announcement about preliminary qualification.

The customer selects bidders for further participation in the restricted participation procurement solely based on their compliance with the requirements stipulated in the qualification documentation within 14 calendar days from the date of disclosure of qualification offers.

6. Qualification offers of the bidders shall be disclosed on the day of expiry of the period for submission thereof at the time and at the place mentioned in the announcement about preliminary qualification. The procuring entity shall allow any bidders who have submitted qualification offers or their authorized representatives to participate in the disclosure of qualification offers. During disclosure of qualification offers the procuring entity shall check and announce the presence of all required documents envisaged by qualification documentation with regard to their preparation and correct execution, as well as announce the name and address of each bidder. During the disclosure of qualification offers relevant minutes shall be taken in the form determined by the Authorized body whose copy shall be forwarded to any and all bidders upon their request within three calendar days following receipt of a relevant request from the bidder.

7. In the event of carrying out preliminary qualification the procuring entity shall inform each bidder about the results of the preliminary qualification within five calendar days after its completion.

Only those bidders who have been selected upon the results of the preliminary qualification of the participants shall be invited for further participation in the bidding procedure. The period for submission of bids after preliminary qualification of bidders shall be not less than 10 calendar days from the date of forwarding a notification of its results

Article 38. Peculiarities of application of the restricted bidding procedure

1. For participation in the restricted bidding procedure (specifically as per results of conducted preliminary qualification) the procuring entity shall invite the number of persons that will secure the selection of the most commercially reasonable offer and competition, however not less than two. The invitation containing the information envisaged by Article 21 of the Law shall be forwarded to the persons indicted in this part in writing.

2. The invitation to participate in the restricted bidding procedure shall be published on the official website of the Authorized body within three calendar days after it has been sent. Publication of the invitation shall not be deemed invitation to participate in the restricted bidding procedure for an undefined pool of persons.

3. In the event of restricted bidding procedure only the persons invited by the procuring entity for participation in the procurement procedure according to the procedure envisaged by part one of this Article shall have the right to submit bids. The period for submission of bids may not be less than 15 calendar days following the date mentioned in the invitation (in the event of applying restricted bidding procedure following preliminary qualification of bidders -10 calendar days).

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4. The restricted bidding procedure for procurement of goods, works and services shall be applied by the procuring entity after its application has been approved by the Authorized body (except in the event of preliminary qualification of bidders).

Chapter VIII

SINGLE SOURCE PROCUREMENT PROCEDURES

Article 39. Terms of application of the single source procurement procedure

1. Single source procurement is a procedure according to which the procuring entity enters into a procurement agreement with the bidder after relevant negotiations with the latter.

2. Single source procurement shall be applied by the procuring entity after it has been approved by the Authorized body in the event of:

1) procurement of works of art or procurement related to protection of rights of intellectual property and execution of a procurement agreement with the winner of architecture or art contest;

2) lack of competition (as well as due to technical reasons) for the goods, work or services that can be delivered, carried out or provided by a particular bidder only, and there is no option in this case.

3) need for carrying out additional construction works not included into the original project, the value of which does not exceed 50 percent of the primary agreement, but which due to acts of God became necessary for execution of the project, provided that the agreement will be signed with the performer of these works and these works are technically or economically linked to the primary agreement;

4) needs for additional deliveries by the primary bidder (not over 50 percent of the value specified in the primary agreement), intended for partial replacement or increase of deliveries, when any changes made by the bidder may lead to procurement of goods or services which do not meet the requirements of interchange.

5) occurrence of an urgent need for procurement due to specific economic or social, legal, other circumstances, which the procuring entity could not foresee;

6) procurement of services in the official delegation halls for government, parliamentary, diplomatic delegations and officials of state bodies.

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Chapter IX

PROCUREMENT AGREEMENT

Article 40. Basic requirements to the procurement agreement

1. The procurement agreement shall be concluded in writing according to the provisions of the Civil Code of Ukraine and the Commercial Code of Ukraine.

A sample procurement agreement shall be approved by the Authorized body.

2. The procurement agreement may be prolonged for the period sufficient for conducting procurement at the beginning of the following year for the amount not exceeding 15 per cent of the value determined in the agreement concluded in the preceding year if funds have been approved for the purpose according to the established procedure. Terms and conditions of the procurement agreement may be amended exclusively according to the procedure established by the authorized body.

3. The procuring entity has the right to envisage prepayment in the procurement agreement according to the requirements of budget legislation at the expense of the funds of the State Budget of

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Ukraine, the budget of the Autonomous Republic of the Crimea and local budgets. In the event of procurement at the expense of other government funds the procuring entity may introduce terms and conditions to the procurement agreement pertaining to prepayment according to the Civil Code of Ukraine and the Commercial Code of Ukraine.

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Article 41. Essential terms of the procurement agreement

1. Essential terms of the procurement agreement are as follows:

the object of procurement (name (nomenclature, range); quantity of goods, works, and services, as well as quality requirements);

payment procedure;

contractual price;

period of validity of the agreement;

rights and obligations of the parties;

specification of the condition concerning the possibility to reduce procurement volumes conditional upon actual funding of the expenses;

responsibility of the parties;

other terms and conditions which the parties must agree upon request of one of the parties.

If the parties fail to reach agreement about all essential terms and conditions, the procurement agreement shall be deemed as such that has not been concluded. If one of the parties has taken actions to implement the agreement, legal consequences of such actions shall be determined according to the Civil Code of Ukraine.

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Article 42. Payment under the procurement agreement

1. During the settlement of payment under procurement agreements, the State Treasury of Ukraine (servicing bank) inspects the availability of:

A report about results of the procurement procedure;

A copy of the announcement about the planned procurement procedure (request for price offers) and of the announcement about results of the procurement procedure;

The decision about approving application of the restricted participation procedure and single source procurement procedure according to this Law.

2. The State Treasury of Ukraine (servicing bank) does not have the right to effect payments from the account of the procuring entity according to the undertaken financial obligation under the procurement agreement if the procurement procedure results have been recognized according to the established procedure as invalid. Information about such events the State Treasury of Ukraine (servicing bank) shall forward within two business days to the Authorized body, and law enforcing bodies.

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Article 43. Termination of the procurement agreement and invalidation thereof

1. In the event that the bidder-winner of the procurement procedure refuses to perform the procurement agreement, the procuring entity has the right to unilaterally terminate the agreement and carry out another procurement procedure.

In this event the period of validity of the agreement shall be terminated.

2. The procurement agreement shall be null and void if it has been concluded during the period of termination of the procurement procedure in relation to a claim submitted.

Article 44. Procedure for provision of information about signed procurement agreements

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1. Information about signed procurement agreements shall be submitted upon the request of the Authorized body or the general procuring entity (in the event that the procurement was carried out on the coordination basis) by submission of a copy of the concluded procurement agreement certified by the procuring entity.

2. A copy of the concluded procurement agreement shall be submitted within the period stipulated by the Authorized body or the general procuring entity.

Article 45. Procedure for submission and consideration of complaints

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CONTESTATION OF THE
PROCUREMENT PROCEDURE¶
Article 48. The right for
contestation of the procuring
entity's actions

1. Before signing a procurement agreement the bidder shall submit a complaint on the subject of the procuring entity's violation of the procurement procedure or decisions made, actions or lack of actions to the procuring entity or the authorized body. If the claim has been submitted the authorized body shall inform the procuring entity thereof within three business days upon receipt of such claim.

Deleted: 1. Any bidder of the
procurement procedure, is entitled
to dispute the procuring entity's
actions in accordance with the
chapter of the Law by appealing to
the procuring entity, Authorized
body and/or court.¶

2. According to the first part of this Article the procuring entity or the authorized body brings the procurement procedure to a halt for the period, which can not exceed 15 business days from the date of its receipt by the procuring entity of the authorized body and the State Treasury of Ukraine (servicing bank) will be informed thereof within one business day. After expiry of the mentioned period the procuring entity has the right to prolong the relevant procurement procedure unless the authorized body has made a decision within the established period about invalidation of the results of the procurement procedure.

2. The object of the dispute can
not be:¶
the choice of the procurement
procedure;¶
the decision of the procuring entity
on rejection of all bids according
to the second part of the Article 30
of this Law as well as on
cancellation of the bidding
procedure or the acknowledgement
of the bidding procedure null and
void.¶

3. The procuring entity or the authorized body shall inform the bidder who submitted the claim, the bidder – winner of the procurement procedure, and the procuring entity of the content of the claim, time and place of review of the claim not later than three business days after receipt of the claim. During review of the claim the said persons have the right to participate in the review process.

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4. Within 15 business days following receipt of the claim the procuring entity or the authorized body shall make a well-grounded decision specifying the following:

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in the event that the complaint was not settled, – the reasons for making such a decision;

in the event that the complaint was settled fully or partially, - measures that will be taken to settle the conflict, obligations of the procuring entity to eliminate violations of the procurement procedure.

In the event that the complaint is considered by the procuring entity, the decision about review of the complain shall be sent to the authorized body within a three business day period from the date it was made.

5. In the event that submission of the claim by the bidder leads to detection of any violations of the established procedure for government procurement that affect objectiveness of determining the winner of the procurement procedure or lead to discrimination of bidders, the authorized body has the right to invalidate results of such procurement procedure and to oblige the procuring entity to start a new procurement procedure.

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The Decision of the authorized body made according to this Article is binding for both the procuring entity and the bidders.

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invalidation of the results of the
procurement procedure

6. The authorized body or the procuring entity shall send a copy of the decision following review of the complaint to the bidder, who has submitted the complaint, the procuring entity and the State Treasury of Ukraine (servicing bank) within five business days from the date it was made.

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7. After receipt of the decision based upon review of the claim the State Treasury of Ukraine (servicing bank) shall effect the following expenditures:

If results of the procurement procedure has been invalidated and the procuring entity has been obliged to conduct new procurement procedure – settlement of relevant payments from the account of the procuring entity according to the undertaken financial obligations shall continue after submission by the procuring entity of documents confirming results of a new conducted procurement procedure;

If the decision of the authorized body does not envisage invalidation of the results of the procurement procedure and does not oblige the procuring entity to conduct a new procurement procedure, - settlement of relevant payments from the account of the procuring entity according to the undertaken financial obligations shall continue according to the documents confirming results of the conducted procurement procedure.

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8. The limitation period with regard to the dispute of the decision of the procuring entity or the authorized body made upon the result of the complaint consideration, shall constitute 30 calendar days from the date such a decision was made.

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9. The bidder has the right to appeal against the decision, actions or inactivity of the procuring entity in court according to the established procedure.

Article 46. Responsibility of the parties for violation of the requirements of this Law

1. For the violation of the requirements stipulate by this Law and regulatory norms elaborated according to the provisions hereof, the officials of the procuring entities, bidders, members of the bidding committee face criminal, administrative and civil charges under the Law.

Chapter XI

FINAL PROVISIONS

1. This Law comes in force within a month of the date of its publication.

2. The procurement procedures, started before this Law has come into force, shall be carried out according to the procedure stipulated before this Law has come into force.

3. Within a two-month period of the date this Law comes into force the Cabinet of Ministers of Ukraine shall:

Harmonize its normative and legal acts with requirement of this Law;

Ensure harmonization of relevant normative and legal acts by ministries and other central executive authorities with the Law;

Ensure adoption of regulatory norms necessary for implementation of provisions hereof.

4. Before other normative and legal acts have been harmonized with requirements of the Law, they remain in force, partially or entirely, to the extent that this is in line with this Law.

5. Amend the following legislation of Ukraine:

1) in paragraph 1 of part one of Article 255 of the Code of Ukraine on Administrative Violations (Vidomosti Verkhovnoyi Rady URSR, 1984, Annex to No. 51, p. 1122) numbers “164¹⁴,” shall be deleted in the following paragraphs:

“bodies of the Antimonopoly Committee of Ukraine (Articles 164³, 164¹⁴, 166¹—166⁴)”;

“the Accounting Chamber (Articles 164¹², 164¹⁴, 188¹⁹)”;

The paragraph will be supplemented as follows:

“specially authorized body in the sphere of government procurement (Article 164¹⁴)”;

2) part five of Article 4 of the Commercial Code of Procedure of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 1992., No. 6, p. 56; 1997, No. 25, p. 171; 2001, No. 36, p. 188; 2007, No. 9, p. 67) shall be deleted;

Deleted: The claimant must forward a notarized copy of the claim along with documentary evidence of submission of said claim to court to the State Treasury of Ukraine (servicing bank) and the procuring entity within three business days after submission of such claim to court. ¶
The procuring entity terminates the procurement procedure on the date of receipt of a copy of the claim. ¶
Starting from the date of receipt of the claim the State Treasury of Ukraine (servicing bank) is obliged to stop settlement of payments from the account of the procuring entity according to the undertaken financial obligations. ¶
The procuring entity has the right to continue the procurement procedure and the State Treasury of Ukraine (servicing bank) shall effect expenditures. ¶
In the event that the claimant has failed to submit a notarized copy of the court ruling re: instituting legal proceedings in the matter within 20 calendar days upon forwarding of a copy of the claim; ¶
In the event of termination of legal proceedings in the matter; ¶
In the event that the court decision comes into effect. ¶
¶

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3) part seven of Article 8 of the Civil Code of Procedure of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 2004, No. 40 — 42, p. 492; 2007, No. 9, p. 67) shall be deleted;

4) paragraph two of part two of Article 5 of the Code of Administrative Legal Proceedings of Ukraine (Vidomosti Verkhovnoyi Rady Ukrayiny, 2005, No. 35— 37, p. 446; 2007, No. 9, p. 67) shall be deleted;

5) in the law of Ukraine “On the State Control and Revision Office of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1993, No. 13, p. 110; 2006, No. 18, p. 117; 2007, No. 9, p. 67) the following shall be deleted:

in Article 2:

part eight;

in part nine the words “both according to the procedure for inspecting government procurement and”;

paragraph 8 of part one of Article 8;

6) in the Law of Ukraine “On the Antimonopoly Committee of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1993, No. 50, p. 472; 2000, No. 41, p. 343; 2004, № 13, p. 181; 2006 , № 14, p. 118; 2007, № 9, p. 67) the following shall be deleted:

In part one of Article 1 the words “and in the sphere of government procurement”;

Paragraph 17¹ of part one of Article 7;

In paragraph 18 of part one and paragraph 19 of part three of Article 7, paragraph 20 of part one of Article 16, paragraph 20 of part one of Article 17 the words “and the Law of Ukraine “On Government Procurement of Goods, Works, and Services”;

7) paragraph two of part two of Article 15 of the Law of Ukraine “On Education” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1996., № 21, p. 84; 2007, № 9, p. 67) shall be deleted;

8) paragraph 13 of Article 6 of the Law of Ukraine “On the Accounting Chamber” (Vidomosti Verkhovnoyi Rady Ukrayiny, 1996., № 43, p. 212; 1998., № 24, p. 137; 2006., № 14, p. 118) shall be deleted;

9) paragraph four of Article 2 of the Law of Ukraine “On Licensing Certain Types of Commercial Activities” (Vidomosti Verkhovnoyi Rady Ukrayiny, 2000, № 36, p. 299; 2001, № 11, p. 45; 2002, № 1, p. 1, № 20, p. 134; 2004., № 12, p. 155; 2005, № 42, p. 465; 2006, № 18, p. 155; 2007., № 9, p. 67, № 10, p. 89, № 34, p. 444) shall be deleted;

10) paragraph 30 of part one of Article 16 of the Law of Ukraine “On the State Service of Special Communication and Information Protection of Ukraine” (Vidomosti Verkhovnoyi Rady Ukrayiny, 2006., № 30, p. 258) shall be deleted.

Claims Review and Procurement Monitoring Committee

The Authorized body shall set up the Claims Review and Procurement Monitoring Committee (hereinafter referred to as “the Committee”).

The Committee shall:

review claims submitted by bidders in the procedure envisaged by this Law;

submit to the Authorized body the recommendations on approval of the application a bidding procedure with restricted participation and a sole-proprietor procurement procedure;

elaborate and submit to the Authorized body to approve the methods to:

define the amount of damages in the event of violation of the legislation in the sphere of government procurement;

calculate the price of the procurement object with consideration of technical and quality specifications of works, goods and services.

The Committee is made up by single representatives of the Ministry of Economy of Ukraine, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Main Control and Revision Office of Ukraine, State Treasury of Ukraine, Antimonopoly Committee of Ukraine, State Inspection for Prices Control of Ukraine, Chamber of Auditors, Economic Policy Committee of the Verkhonva Rada of Ukraine, the Budget Committee of Verkhovna Rada of Ukraine, the Committee on Combating Organized Crime and Corruption at the Verkhovna Rada of Ukraine.

State officials only can be the members of the Committee.

The list of the members of the Committee shall be approved by the Authorized body and disclosed at the web-portal of this body.

The Head of the Committee shall be appointed Deputy Minister of Economy of Ukraine.

The rules and procedures of the Committee shall be defined by the Committee and disclosed at the web-portal of the Authorized body.

The Committee sitting shall be deemed eligible if it is attended by not less than two third of the members of the Committee. The decision of the Committee shall be deemed made if it was voted for by the two third of the members of the Committee being present at the sitting. Each member of the Committee shall have one vote. In the event of equal distribution of votes the vote of the Head of the Committee shall be deemed casting, and in the event the Head is not present at the sitting – the vote of the Chairman of the sitting. The decision of the Committee shall be filed as the Minutes signed by the Head of the Committee.

The Authorized Body shall be responsible for organizational and logistic Support of the Committee activities.

Article 10.

PRICE REDUCTION PROCUREMENT PROCEDURE

Article 33. Terms of application of the price reduction procurement procedure

1. The price reduction procurement procedure shall be applied in the event of procurement of good or services with a constantly operating market, which are produced or provided beyond purposefully elaborated specifications.

Article 34. Carrying out the price reduction procurement procedure

1. The price reduction procurement procedure shall be subject to the procedure envisaged for the open bidding with due account taken of any specific features as determined by the Chapter.

2. The price reduction procurement procedure shall consist of two stages:

At the first stage all the bidders are offered to submit preliminary bids without specifying the price. The bidding documents must only provide for offers about technical, qualitative, and other characteristics of the procurement object, terms of delivery, and qualification requirements. The period for submission of bids is not less than 15 calendar days from the date of publication of the announcement about the price reduction procurement procedure;

At the second stage the procuring entity suggests that bidders whose preliminary bids have not been rejected during the first stage submit final bids and specify the price. The period for submission of bids during the second stage is not less than seven calendar days from the date of notifying bidders about results of the first stage.

3. During disclosure of bids at the second stage the bidder shall announce the name and address of all the bidders and the price of all bids. Then the bidder suggests that the present representatives of bidders reduce the price of their bid by one step of the price reduction procedure mentioned in the bidding documents. The initial price for the price reduction procurement procedure shall be deemed the minimum price of the bid. Their consent to reduce the price of the bid the present representatives of bidders confirm by raising a card with the mentioned name of the bidder on it. If after the initial and following prices have been announced three times, no bidder suggests a new price, the price reduction procurement procedure terminates and the last bidder who was called and suggested the lowest price is announced the winner.

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Legislation on the public procurement issues

Laws of Ukraine

- The Law of Ukraine "On Government Procurement of Goods, Works and Services for Public Funds"(repealed).
- The Law of Ukraine "On Deliveries of Products for Government Needs".
- The Law of Ukraine "On State Defence Order".

Regulations of the Cabinet of Ministers

- Regulation of the Cabinet of Ministers of Ukraine On Amendments to Provision on Procurement Goods, Works and Services for Public Funds No.1017 of 19.11.2008
- Regulation to Provision on Procurement Goods, Works and Services for Public Funds No.921 of 17.10.2008
- "On the Procedure for Preparing and Placing Governmental Orders for Supply of Products for State Needs and Exercising Ex-post Control" No. 266 of 29.02.1996
- "On Issues of Defence Contracts for Government Account" No. 2244 of 09.12.1999
- "On Public Procurement System Management" No. 1469 of 27.09.2000
- "On Procurement of Services in the Process of Privatization" No. 422 of 05.06.2000
- "On Approval of the Procedure for Interdepartmental Coordination of Procurement of Certain Groups of Goods with State Budget Funds" No. 1312 of 10.10.2001
- "On Procurement of Goods and Services by the Central Election Committee and District Election Committees in the Election Process" No. 1697 of 12.17.2001
- "On Approval of the Procedure for Public Financing of Capital Development" No. 1764 of 27.12.2001
- "On the Organization of Training and Professional Development of Specialists in Procurement of Goods, Works and Services with Public Funds" No. 734 of 01.06.2002
- "On Moving Amendments and Validity Loss of Certain Regulations of the Cabinet of Ministers of Ukraine on Issues of Public Procurement" No. 819 of 02.06.2003

Orders and Explanations of The Ministry of Economy of Ukraine

- Explanations of publishing of the information in international editions and international telecommunication network by purchaser.
- On explanations of using norms of *the Temporary Provision on Procurement of Goods, Works and Services for Public Funds*.
- Order of the Ministry of Economy "On Alteration to Membership of the Advisory Methodological Council for Government Procurement" No. 155 of 07.05.2008
- Order of the Ministry of Economy "On Approval of Agreement Procedure for Single and Restricted Tendering" No. 128 of 15.04.2008
- Order of the Ministry of Economy "On Approval of Grievance Procedure Applied by Tenderers before Making a Contract" No. 126 of 14.04.2008
- Order of the Ministry of Economy "On Approval of the Procedure for Acceptance and Publication of Announcement about Procurement of Goods, Works and

Services in the Public Procurement Bulletin "Visnyk Derzhavnykh Zakupiv" No. 110 of 04.04.2008

- Order of the Ministry of Economy "On Membership of the Advisory Methodological Council for Government Procurement" No. 129 of 15.04.2008
- Order of the Ministry of Economy "On Approval of Forms of Documents in Government Procurement Area" No. 108 of 04.04.2008
- Order of the Ministry of Economy "On Setting up the Advisory Methodological Council for Government Procurement" No. 109 of 04.04.2008
- Order of the Ministry of Economy and European Integration of Ukraine "On Approval of the Regulations on the Formation and Main Functions of Tender Committees Regarding Managing the Procurement of Goods, Works and Services with Public Funds" No. 280 of 26.12.2000
- Order of the Ministry of Economy and European Integration of Ukraine "On the List of Products in the Event of Whose Procurement the Government Customers Allow Only Enterprises of Social Organizations of the Disabled and of the Penitentiary System to Bid" No. 22 of 22.01.2004

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The Law of Ukraine "On Deliveries of Products for Government Needs"

Date of Entry into Force:
January 17, 1996**Summary version**

The Law of Ukraine "On Deliveries of Products for Government Needs" (hereinafter referred to as "the Law") establishes general legal and economic grounds for forming, placing and fulfilling government orders under agreements (contracts) for deliveries (procurements) of goods, fulfillment of works and provision of services (hereinafter referred to as "products") by Ukrainian subjects of economic activity of all types of ownership in order to meet government needs.

Deliveries of products for government needs shall be ensured at the expense of the State Budget of Ukraine and other sources of financing that are involved thereby. The government shall pose as a guarantor under commitments of government customers.

Government order is a tool for regulation of the economy by way of forming stocks and volumes of products necessary to meet government needs on the basis of an agreement (contract), placing government orders for deliveries (procurements) of products among companies, organizations and other Ukrainian subjects of economic activity of all types of ownership.

Government customers shall be the Verkhovna Rada of Ukraine and other central government bodies of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, oblast state administrations, Kyiv and Sevastopol City State Administrations, government organizations and institutions determined by the Law on the State Budget of Ukraine, as well as government organizations and institutions authorized by the Cabinet of Ministers of Ukraine to conclude government contracts with providers of government procurements.

Government customers shall be provided with financial resources by the Cabinet of Ministers of Ukraine in the amounts necessary to make a full payment for government orders, unless otherwise is envisaged by the law, and are responsible for meeting government needs in relevant products.

Government customers and government bodies shall oversee deliveries of products for government needs.

Upon a decision of the Cabinet of Ministers of Ukraine, a government customer can introduce the necessary amendments to a government contract or terminate such a contract according to the current legislation of Ukraine.

For the purpose of providing economic incentives for fulfilling government orders, providers can be granted privileges for the payment of corporate profit tax, targeted subsidies and subventions, loans under privileged conditions, foreign currency, customs, and other privileges. Privileges shall be provided according to the current legislation of

Ukraine.

In case of failure to fulfill or improper fulfillment of a government contract for deliveries of products for government needs, the guilty party shall pay a forfeit (penalty, fine) envisaged by such contract, as well it should compensate the inflicted losses.

In case of a failure to fulfill obligations under a government contract, the provider shall compensate losses, which were inflicted by improper fulfillment of commitments, in full amount, in addition to paying a forfeit. Payment of a forfeit (penalty, fine), as well as compensation of losses inflicted by improper fulfillment of commitments under a government contract does not release the provider from the obligation to fulfill such government contract in kind.

If a government customer fails to fulfill commitments under a government contract, such government customer shall compensate the provider of government order losses inflicted thereupon, including expected and uncollected profits.

A government customer shall have the right to refuse to pay for products in part or in full, if they do not meet quality requirements established by the current legislation of Ukraine and a government contract.

Disputes arising between government customers and providers of government orders while concluding government contracts for deliveries of products for government needs, introducing amendments in the process of fulfillment thereof, as well as compensating inflicted losses, shall be considered by commercial courts according to the current legislation of Ukraine. Government customers and providers of government orders shall be exempted from paying state duty for filing a claim with a commercial court. When considering such a suit, the relevant commercial court shall decide on the payment of state duty in amounts envisaged by the current legislation of Ukraine.

Summary is prepared by Yaroslav the Wise Institute of Legal Information.

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The Law of Ukraine On the Supply of Production for State Needs

This law defines the general legal and economic principles of forming, placing and fulfilling, on a contractual basis, state orders for the supply (or procurement) of goods, works or services for the purpose of satisfying the needs of the state by economic agents of Ukraine of all types of ownership.

Article I. Supply of Production for State Needs

1. State needs are the needs of Ukraine for production required to resolve social and economic problems, maintain defence capability and security, establish and maintain the appropriate level of state material reserves, implement national and international special purpose programs, ensure the functioning of the bodies of government which are financed from the State Budget of Ukraine.

A state order is the method of government regulation of the economy by determining, through contracts, the types and volumes of products required for state needs, by distributing state contracts for their supply (or procurement) amongst enterprises, organizations and other economic agents of Ukraine of all types of ownership.

State customers are Verhovna Rada of Ukraine, other central bodies of state executive power of Ukraine, the Government of the Autonomous Crimean Republic, the oblast, Kiev and Sevastopol city authorities, government organizations and institutions, defined in the Law On the State Budget of Ukraine and authorized by the Cabinet of Ministers of Ukraine to conclude contracts with enterprises filling state orders.

Agency fulfilling the state order. State orders may be filled by economic agents of Ukraine of all types of ownership which produce and supply products for state needs according to the terms and conditions of the signed state contract.

State contract is a contract signed by the state customer on behalf of the state and by the agency fulfilling the state contract, which stipulates the economic and legal obligations of the parties and regulates relations between the customer and fulfilling agency.

2. Production for state needs shall be supplied through financing from the State budget of Ukraine and other sources of financing.

The volume of funds for the procurement of the specified production shall be stipulated in the Law On the State Budget of Ukraine for the given year and shall be determined by the Cabinet of Ministers of Ukraine in the appropriate resolutions concerning the utilization of non-budget financing.

3. The demand for the products required to ensure the fulfillment of the regional special purpose programs (supply of products for regional needs) shall be determined by the Government of the Autonomous Crimean Republic, the oblast authorities, and Kiev and Sevastopol city authorities according to the provisions of this law.

The supply of products for carrying out regional programs shall be fulfilled, financed by the Republican budgetary funds of the Autonomous Crimean Republic and by local budgets, and also from non-budgetary sources drawn for this purpose.

4. The special relations which arise in connection with the establishing and placing the state order for illustrating by mass media activity of state and local authorities, the supply (or

procurement) of agricultural products for state needs, food-stuffs, armaments and military equipment, and also of other specially defined (specific) goods, shall be regulated by separate legislative acts of Ukraine.

Article II. Formation of State Orders, Distribution of Production for State Needs and Control Over their Fulfillment

1. The State shall act as a guarantor of the state customer.

2. With the purpose of organizing works connected with forming state orders, distributing production for state needs and implementing control over their fulfillment, the Cabinet of Ministers of Ukraine shall determine and approve:

central bodies of the state executive power which coordinate the work of state customers in distributing supplies of production for state needs, formulating state orders and inform state customers about the volumes of the supplied products, balanced with financial resources, to conclude state contracts with agents fulfilling state orders, otherwise is stipulated in the Law

A similar function in supplying production for the purpose of ensuring fulfillment of regional programs, shall be performed by the Government of the Autonomous Crimean Republic, the oblast authorities, Kiev and Sevastopol city authorities.

3. State customers:

shall choose, through competitive selection, proceeding from the interests of the state, agencies to fulfill state orders with the purpose of signing state contracts with them; shall sign state contracts with agencies fulfilling state orders; shall guarantee on behalf of the state, payment for the products supplied for state needs according to the terms and conditions stipulated by the state contract, to the agencies fulfilling the state order.

State customers may delegate part of their functions, on a contractual basis, to the appropriate enterprises, institutions and organizations on terms determined by the Cabinet of Ministers of Ukraine.

4. State customers shall be provided with financial resources in the amounts required for the full payment of the state order by the Cabinet of Ministers of Ukraine, otherwise is stipulated in the Law, and shall be responsible for satisfying state needs for the appropriate production.

5. Control over the fulfillment of the supply of production for state needs shall be carried out by state customers and central bodies of state executive power specified in Part 2 of Article II of this Law.

6. The procedure of forming state orders, distributing the supply of production for state and regional needs, and implementing control over their fulfillment shall be determined by the Cabinet of Ministers of Ukraine, the Government of the Autonomous Crimean Republic, the oblast authorities, Kiev and Sevastopol city authorities, as appropriate, while conforming to the requirements of this Law and of other legislative acts of Ukraine.

7. By decision of the Cabinet of Ministers of Ukraine, the state customer may make necessary changes in the state contract or terminate it according to the current legislation of Ukraine.

8. State orders for the supply of products shall be binding for the agencies fulfilling state orders, which have been founded completely or partially on the basis of state property (government-

owned enterprises, institutions and organizations; joint stock partnerships in which the controlling block of shares in the authorised fund belongs to the state; leasehold enterprises established on the basis of state ownership) and also for economic agents of Ukraine of all types of ownership which hold a position of monopoly on the market, if the fulfillment of the state order does not inflict losses on the given agencies fulfilling the state order.

Article III. Incentive for the Fulfilment of the Production Supply for State Needs

1. With the purpose of providing economic incentives for the fulfillment of state orders, agencies fulfilling state orders may be granted privileges such as tax incentives, subsidies for special purposes, soft credits, access to hard currency, duty concessions and other privileges.

Privileges shall be granted according to the current legislation of Ukraine.

2. Special quotas (state reservations) may be fixed, if necessary, on the enterprises and organizations which supply the most important types of material and technical resources for the compulsory sale of these resources to the agencies fulfilling state orders which are strategically important or connected with maintaining the appropriate level of defence capability of the country and its security.

The procedure of determining the list and the amounts of the material and technical resources which are subject to state reservations shall be determined by the Cabinet of Ministers of Ukraine.

Article IV. Liability for the Non-fulfilment of State Contracts for the Supply of Production for State Needs

1. If the state contract for the supply of production for state needs was not fulfilled or not fulfilled correctly, the penalty (or fine, or charge) stipulated by the contract shall be collected from the defaulting party and the losses which were caused, shall be reimbursed.

2. If the agency fulfilling the state order unreasonably refuses to conclude a state contract for the supply of production for state needs in cases where this Law determines it to be compulsory, and if its fulfillment is technically possible, the agency fulfilling the contract shall pay the state customer a fine in the amount of the state contract's value.

3. If obligations on the state contract are defaulted, the agency fulfilling the state order, apart from payment of penalties, shall reimburse the losses which were caused by the improper execution of obligations in full amount.

The payment of the penalty (or fine, or charge) and the reimbursement of damages if the state contract's obligations were improperly fulfilled, shall not exempt the agency from fulfilling the state contract.

4. The state customer may refuse to pay for products if they do not meet the quality specified by the current legislation of Ukraine and by the state contract.

5. If the state customer has defaulted on his obligations in state contract and also in cases indicated in Part 7 of Article II of this Law, the state customer shall reimburse the agency fulfilling the state order the losses caused, including potential revenues. If the state customer refuses to procure the products manufactured according to the state contract (except in cases indicated in Part 4 of this Article) the agency fulfilling the state contract may sell the products at

his discretion. The customer shall also reimburse the agency fulfilling the contract additional expenses connected with selling, and if sale of the products is impossible, the losses caused, including potential revenues.

6. Disputes which arise between the state customer and the agency fulfilling the state contract, when signing or making changes to a state contract for the supply of products for state needs, when they are being fulfilled and also upon the reimbursement of damages, shall be considered according to the current legislation of Ukraine by the arbitration courts. State customers and agencies fulfilling state orders shall be exempted from paying government duties when filing a claim in the arbitration court. When considering a case, the arbitration court shall determine the amount of government duty as provided by the current legislation.

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The Law of Ukraine "On State Defence Order"

Date of Entry into Force:**April 3, 1999****Summary version**

This Law defines general legal and economic principles of forming, placement, financing and fulfillment of state defence order and regulates relations in this sphere.

Measures related to forming, placement and fulfillment of defence order which make state secret shall be conducted with adherence to the legislation on the state secret.

Defence order is annually formed as a package of documents which is approved by the Cabinet of Ministers of Ukraine after the Verkhovna Rada of Ukraine approves the State Budget of Ukraine. It shall contain the list of state customers and providers, nomenclature and number of products which are procured, volumes of works, services and their value. Defence order shall be the ground for concluding respective state contracts.

Defence order shall be made through the bodies of executive power which coordinate activity of enterprises, institutions and organizations.

Defence order providers shall be chosen by conducting competitions (tenders) by the state customers. In case the desired provider of defence order was not found on competitive basis the defence order shall be put on:

- special government enterprises;
- state enterprises and organizations;
- joint stock companies in the statutory fund of which share holding belongs to the state;
- lease enterprises and organizations established on state property;
- subjects of economic activity which are the sole producers or pursuant to the legislation of Ukraine are recognized as such that occupy monopolistic (dominant) position at markets of those types of goods which are the object of state defence order.

The state customers following from the approved basic indices of defence order shall conclude with the providers state contracts which shall be compulsory fulfilled by the latter.

Defence order shall be financed from the State Budget of Ukraine by special purpose allocations to the state customers. Expenditures from the State Budget of Ukraine for defence order financing are included in the list of protected expenditures and are envisaged by a separate line for each state customer.

Results of scientific research and research design works, as well as technologies obtained during defence order fulfillment shall be used on agreement with the state customers.

In order to stimulate providers of state defence order the Law stipulates that they may

obtain privileges as regards to taxation, privileged donations and subsidies, credits on privileged conditions, customs and other privileges. Besides, quotas for obligatory sale to them of some kinds of raw materials, materials and component parts by the Ukrainian enterprises may be set for such providers.

In case of non-fulfillment or improper fulfillment of defence order the guilty party shall reimburse caused by it losses, forfeit (penalty, fine) to the other party. Payment of forfeit (penalty, fine), as well as reimbursement of losses for non-fulfillment or improper fulfillment of the state contract shall not remit the provider from its fulfillment.

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The Law of Ukraine "On Government Procurement of Goods, Works and Services for Public Funds"

Date of Entry into Force:
July 12, 2000

Summary version

The present Law establishes general legal and economic rules for performing procedures for government procurement of goods, works and services.

The purpose of the present Law is to create competitive environment in this area, ensure transparency in procedures for government procurement of goods, works and services and achieve optimal and rational use thereof.

Chapter I of the Law specifies the terms used therein, scope of the law, authorities of bodies of executive power in the field of coordinating procurement of goods, works and services, the issues relating to non-discrimination of procurement participants, conditions for protection of the domestic market.

Chapter II of the Law provides for a detailed definition of the conditions for procurement:

- the form of notifications during procurement procedures;
- the language used during procurement procedures;
- the procedure for declining participation in procurement procedures;
- the procurement procedures;
- qualification requirements to participants, etc.

Chapter III of the Law stipulates the procedure for open tender and tender with limited participation. This Chapter is dedicated to:

- conditions for applying the procedures of open tender and tender with limited participation with respect to procurement of goods, works, services;
- the procedure for submission of tender documents;
- the procedure for submission of tender proposals and for securing them;
- the procedure for opening, evaluating and comparing tender proposals;
- the procedure for rejecting tender proposals;
- the procedure for canceling tender or recognizing the tender as not taking place;
- the procedure for accepting the winning tender proposal and concluding the procurement agreement, etc.

Chapter IV of the Law deals with the procedure for two-stage tender. Thus, it includes conditions for application of the procedure for two-stage tender and the procedure for inviting participants to a two-stage tender, as well as deadlines for submission of preliminary tender proposals.

Chapter V of the Law is dedicated to procedures for requesting price proposals (quotations) and procurement from one participant. The Chapter covers the issues on

applying procedures for requesting price proposals (quotations) and conditions for application of the procedure for procurement from one participant.

Chapter VI of the Law covers the issues related to the procurement agreement. The Chapter includes key requirements to the procurement agreement, such as: the procurement agreement shall become valid on the date when it is signed by the customer and the participant, determined as the winner of the procurement procedures, or the procurement agreement shall be concluded only in writing and in accordance with provisions of the Civil Code of Ukraine.

Chapter VII of the Law is dedicated to issues of appeals against application of procurement procedures. This Chapter determines the right to appeal actions of the customer, the procedure for submission and consideration of claims against the customer violating the procurement procedures, responsibility for violation of the legislation on performing government procurement of goods, works and services.

Organizers, customers of tenders and their participants shall bear administrative or criminal responsibility according to the Laws of Ukraine for violation of requirements established by the present Law and other normative and legal acts developed for implementation thereof.

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Bohdan Danylyshyn: State procurement is in the focus of attention of the Ministry of Economic Affairs. Revised version of the Act "On public procurement" will be compliant with international standards, requirements of EU and WTO and modern demands of the public

25.03.2008 | 12:25 | Minister's press service



The head of economic department has told that reduction of things in public procurement domain to an order is one of the top-priority objectives of the Government.

According to B. Danylyshyn, the main problem is distribution of guiding functions of the state, regarding monitoring, control and coordination of public procurement, between different executive agencies, legislative organs, public organizations and business entities. That distribution had resulted in the lack of coordination, duplication of functions of various agencies and had not provided integrated state policy of public procurement, development and implementation of which is, according to the Constitution, under cognizance of the Government. In fact, the Cabinet had been put aside of public procurement process management.

A lot of complaints and appeals had been sent to the Government from executive agencies and local authorities, including representatives of cities, villages, enterprises, organizations and individuals. Existed system of public procurement had been characterized by complexity of its procedures and necessity to pay considerable amounts of money for information distribution, as well as other charges, applied to both clients and participants of public purchases. That's why public purchases gradually had become too burdening for the budget, manufacturers and service providers.

The Tender Chamber, created as an instrument of public control, gradually transformed into administrative agency, which had obtained the functions of market regulator without any responsibility for results of its work.

"By reference to complaints and appeals, received by the Ministry of Economic Affairs, - the Minister has told, - paid advertisements and Web publishing of other information, regarding public procurement, had been declared as major negatives of the law in effect. As a consequence, application of abovementioned provisions had resulted in monopolization of public procurement, increase in expenses of public funds' administrators and tender participants. At the same time, distribution of information on public procurement, public availability of which should be provided by the clients, had become dependent on certain private business entities.

Diminution in cost limits that provide obligatory application of the law (for food and services – down to UAH 20 thousand and for work – down to UAH 50 thousand) had become another negative factor. Such diminution had entailed a decrease in economic efficiency of public funds spending, because additional human and financial resources should be attracted for organization and execution of public procurement".

Bohdan Danylyshyn had pointed out at such negative as obligatory registration of tender participants in Topical Catalogues according to different procedures, which had resulted in restriction of participation in tender procedures and entailed additional expenditures on the part of tender participants. As a result, tender participants had included those expenses in the price of their goods.

According to the head of economic department, redundancy of Tender Chamber's powers, regarding public procurement system, such as obligatory depositing by public purchases participants of tender and contractual security, had resulted in competition blocking, excessive consumption of state funds and, in certain cases, had disabled competitive execution of public procurement procedure, inasmuch as business entities didn't want to take part in tender on such terms, and those business entities, which had managed to participate in tender, had included their expenditures in the price of tender proposal, damaging the state in so doing.

"Necessity of modification and improvement of existing public procurement system had become the top-priority objective of the Government. – Bohdan Danylyshyn has stated. – Taking into account the existing situation, the Verkhovna Rada of Ukraine, on March 20, 2008, had revoked the law "On public procurement of goods, services and work" and commissioned the Government to develop temporary provisions on public procurement of goods, services and work, based on provisions of the Act, that was in effect as of November 17, 2004".

"Such draft temporary provisions, developed by the Ministry of Economic Affairs with the participation of the Ministry of Finance and Ministry of Justice, - the head of economic department had stressed, - will settle abovementioned problems, existing in domain of public procurement of goods, services and work, and grant an opportunity to effect public purchases up to adoption of revised version of the Act".

"Inter alia, - the Minister has told, - those provisions provide free of charge distribution of information on public procurement in "Public procurement courier" and other state-owned mass media, such as Web-sites of the clients, as well as by the agency of other means of information. According to international experience, preliminary information (advertisement) on public procurement shall be published on official state-owned Web-page, while detailed information on the progress of tender shall be published on clients' own Web-sites, web addresses of which will be obligatory specified in advertisement on procurement".

Furthermore, according to B. Danylyshyn, cost ceiling, applied to procurement of goods, services and work, had been uplifted; provisions on obligatory maintenance of Topical Catalogues and registers of tender participants had been abolished; Tender Chamber had been deprived of the best part of its powers and the Ministry of Economic Affairs had been appointed as an authorized agency.

Collegial council had been established at the Ministry of Economic Affairs. That council shall consider the complaints and provide the Ministry of Economic Affairs with its approval for purchases from single executor or for limited participation purchases. Furthermore, at least, two selling propositions shall be placed on tender and no tender and/or contractual security shall be required.

"Adoption of those temporary provisions, - the Minister of Economic Affairs had stated, - will considerably simplify and make the public procurement cheaper, as well as will settle the most part of topical issues, existing nowadays in that domain".

According to decision made by the Verkhovna Rada, new revised version of the Act "On public procurement" shall be developed within 2 weeks. That redrafted Act shall be compliant with international standards, requirements of EU and WTO and modern need of the public.

"The main objective of that Act consists in emerging role of the Government and executive agencies in public procurement system, together with concentration of principal regulatory and monitoring functions within the competence of single body, authorized for public purchases performance", - B. Danylyshyn had perorated.

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A conference-seminar on "Development of public procurement system in Ukraine and ways of its improvement" had taken place

22.07.2008 | 17:14 | Minister's press service

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The Ministry of Economic Affairs, with the participation of representatives of central and local executive agencies, has held a conference-seminar on "On development of public procurement system in Ukraine and ways of its improvement".

The members of Advisory and Methodological Council, senior officers of public procurement department and legal department of the Ministry of Economic Affairs, representatives of "Public procurement news" bulletin, Department of Treasury and Audit Chamber have made their presentations and briefed the participants of the conference on amendment of legal procedures applied to public procurement domain, explained certain provisions of Temporary Regulation, informed on regulatory and procedural guidelines in effect, as well as answered the questions asked by participants of the seminar.

The Head of Advisory and Methodological Council, Deputy Minister of Economic Affairs of Ukraine, Yuri Vitrenko, in the course of his speech has told that public procurement domain in any country is an important instrument of social problems settlement and influence of the government on various sectors of economy.

"The main objective of this conference-seminar, - Yuri Vitrenko has stressed, - is to identify and settle jointly the problems that affect public procurement domain".

Furthermore, the participants of the conference had discussed: legal aspects of procedures applied to public procurement domain; the procedure of registration of public procurement applications; terms of those applications publishing; capital errors; procedure of registration of obligations under the contracts executed after public procurement procedures completion; the list of documents required; reconciliation of procurement from a single participant and with limited participation; public procurement complaints procedure as well as the training of members of tender committees.

During the seminar its participants have remarked on improvement of both authorized agency and public procurement domain operation in Ukraine.

In the end of the meeting Y. Vitrenko has told that such conferences are of great importance, inasmuch as they enable settlement of a number of practicalities regarding public procurement domain by the experts of both the Ministry of Economic Affairs and other authorities.

Something like 200 people have taken part in the conference.

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Bohdan Danylyshyn: Improvement of public procurement system is a top priority objective of the Ministry of Economic Affairs of Ukraine

11.12.2008 | 17:24 | Of current interest



In 2008, the public procurement system of Ukraine had been subjected to a number of institutional and procedural modifications. Inter alia, on 20.03.2008, the Verkhovna Rada of Ukraine has adopted the Law of Ukraine No. 150-VI "On invalidity of the Law of Ukraine "On public procurement of the goods, work and services" (that had become effective since 02.04.2008).

Since that time public procurement domain had been governed by Temporary Provision on public procurement of the goods, work and services, validated by the Order of the Cabinet of Ukraine No. 274, dated 28.03.2008. According to Section 2 thereof, the Ministry of Economic Affairs had been entrusted with duties of specially authorized central executive agency, responsible for coordination of public procurement of the goods, work and services.

For the purposes of successful discharge of its functions, the Ministry of Economic Affairs had formulated a number of regulations required for public procurement system operation and effected certain organizational arrangements. Inter alia:

Public procurement department had been established in the Ministry of Economic Affairs as its separate structural subdivision;

In order to comply with the principles of transparency and openness of public procurements, the Authorized Agency had resumed publication of "Public procurement courier" news-bulletin, where the ordering customers could place their procurement advertisements free of charge. In addition, "Public procurement" Web-portal (<http://www.tender.me.gov.ua>) had been brought into being by the editorial staff of "Public procurement courier". Users are able to access the information published on "Public procurement" Web-portal, free of charge;

Consulting and methodological council on public procurement had been established pursuant to the Temporary Provision. That council is authorized to give consideration to the claims, lodged by tender participant prior to entering the contract on procurement. Furthermore, the council is entitled to adjust the procedure of tender with limited participation and procedure of procurement from a single participant.

Moreover, the Ministry of Economic Affairs had developed the draft Law of Ukraine "On public procurement of the goods, work and services". Abovementioned draft Law had been approved by the Government and submitted to the Verkhovna Rada of Ukraine. On 20.05.2008, the Verkhovna Rada of Ukraine had adopted the draft law in the first reading (Reg. No. 2263-1).

On October 9, 2008, the Constitutional Court of Ukraine had delivered a judgment No. 22-pn/2008 (made public on October 16, 2008), pursuant to which the second paragraph of Section 2 of the Final provisions of the Law of Ukraine "On invalidity of the Law of Ukraine "On public procurement of the goods, work and services" and the Order of the Cabinet of Ukraine No. 274, dated 28.03.2008 "On public procurement of the goods, work and services" had been found inconsistent with the Constitution of Ukraine.

In order to settle legal relationship in public procurement domain, the Cabinet of Ukraine had adopted the Provision on public procurement of the goods, work and services (hereinafter referred to as **the Provision**), approved by the Order of the Cabinet No. 921, dated 17.10.2008.

On 19.11.2008, the Cabinet of Ukraine had adopted the Order No. 1017 "On amendment of the Provision on public procurement of the goods, work and services" (that had become effective since 25.11.2008), which had validated a restated version of the Provision.

During the period of harmonization of regulations, issued by the Ministry of Economic Affairs, with the Order of the Cabinet of Ukraine, No. 1017, dated 19.11.2008, those regulations may be used to the extent, being not in conflict with abovementioned Order.

At present, the Ministry of Economic Affairs is engaged in harmonization of regulations regarding public procurement domain with restated version of the Provision.

At the same time, the Ministry of Economic Affairs continues to improve regulatory and legal framework, applicable to public procurement domain. The Ministry had formulated a draft order "On validation of procedure of amendment of essential conditions of the contract", which, at present, is to be approved by Derzhpidpryyemnytstvo.

In addition, the Ministry of Economic Affairs, with the participation of international experts, had formulated and completed its propositions on improvement of the Law of Ukraine "On public procurement of the goods, work and services" (Reg. No. 2263-1), adopted in the first reading.

It should be mentioned that both the amendment of the laws on public procurement and the activity of the Ministry of Economic Affairs in its capacity of authorized agency, had resulted in positive developments in that domain.

For example, in contradistinction from the previous system, when all costs related to creation and publication of printed matters, electronic information systems and verification systems, generally, had been borne by private business entities at the expense of monies of ordering customers and tender participants, the law in effect provides

free of charge publication of advertisements in "Public procurement courier" news-bulletin and on "Public procurement" Web-portal. That grants an opportunity to save the monies of ordering customers and participants, as well as enables observance of the principles of openness and transparency in public procurement domain.

According to the information, provided by State Statistical Committee (dated 31.10.2008), gross annual amount of state funds, expected to be used by the ordering customers in 2008 for public procurement of the goods, work and services, had made UAH 213.104 million, or, in other words, had grown by 16.3% YoY. That amount includes the funds of: state, federal budget-supported and municipal enterprises – UAH 37 925 million (17.8%); business entities with state-owned share exceeding 50% - UAH 112 293 million (52.7%); State Budget, the budget of the AR of Crimea, local budgets, Pension Fund, Social Insurance Funds, State Purpose-Oriented Funds, funds of the NBU and state purpose-oriented credits – UAH 62 886 million (29.5%).

In January to September, 2008, following the results of public procurement tenders, the ordering customers had entered contracts to the gross amount of UAH 138 409 million, including the contracts, executed by: the Ministry of Fuel and Energy and lower organizations – UAH 7,658.5 million (55%); Ministry of Transport and Communications – UAH 14,373.1 million (10.4%); State Service of Motor Roads – UAH 8,444 million (6.4%); Ministry of Coal Industry – UAH 5,228.8 million (3.8%); Kyiv Municipal State Administration – UAH 4,889.2 million (3.5%).

According to the analysis made, amendment of the laws on public procurement had a positive effect on improvement of competitive environment in that domain. Simplification of tender participation procedures, such as de-commercialization of public procurements domain, had resulted in an increase in average number of public procurement participants from 2.7 up to 3.3 participants per one announced tender (during open tenders – from 3 up to 4 participants).

Furthermore, one of the most important indices of competition in public procurement system is the share of procurement from a single participant in gross volume of public procurements effected. In II to III quarter, 2008, the share of contracts, executed as a result of non-competitive procedures application (procurement from a single participant), in gross volume of contracts entered, according to official statistical data, provided by State Statistical Committee (pursuant to ordering customers' reports made under the form No. 1-tenders), had made **17.55%**. In I quarter, 2008, prior to the decision, made by Interdepartmental commission on public procurement of the goods, work and services with regard to validation of the procedure of procurement from a single participant, abovementioned share had made **77%**. The information about considerable diminution of the share of non-competitive procedures is confirmed by the data, provided by the Ministry of Economic Affairs, on gross volume of procurements from a single participant.

So, actual level of competition had been improved, as against the previous year. Growing number of advertisements about open tenders is indicative of intensive application of competitive procedures of public procurement, as well. During 9 months, 2008, the number of open tenders had grown by 30% YoY.

In summary, the Ministry of Economic Affairs, in its capacity of the agency, authorized for public procurement coordination, successfully discharges the duties, entrusted to it, arranges conditions favorable for creation of competitive environment in that domain and promotes observance of the principles of openness and transparency in public procurements system.

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[Main page](#)[Constitution of Ukraine](#)[Chairman of the Verkhovna Rada of Ukraine](#)[News](#)[Plenary Meetings](#)[Events Announcements](#)[Parliamentary Calendar of Important and Memorable Dates](#)[Top News](#)**News****08.01.2008 11:43**[printer friendly](#)**Several Bills appertaining to the Law 'On The Public Procurement of Goods, Works and Services' are under preparation by The Economic Policy Committee***(Information Department)*

The People Deputies have produced 14 such Legislative initiatives, among them those related to Information Protection, Tender Bids, Clarification of Administrators of Public Funds, Supervision of the Distribution of Public Funds, Public Procurements, The Procurement System, Contract Registers, and also to improved organization in the preparation of and participation in Sporting Events of the National Teams, and Procurement Procedures in the areas of Construction and Utilities, etcetera.

The Draft on Amendments to the Law 'On Public Procurement of Goods, Works and Services' (appertaining to Tender Bids) (Reg. No.1011-1) proposes to improve the existing procedure for Public Procurement. The number of Tender Bids required to effect Procurement is reduced from three to two. The list of Procurement subjects, to which this Law does not apply, is extended to resolve the problem of procurement of specific Goods, Works and Services. The functions of the authorized body for Public Procurements will be vested in The Ministry of Economy of Ukraine, instead of The Anti-monopoly Committee of Ukraine, as suggested in the Draft.

Another Draft (Reg. No. 1011-6) aims to improve provisions on the system of bodies responsible for State supervision, monitoring and coordination of Public Procurements, appertaining to effecting competitive Procurement Procedures together with The Procedure of Dispute (Appeal) Settlement in The Public Procurement Court.

This Draft envisages that the functions of coordinating Goods, Works and Services Procurement 'are vested in a wide system of Public Authorities, including The Ministry of Economy of Ukraine'. The Inter-departmental Committee on Public Procurement must be dissolved, with the subsequent transfer of its functions to other bodies. The Inter-departmental mechanism used in procurements is cancelled, and in its place is introduced a mechanism of Prepayment under Procurement Contracts.

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Report of the Accounting Chamber of Ukraine for the year 2003

Dear people's deputies of Ukraine!

According to the Article 35 of the Law of Ukraine "On the Accounting Chamber" I provide this Report of the Accounting Chamber for the year 2003, approved by the Board, to Verkhovna Rada of Ukraine for consideration.

**Head
of the Accounting Chamber**

V. K. Symonenko

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[Appendix](#)**INTRODUCTION**

Experience of economically developed countries in the sphere of independent state financial control testifies, that as market economy develops and its social orientation increases, control-financial functions of the state become even more important, and the state bears even more responsibility regarding protection of citizens' rights.

Democratic countries of the world acknowledge, that independent state financial control - is one the most important functions of state government, aimed at exposure of deviations from accepted standards of law, expediency and efficiency of resource management, and in case of detection of such deviations - at timely implementation of appropriate adjustments and preventive measures.

New social-economic and political conditions resulted in creation of the state control body of the new type - the Accounting Chamber, which performs its activity according to provisions of Lima Declaration of guiding principles of financial control, accepted at the 9th Congress of International Organization of Supreme Audit Institutions (INTOSAI) in October of 1977. Declaration states the commonly accepted ideas, that independent outer body of parliamentary budget-financial control is an integral attribute of democratic society.

While checking efficiency of budget funds' implementation, the Accounting Chamber implements system approach in organization of control-analytical and expert means and follows the results of their consideration. Conclusions and offers of the Accounting Chamber, first of all, are aimed at elimination of drawbacks in budget process which result in inefficient implementation of budget funds.

Results of control means, conducted by the Accounting Chamber, testify about of frequent substitution of regulations of budget laws by by-law standard acts, great amount of system violations in budget sphere. Particular examples of illegal activity of budget funds' managers are present in the materials of practically each inspection conducted by the Accounting Chamber, they are also represented in information bulletins issued by the Chamber and in regular reports for mass media.

Role of the Accounting Chamber as of the Supreme State Audit Institution has the most important meaning for Ukraine in the process of integration into world community.

Solving of issues that are in competence of the Accounting Chamber requires close cooperation with international organizations INTOSAI, EUROSAI and Supreme Audit Institutions, which are members of these organizations, principally new approaches to planning and organization of activity.

1. Main results of control-analytical and expert measures**1.1. Main directions of control-analytical measures**

One of the main attribute characteristics of activity of the Accounting Chamber is the principle of planning. Plan of work of the Accounting Chamber is formed based on offers of main controllers-directors of departments, deputies of Chairman and Chairman of the Accounting Chamber, taking into consideration fulfillment of appeals of at least one third of the constitutional staff of Verkhovna Rada of Ukraine, submitted according to procedure established by the Order of the Verkhovna Rada of Ukraine, of appeals and offers of the President of Ukraine, resolutions or protocol instructions of the Verkhovna Rada of Ukraine, of appeals of committees of the Verkhovna Rada of Ukraine and people's deputies of Ukraine, on which the Verkhovna Rada of Ukraine is to make decision. Plan, approved by the Board of the Accounting Chamber provides systematic and effective control of execution of the State Budget of Ukraine, allocation of resources of target budget and off-budget funds by amounts, structure and target use; legitimacy and expediency of allocations; validity of normative-legal and administrative acts of state government, which directly or indirectly influence execution of state budget, state budget and off-budget funds; maintenance and recovery of state debt.

Thorough selection of subjects of control measures, implemented by the Accounting Chamber, is based on overall and detailed monitoring and analysis of progress of the budget process as a whole and by separate directions; social and economic processes; directions of allocation of budget resources; changes of legislative and normative bases of budget fulfillment; social value of issues, amounts of budget resources provided for this or other issue, or the so

called worth of an issue; expected results of control-analytical measures.

Compared to the previous year, in 2003 the Accounting Chamber did not experience any essential changes. 10 departments were responsible for realization of tasks, set before the Accounting Chamber in the following main directions:

Control of allocations for judicial power, defense, law enforcement activity and state security (chief controller-director of the Department - Nevidomyj V. I.);

Control of allocations for agricultural complex and production infrastructure (chief controller-director of the Department - Ogorodnyk V. S.);

Control of usage of resources of target budget and off-budget funds (chief controller-director of the Department - Nemyrovskij V. L.);

Control of allocations for social sphere and science (chief controller-director of the Department - Flisak I. A.);

Control and analysis of budgets of Ukraine (chief controller-director of the Department - Golovan M. M.);

Control of allocations for state government (chief controller-director of the Department - Vitkovska L. V.);

Control of state debt and of activity of banking establishments (chief controller-director of the Department - Ivanenko J. V.);

Control of compliance with legislation on budget issues (chief controller-director of the Department - Pylypenko V. P.);

Control of allocations for industry and power engineering (chief controller-director of the Department - Zipir A. P.);

Control over usage of state budget funds in regions (chief controller-director of the Department - Takhtaj V. E.).

Main trends of control-analytical measures in 2003 were:

Analysis of Government Statement of execution of State Budget of Ukraine for the year 2002, State Budget for the first quarter, 1st half-year and 9 months of the year 2003 and expertise of the project of the Law of Ukraine "About State Budget of Ukraine for the year 2004", including in-depth analysis of formation of their income parts and state of interbudget relationship;

Control of allocations of budget funds for social sphere and science (objects to be audited in this direction were: Ministry of Labour and Social Policy in Ukraine; Ministry of Health of Ukraine; Ministry of Science and Education of Ukraine; Ministry of Culture and Arts of Ukraine; Ministry of Agriculture of Ukraine; Ministry of Economy and of European Integration of Ukraine; Ministry of Finance of Ukraine; State Treasury of Ukraine; State Committee of Ukraine on Family and Youth Issues and institutions, subordinated to the State Committee; State employment Center of the Ministry of Labour and Social Policy in Ukraine; National Academy of Science of Ukraine; Ukrainian Academy of Agricultural Sciences (UAAS); Institute of Hydraulic Engineering and Melioration of the UAAS; Institute of Agricultural Economy of the UAAS; Institutions of Higher Education of 3-4th accreditation levels; Main Department of Labour and Social Security of Rivno oblast state administration; oblast employment centers of Rivno, Donetsk, Lugansk, Chernivtsi and Ivano-Frankivsk, republican employment center of the Autonomous Republic of Crimea; Department of Capital Construction Works, Financial Department and other structural departments of Odessa city council; Industrial Association "Ukrprotez");

Control of usage of budget funds for financing of industry and power engineering (Ministry of Industrial Policy of Ukraine; Ministry of Fuel and Energy of Ukraine; State Energy-saving Committee of Ukraine; State Militarized Rescue Service: Central Headquarters of the State Militarized Rescue Service, operating and the first militarized rescue services);

Control of usage of budget funds for financing of agricultural production and forestry (Ministry of Agricultural Policy of Ukraine; Ministry of Ecology and Natural Resources of Ukraine; State Committee of Ukraine on Land Resources; State Committee of Forestry of Ukraine; Zakarpattia, Lviv, Ivano-Frankivsk and Chernivtsi oblast state administrations; Kyiv city chief department of land resources; chief departments of agriculture and food supply of Dnipropetrovs'k, Zhytomyr, Zaporizhia, Ivano-Frankivsk, Kyiv and Odessa oblast state administrations; National Scientific Center "Institute of Mechanization and Electrification of Agriculture" UAAS);

Control of allocations for defense, law enforcement activity and national security (Ministry of Defense of Ukraine (classified); Ministry of Internal Affairs (MIA); Security Service of Ukraine;

State Border Protection Committee of Ukraine; State Customs Service of Ukraine; Department of State Automobile Inspection of the Ministry of Internal Affairs of Ukraine; Central Department of Domestic Military Forces (CDDMF) of the MIA of Ukraine; Department of the Southern Territorial Command of the CDDMF of the MIA of Ukraine; Department of Quarterage and of Capital Construction works of the CDDMF of the MIA of Ukraine; Kyiv regional accommodation unit of the CDDMF of the MIA of Ukraine; Kyiv regional customs service; Southern regional customs service; Boryspil, Zakarpattia and Chop customs services; economic-exploitation customs service; motor customs service; supply customs service; Customs Academy);

Analysis and control of usage of state budget funds by executive authorities for management of certain spheres of activity (Ministry of Finance of Ukraine; State Treasury of Ukraine; State Property Fund of Ukraine; State Committee of Ukraine on technical regulation and consumer policy; State Committee on Securities and Fund Market of Ukraine; Ukrainian Scientific Research Institute of Standardization, Certification and Informatics; State Department of Veterinarian Medicine in Kyiv, Odessa, Lviv and Kharkiv oblasts; Department of veterinarian medicine in Kyiv);

Control of usage of budget funds, provided for execution of government works (Ministry of Science and Education of Ukraine; Ministry of Economy and of European Integration of Ukraine; Ministry of Ecology and Natural Resources of Ukraine);

Control of usage of budget funds, provided for execution of environmental activities, liquidation of consequences of natural disasters and emergency situations (Ministry of Ecology and Natural Resources of Ukraine; Ministry of Ukraine on Emergency situations and people's protection from consequences of Chernobyl disaster; Ministry of Agrarian Policy of Ukraine; State Department - Administration of the alienation zone and of the zone of unconditional (compulsory) resettlement; State Committee of Ukraine on water industry; State Fund on Environment Protection; Republican Committee on water industry of the Autonomous Republic of the Crimea; Republican Committee of the Autonomous Republic of the Crimea on ecology and natural resources in Sevastopol, Zaporizhia and Donetsk oblasts; State Administrations of Kyiv, Lugansk, Zhytomyr, Kherson, Ternopil oblasts);

Control of usage of funds of the Reserve Funds of the State Budget of Ukraine (Ministry of Agrarian Policy of Ukraine; State Committee of Ukraine on Construction works and Architecture; State Administrations of Poltava and Khmelnytsk oblasts; Central Department of Capital Construction of Poltava city Executive Committee; Municipal enterprise "Kremenchuk town department of capital construction"; Myrhorod town council; Institute of Cardiovascular Surgery of the Academy of Medical Sciences of Ukraine);

Control of usage of budget funds for construction and reconstruction of automobile roads of general use (Ministry of Transportation of Ukraine; Public Service of automobile roads of Ukraine; OJSC SAC "Automobile Roads of Ukraine");

Control of usage of budget funds for financing of measures aimed at protection and preservation of historical and cultural heritage, natural-reserve fund and other cultural measures (Ministry of Culture and Arts of Ukraine; Ministry of Ecology and Natural Resources of Ukraine; Ministry of Agrarian Policy of Ukraine; State Committee of Ukraine on Construction works and Architecture; State Forestry Committee of Ukraine; Public Service of Reserves; Ukrainian Academy of Agrarian Sciences; Republican Forestry and Hunting Committee of the Autonomous Republic of the Crimea; Shevchenko National Reserve (Kaniiv); National Historical and Cultural Reserve "Chygyryn"; National Historical and Cultural Reserve "Kachanivka"; National Reserve "Davnij Galych"; National Reserve "Khersones Tavrijskyj"; National Reserve "Sofia Kyivska"; State Historical and Architectural Reserve in the town of Zbarazh; Kremenetsko-Pochojivskij State Historical and Architectural Reserve; State Historical and Architectural Reserve "Khotynska Fortetsia"(Khotyn Fortress); State Historical and Architectural Reserve in the town of Berezhany; Yalta Mountain-and-Forest Natural Reserve; Karpaty Biosphere Reserve; Biosphere Reserve "Askania Nova"; Syrets Dendrology Park; O.V. Fomin Botanical Garden of the Taras Shevchenko Kyiv National University; National Circus of Ukraine (Kyiv); State Enterprise "State Circus Company of Ukraine" (Kyiv); Kryvyj Rig State Circus; Donetsk State Circus; Dnipropetrovs'k State Circus);

Analysis of provision, legality and efficiency of usage of subventions and analysis of interbudget accounting (Ministry of Finance of Ukraine; Ministry of Economy and of European Integration of Ukraine; Ministry of Ukraine on Emergency situations and people's protection from consequences of Chernobyl disaster; State Treasury of Ukraine; Ministry of Finance of the Autonomous Republic of the Crimea; Ministry of the Autonomous Republic of the Crimea; Ministry of Agricultural Complex of the Autonomous Republic of the Crimea Republican Housing and Communal Service Committee of the Autonomous Republic of the Crimea; Departments of the State Treasury in Kyiv, Zhytomyr, Rivno, Dnipropetrovs'k, Volyn' and Vinnytsa oblasts; State

Treasury authorities in the Autonomous Republic of the Crimea; Central Department of Capital construction works in the Autonomous Republic of the Crimea; State Administration of Kyiv oblast; State Administrations of Vasylykivsk and Bilotserkovsk regions; Executive Committee's of Vasylykivsk and Bilotserkovsk town councils;

Control of fund usage for execution of state programs (Ministry of Finance of Ukraine; State Treasury of Ukraine; State Taxation Administration of Ukraine; State Communications and Information Committee of Ukraine; State Border Protection Committee of Ukraine);

Control of usage of budget funds by state joint stock companies, corporations, enterprises (NJSC "Ukragroleasing"; NJSC "Naftogaz of Ukraine"; NJSC "Nadra of Ukraine" and enterprises, which are within their subordination; OJSC "Leasing Company "Ukragromachinvest"; CME "Dnipropetrovs'k combine plant"; Manufacturing Association "Pivdenmach"; CJSC "Dniproagromach"; OJSC "Kherson Combines"; OJSC "S. Ordzhonikidze Kharkiv tractor plant"; OJSC "JSC ADVIS"; OJSC "Ternopil combine plant"; OJSC "SEE "Centrenergo"; OJSC "Zakhidenergo"; OJSC "Dniproenergo"; OJSC "Donbasenergo"; Joint Stock Company "Kyivenergo"; Zhytomyr, Zaporizhia and Dnipropetrovs'k branches of NJSC "Ukragroleasing"; Lenin and "Butibsak" mines of the State Enterprise "Makijivvugillia"; mining departments "Pivdenodonbas'ke № 1" and "Pivdenodonbas'ke № 3" of the State Enterprise "Donetskuvugillia"; mines "Dniprovska", Space Heroes, SOJSC "Shakhta "Stepova" and SOJSC "Shakhta "Zakhidno-Donbas'ka" of the State Holding Company "Pavlogradvugillia"; Skochinskij, Cheluskintsi, "Trudova", Kalinin mines of the State Holding Company "Donvugillia"; "Dobropilska", "Almazna", "Bilozirska", "Novodonetska" mines of the State Holding Company "Dobropillia vugillia"; Subsidiary Company "Potassium plant" OJSC "Oriana", Stebnitsk State mining and chemical plant "Poliminerall"; CJSC "Orteks"; State Enterprise "Enzim"; State Enterprise "Solotvin soltmine"; State Enterprise "Scientific-and-Research and Project Institute of urban planning"; State Joint Stock Company "Chornomornaftogaz"; OJSC "Markohim" (v. Sartana); State Municipal Enterprise "Berdiansk miskvodokanal"; OJSC "Electrometallurgical plant "Dniprospectal"; Municipal Enterprise "Zhytomyr tram-trolleybus department"; leasing enterprise of heating networks "Zhytomyrteplocomunenergo"; Municipal Enterprise "Department of Housing of the Darnitsa region of Kyiv);

Control of usage of target budget and state off-budget funds (Social Insurance Fund against temporary loss of working ability; Social Insurance Fund against accidents at work and professional illnesses);

Analysis of statements of the State Property Fund of Ukraine and of Antimonopoly Committee of Ukraine;

Control of state-budget expenses for maintenance and paying off of the state debt of Ukraine (Ministry of Finance of Ukraine; Ministry of Fuel and Energy of Ukraine; State Treasury of Ukraine; State Tax Administration of Ukraine);

Control of fulfillment of the expense statement of the National Bank of Ukraine (National Bank of Ukraine, its territorial departments and structural divisions - Central Vault and banknote paper factory (Malin);

Control of compliance with requirements of the Law of Ukraine "On purchase of goods, works and services for state funds" (Ministry of Economy and of European Integration of Ukraine; Ministry of Fuel and Energy of Ukraine; State Committee of Informational Policy, Television and Broadcasting of Ukraine; National TV Company of Ukraine; Kyiv State Regional TV and Broadcasting Company);

Control of usage of budget funds for foreign-policy activity (Ministry of Foreign Affairs; Diplomatic Academy of the Ministry of Foreign Affairs of Ukraine; Embassy of Ukraine in the Republic of Byelorussia).

One of the main peculiarities of activity of the Accounting Chamber in 2003 was intensification of penetration of modern methods of efficiency audit into current, daily control and expert activities of the Accounting Chamber. Practically on each control-analytical and expert measure there were made concrete, principal, generalized conclusions regarding efficiency, expediency, legality of managerial decisions, usage of budget funds, system and mechanism of financing of one or another budget program and of separate main persons in charge of budget funds.

Control over fulfillment of state budget and of budgets of state off-budget funds within the common running three-year cycle, which combines previous control of state budget project for the successive year, current control of the immediate state budget fulfillment for the current year and preparation of detailed conclusions on state budget fulfillment for the previous year, in 2003

became more systematic, analytical and acquired more defined forms.

Within the framework of realization of directions of activity of the Accounting Chamber in 2003:

More attention was paid to development of assessment conclusions of efficiency of acceptance and implementation of managerial decisions in budget sphere;

Was introduced the practice of complex summarizing of results of several control measures, which can be united by departmental direction of budget funds' allocation or social and economic value of addressed issues;

Control over reaction of management of objects of control measures of the Accounting Chamber for Conclusions of its Board was intensified;

In compliance with the requirements of the Budget Code of Ukraine, there was developed the form of provision by the Accounting Chamber of conclusions on usage of funds of the State Budget of Ukraine to the Verkhovna Rada of Ukraine;

The practice of generalization and analysis of system violations and drawbacks in allocation of funds of the State Budget of Ukraine, target budget and off-budget funds was continued;

Efficiency of co-operation between the Accounting Chamber and Committees of the Verkhovna Rada of Ukraine regarding consideration and reaction to results of control measures undertaken by the Accounting Chamber was improved;

Work in the field of perfection of forms and methods of information of the people about results of control-analytical and expert measures performed by the Accounting Chamber was performed;

Relations with committees and working groups of INTOSAI and EUROSAI, Supreme Audit Institutions of the countries, which are members of the indicated organizations, were intensified and moved onto a qualitatively new level.

1.2. Organization and functioning of the Board

According to the Article 9 of the Law of Ukraine "About the Accounting Chamber", all the issues concerning organization of work of the Accounting Chamber, planning, fulfillment of audit, analytical and expert measures, methodology of audit, expert and analytical activity were considered at the meetings of the Board of the Accounting Chamber, which was formed on May 23rd of 1997 and its staff was being increased until 2000.

The Board composes of the Chairman of the Accounting Chamber, two of his Deputies, Secretary of the Accounting Chamber and ten chief controllers - directors of departments, approved of by the Verkhovna Rada of Ukraine through secret voting.

Activity of the Accounting Chamber Board is performed according to the Law of Ukraine "About the Accounting Chamber", standards of the Budget Code of Ukraine, Regulations of the Accounting Chamber.

Within the reported period there were **conducted 24 meetings** of the Accounting Chamber Board on which there were **considered 94 issues**. Control-analytical, expert, legal and methodological issues comprise 74 percent of the total amount, which testifies that all the activity of the Accounting Chamber, as of the constitutionally independent audit institution, is aimed at performance of analysis of the budget process and control over all its stages.

Organizational, off-schedule issues comprised 26 percent of the total amount. Their consideration is caused by instructions from the Verkhovna Rada of Ukraine and its Committees, and by introduction of changes to the Plan of the Board activities and settlement of several other issues, which require collective decision.

Activity of the Board is targeted at coverage by control measures of the largest possible amount of financial resources, which are to be controlled by the Accounting Chamber, addressing the most vital problems of the country.

Based on the six-year experience of work, in 2003 the Board paid most attention to consideration of issues, connected with:

- state of compliance with the current legislation regarding budget issues;
- generalization of the detected system violations by the chief allocators of budget funds;

- actualization and approaching of the subject matter of control and analytical measures of the Accounting Chamber to the current needs, requirements and problems of the country;
- improvement of potency and effectiveness of work of the Accounting Chamber, in particular, reaction of government authorities on the Conclusions and Proposals of the Accounting Chamber regarding the results of control and analytical measures, consideration by the Verkhovna Rada of Ukraine of legislative proposals of the Accounting Chamber concerning issues of state budget and finances of Ukraine;
- development of co-operation between the Accounting Chamber and audit institutions of Ukraine while organization and performance of control over usage and allocation of budget funds;
- development of co-operation with foreign audit institutions and participation in activities of working groups and structures of International (INTOSAI) and European (EUROSAI) Organizations of Supreme Audit Institutions.

Authorities of the Accounting Chamber regarding analysis of the budget process and provision of the common continued tree-year cycle of control over execution of the state budget, specified by the standards of the Budget Code of Ukraine, were fulfilled through performance of quarterly, half-year and annual analyses of execution of the State Budget of Ukraine, provision to the Verkhovna Rada of Ukraine of the Conclusions regarding execution of the profitable part of the State Budget of Ukraine during tree quarters, and expertise of the project of the Law of Ukraine "About State Budget of Ukraine for the year 2004".

One of the main directions, which are always under survey of the Accounting Chamber, is control of usage of budget funds for **social** needs, for taxpayer needs.

In particular, during the previous year the Board considered issues of:

Provision of insulin to people with diabetes;

Provision of invalids with cars and other orthopedic products;

occupational safety and health, and improvement of safety in coalmining industry;

execution of programs by the State Committee of Ukraine on issues of family and youth;

provision of social services, material help to unemployed and re-grouping of labour resources of Donbas;

provision of educational institutions with study books and manuals;

sanatorium-and-spa treatment of invalids and veterans of war;

results of the analysis and inspection of legality and validity of Government decisions regarding advance of wages to budget employees, and, as the result, corresponding rise of state budget allocations for this purpose in 2001-2002;

results of analysis and inspection of financial provision of rise of wages in budget sphere in 2003 due to introduction of the new amount of minimal wages;

construction of "Emergency Ambulance" and "Fitness Center" in Odessa and compliance with legislation in the process of its privatization.

Problems of **agricultural complex and farmers' support** were considered by the Board based on the results of the analysis and inspection of allocation of budget funds, assigned for:

Purchase of domestic agricultural equipment on conditions of financial leasing and measures, connected with redemption of the indebtedness for the equipment for the years 2000-2002;

partial reimbursement of the cost of complex equipment of domestic production and development of samples of agricultural equipment;

state support of farms for the year 2002;

reimbursement of losses to agricultural producers, suffered due to natural disasters in March-April of 2002;

fulfillment of land reform, provision of official acts for the right of private property for land and protection and rational usage of lands.

The issues of state support and preservation of **industrial potential of the country** are also

under continuous monitoring of the Accounting Chamber. These problems were considered by the Board based on the results of inspection and analysis of allocation of state budget funds:

By the State Committee of Ukraine on energy-saving and energy-saving measures between different branches of industry;

by the Ministry of Fuel and Energy of Ukraine for "Rescue measures at coalmining enterprises";

for financial support of domestic producers of potassium fertilizers;

for financial support of domestic engineering industry for agricultural complex;

for state support of construction works at coal-, lignite- and peat mining enterprises.

Issues concerning **defensive capability** of the country and material support of The **Armed Forces of Ukraine** were discussed during consideration of the Reports:

About results of inspection of usage of State Budget Funds of Ukraine assigned to the Ministry of Defense of Ukraine for construction of housing for military personnel and of funds, invested in 2002 into construction of housing according to the Decree of the Cabinet of Ministers of Ukraine as of 27.04.98 № 568;

About results of inspection of usage of State Budget Funds of Ukraine assigned to the Ministry of Defense of Ukraine for reformation of the Armed Forces of Ukraine in 2001-2002;

About results of inspection of usage of State Budget Funds of Ukraine assigned to the State Border Defense Committee according to the program "State Border Defense".

Continuous attention is being paid to problems of **state debt, usage and repayment of loans, received under state guarantees**. It concerns the reviewed and approved by the Board Statements of results of inspections and analysis:

Reasons and financial consequences of reconstruction of external debt liabilities of Ukraine before governing bodies of foreign countries - members of the Paris Creditor Society;

State Budget expenses for service and repayment of state debt and its management in 2002;

Results of implementation of the proposal of the Accounting Chamber to control allocation of the IBRD loan, received under state guarantee for realization of the Project of the electric energy market development.

To the important control and analytical measures concerning national problems can also be referred inspections of budget fund allocations:

Connected with construction and reconstruction of automobile roads of national use, for the year 2002;

General and special Funds of the State Budget of Ukraine by the Department of State Auto Inspection of the Ministry of Internal Affairs in 2002 for provision of safety of road traffic, registration of means of transportation;

Assigned to the Ministry of Internal Affairs of Ukraine for provision of protection of rights and liberties of the people, of the society and of the country from illegal actions, for protection of public order, for 2002 and 1st quarter of 2003;

Allocation of State Budget funds of Ukraine for external political activity in 2002 by the Ministry of External Affairs of Ukraine;

For fulfillment of complex measures of through development of the Ukrainian language, planning and usage of State Budget funds for their implementation;

For execution of tasks (projects) of the National Informatization Program;

Results of audit of efficiency of management of the Carpathian region forest resources.

A separate direction of the Board activity was devoted to analysis and control of issues, dealing with **efficient usage of budget funds by central executive authorities and National Bank of Ukraine**, which resulted in consideration of Statements:

About results of analysis of usage state budget funds by executive power authorities;

About results of analysis of legal and administrative provision of stock market performance and inspection of usage of State Budget funds by the State Securities and Stock Market Committee of Ukraine;

On compliance with current legislation while creation and functioning of state (national) joint stock and holding companies;

About results of inspection of the expense estimates of the National Bank of Ukraine;

About results of inspection of usage of State Budget funds, assigned for provision of functional activity of the State Customs Service of Ukraine.

The Board considered a set of Statements, devoted to **inter-relations between the State Budget of Ukraine and local budgets**, in particular:

About results of inspection of state of provision and usage of subventions the State Budget of Ukraine for social and economical development of the town of Sevastopol in 2001 and 2002;

About results of analysis of formation, transmission and usage of subventions from the state budget to local budgets, provided by paragraphs 4, 5 of the Law of Ukraine "About the State Budget of Ukraine for the year 2002";

About results of inspection of usage of state budget funds and analysis of interdepartmental accounting in Kyiv oblast;

About results of analysis of formation and usage of subventions from the state budget to local budgets for provision of privileges to citizens, who suffered because of Chernobyl disaster, provided for by paragraph 10 of the Article 40 of the Law of Ukraine "About the State Budget of Ukraine for the year 2003";

About results of inspection of provision, legality and efficiency of usage of subventions from the state budget for execution of investment projects, aimed at development of social infrastructure of the Autonomous Republic of the Crimea in 2003.

In general during 2003 control-analytical measures of the Accounting Chamber covered all oblasts of Ukraine.

Separately there was performed control of compliance with requirements of the Law of Ukraine "About purchase of goods, works and services for state funds" by chief allocators of budget funds. These issues were considered in Statements:

About results of inspection of compliance with requirements of current legislation in 2002 by the Ministry of Economy and of European Integration of Ukraine while negotiation implementation of, other than tenders, procedures of purchase of goods, works and services for state funds;

About results of inspection and analysis of compliance with requirements with requirements of the Law of Ukraine "About purchase of goods, works and services for state funds" by the State Committee of Ukraine on information policy, television and broadcasting, and TV-broadcasting companies within its sphere of management in 2002;

About results of inspection of the state of normative-legal regulation, legality of formation and usage of resources of the special fund of the State Budget of Ukraine in the Ministry of Justice of Ukraine, compliance with legislation about state purchases.

A lot of attention was paid by the Board to issues of **normative-legal regulation of the budget process**. In 2003 they were addressed by the "Statement about results of analysis of the normative-legal regulation by the Cabinet of Ministers of Ukraine, Ministry of Finance of Ukraine, State Treasury of Ukraine and other executive authorities, of the relations, which appear in the process of execution of the State Budget of Ukraine".

Environment issues were discussed by the Board according to the results of inspections of the following issues:

Allocation of budget funds in 2001-2002 for fulfillment of measures of the National program of restoration of environment of the Azov and Black seas;

Allocation of State Budget funds in 2002 for support of ecologically safe state in the alienation zone and in the zone of unconditional (obligatory) resettlement;

Allocation of state budget funds, assigned in 2002-2003 to the State Committee of Water Industry for exploitation of state melioration systems, for execution of programs of protection of settlements from damaging influence of waters and anti-flood protection.

In the reported year the Board paid subjected attention to allocation of state budget funds for **preservation of cultural heritage**. Results of the following inspections were reviewed and verified:

Expediency and efficiency of usage of state budget funds in 2002 by the Ministry of Culture and Arts of Ukraine for measures, connected with preservation of cultural heritage;

Usage of budget funds, assigned in 2002 to the State Committee of Ukraine on Construction works and Architecture for objects of historical and architectural heritage and reserves;

Usage of State Budget funds by institutions of natural reserve fund in 2002.

There were inspected and analyzed creation and execution of the following budgets:

Fund of Social Insurance from temporary loss of working ability;

Fund of Social Insurance from accidents at work and professional illnesses.

Executing functions and authorities, assigned by the Law of Ukraine "About the Accounting Chamber", there was **performed annual control** of allocation of resources of the **reserve fund of the State Budget of Ukraine**, execution of the budget of the **National Bank of Ukraine**, Statements of the **Antimonopoly Committee of Ukraine and of the State Property Fund of Ukraine**.

Primary attention was paid to planning of activities based on prospective and current plans, created with consideration of all the types and directions of its performance and particular assignments of the Verkhovna Rada of Ukraine and its committees.

Off-plan control measures were conducted exclusively according to decisions of the Board of the Accounting Chamber **based on resolutions and protocol instructions of the Verkhovna Rada of Ukraine, appeals of its committees and requests from people's deputies of Ukraine**, according to which the Verkhovna Rada of Ukraine made decisions (hereafter - appeals).

According to the Article 15 of the Law of Ukraine "About the Accounting Chamber", meetings of the Board reviewed 5 appeals, received in 2003 (14 percent of the total amount of instructions, which required additional control and analytical measures).

Statement - is the result of a control and analytical measure, which is proposed for consideration of the Board. Based on the approved Statements, Conclusions of the Board of the Accounting Chamber are being verified and proper information is being prepared.

Considering the total number of Statements, reviewed by the Board (65) - 15 Statements, or 23 percent, were prepared based on appeals (for comparison: in 2000 - 13 %, in 2001 - 17 %, in 2002 - 11 %).

Based on appeals there were performed 15 control and analytical measures, 14 Statements and 1 information were reviewed (of them 11 Statements - addressing the 2002 year appeals):

- based on the appeal of the Special Privatization Control Committee of the Verkhovna Rada of Ukraine **as of 26.11.2002 № 06-24/14-182 there has been prepared "Information about results of inspection of usage of funds of the State Budget of Ukraine for construction of "Emergency Ambulance" and "Fitness Center" in the town of Odessa and compliance with the legislation in the process of their privatization"**;

- **based on the appeal of the Chairman of the Verkhovna Rada of Ukraine** as of 19.02.2003 № 01-3/97 - Statement of results of analysis and inspection of creation and execution of the budget of the Fund of Social Insurance against temporary loss of working ability in 2002;

- **based on the appeal of the people's deputy Movchan P. M.** as of 18.03.2003 № 01-02/102, sent to the Accounting Chamber of Ukraine by the letter as of 19.03.2003 № 11/10-445, there was prepared the "Statement about results of analysis of the state of execution of Complex measures on thorough development of the Ukrainian language, planning and usage of funds of the State Budget of Ukraine for their fulfillment";

- **based on the appeal of the Chairman of the Verkhovna Rada of Ukraine** as of 15.11.2002 № 01-6/294 the Board reviewed the "Statement about results of analysis of efficiency of management of state property and compliance with the current legislation in the process of creation and activity of state (national) joint stock and holding companies";

- the issue of inspection of usage of funds of the state budget by the Ukrainian Academy of Agrarian Sciences, which was places in the **appeal of the people's deputies of Ukraine, Masenko O. M., Tiagnybok O. J., Polishchuk M. E. and Rudkovskiy M. M.** as of 16.10.2003 was considered while preparation of the "Statement about the results of inspection of planning and usage of funds of the State Budget of Ukraine, assigned to the Ukrainian Academy of Agrarian Sciences for science in 2002 and 9 months of 2003", which was considered at the

meeting of the Board in February of 2004;

- based on execution of the Resolution of the **Verkhovna Rada of Ukraine** as of 21.11.2002 № 223-IY - "Statement of the results of inspection and analysis of usage of funds of the state budget, assigned in 2002-2003 to the State Committee of Water Industry for exploitation of state melioration systems, for execution of programs of protection of settlements from damaging influence of waters and anti-flood protection";

- based on execution of the article 5 of the Resolution of the Verkhovna Rada of Ukraine as of 12.09.2002 № 140-IY, the following three Statements were prepared:

"Statement of the results of inspection of expediency and efficiency of usage of state budget funds in 2002 by the Ministry of Culture and Arts of Ukraine for measures, connected with preservation of cultural heritage";

"Statement of the results of inspection and analysis of usage of budget funds, assigned in 2002 to the State Committee of Ukraine on Construction works and Architecture for objects of historical and architectural heritage and reserves";

"Statement of the results of inspection of usage of State Budget funds by institutions of natural reserve fund in 2002";

- two Statements were prepared based on execution of **appeals of the people's deputies of Ukraine**, announced at the session:

G. Rudenko, as of 16.10.2002 № 11/10-115 - "Statement of the results of inspection of usage of funds of the State Budget of Ukraine, assigned for purchase of domestic agricultural equipment on conditions of financial leasing of the National Joint Stock Company "Ukragroleasing" and measures, connected with repayment of this debt" ;

J. Lutsenko, as of 02.12.2002 № 11/9-66 - "Statement of the results of inspection and analysis of usage of state budget funds, assigned for partial reimbursement of the cost of complex domestic equipment and development of samples of agricultural equipment";

- four Statements were prepared based on execution of **appeals of the Committees of the Verkhovna Rada of Ukraine**:

on budget issues as of 18.10.2002 № 06-9/9-287 - " Statement of the results of analysis of creation, transmission and usage of subventions from the state budget to local budgets, provided for by the Articles 4, 5 of the Law of Ukraine "About State Budget of Ukraine for the year 2002";

on issues of finances and banking activity - "Statement of the results of inspection and analysis of usage of funds of the State Budget of Ukraine, assigned for state support of agriculture (farming) in 2002";

on issues of pensioners, veterans and invalids **as of 24.09.2002** and of the people's deputy of Ukraine, M. Rodionov, **as of 08.07.2002** - "**Statement of the results of inspection of usage of state budget funds in 2002, assigned for provision of invalids with cars and other orthopedic products**";

on issues of youth policy, physical culture and sports as of 01.11.2002 № 06-5/13-386 - "Statement of the results of inspection of usage of funds of the State Budget of Ukraine by the State Youth and Family Committee of Ukraine";

- based on the **appeal of the Commissary of the Verkhovna Rada of Ukraine on People's Rights, Kharpachova N. I.** as of 21.05.2002. № 486/1182/343-01-35, the Board has considered the "Statement of the results of inspection of usage of funds of the State Budget of Ukraine in 2002 and the first quarter of 2003 by the Ministry of Internal Affairs, assigned for provision of protection of rights and freedoms of the people, of the society and of the country from illegal acts, for protection of public order".

With the aim to provide the people's deputies of Ukraine with results of control-analytical and expert activity of the Accounting Chamber, based on the Statements' data there were **prepared 23 information bulletins**.

1.3. Fulfillment of Main Objectives and Powers

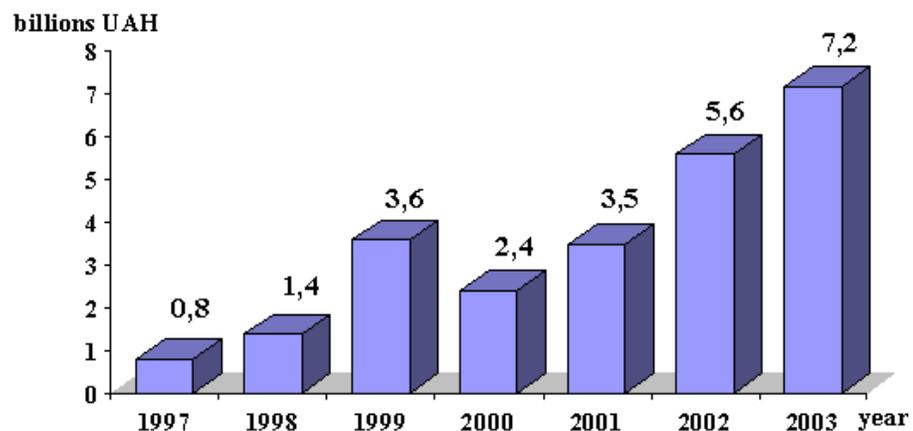
The Accounting Chamber has fulfilled a total amount of 646 analytical and expert measures in 2003.

520 Reports, Conclusions, information lists and statements have been prepared on their basis and sent to the Supreme Legislative and Executive authorities, bodies, organizations and

companies for provision of the corresponding response, elimination of the revealed violations and faults as well as for reimbursement of losses inflicted on the State budget of Ukraine. 155 of the mentioned above documents have been sent to the Verkhovna Rada of Ukraine, 12 - to Administration of President of Ukraine, 10 - to people's deputies, 69 - to the Cabinet of Ministries of Ukraine, 10 - to the Ministry of Finances of Ukraine, 36 - to the Prosecutor authorities and other law enforcement bodies, 164 - to the ministries and departments, 64 - to other bodies, organizations and companies.

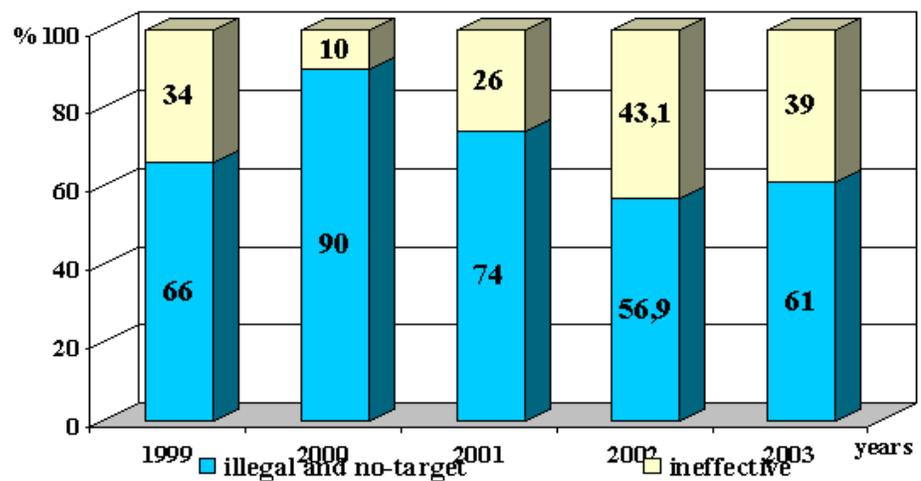
The analytical and expert examinations fulfilled by departments of the Accounting Chamber in the financial year have revealed, according to the Articles 116 and 119 of the Budget codex of Ukraine, budget violations (of illegal and no-target employment) as well as ineffective employment of funds of the State budget and off-budget funds for the total amount of **7 billions 198.7 million UAH. Illegal as well as no-target employment of funds comprised 4 billions 389.7 million UAH, ineffective employment - 2 billions 809 million UAH** (see Chart 1).

Chart 1. The amount of budget violations and ineffective employment of funds revealed by the Accounting Chamber



The structure of the revealed violations in employment of budget funds (see Chart 2) provides evidences for the stable and effective activity of the Accounting Chamber in the auditing of the effectiveness of employment of State budget and off-budget funds, administrative decisions of the Government, leaders of Branches, bodies, organizations and companies, which have been the subjects of the audit.

Chart 2. Structure of the revealed violations in employment of budget funds



Analysis of results of the control measures executed within 2003 testifies of the same budget

violations from year to year and of the increase of their amounts. By significance and amount the revealed violations can be classified as follows:

Spending of budget funds for the purposes not provided by the budget;

Long lasting withdrawal of the State budget funds to the accounts receivable;

Illegal admission of business subjects' debts as a state debt;

Employment of State budget funds with violation of the Law of Ukraine "About purchase of goods and services at the expense of the State";

Illegal underdeclaration of the receipts and expenditures of the State budget of Ukraine;

Illegal wages payment at the expense of the State budget funds;

Approval of illegal administrative decisions;

Overstated allocations and surplus budget funds as a result of the unreasonable composition of budget assignments;

Spending of budget funds over limits approved for a certain financial year;

Illegal assignment of funds from the reserve funds of the State budget of Ukraine;

Illegal and irrational employment of the state property;

No-target employment of state budget funds provided for execution of the state programs;

Underdeclaration in the accounting of the value of basic devices and other inventory holdings;

Illegal underfinancing of the protected articles of the State budget of Ukraine;

No-target employment of budget funds as a result of financing of contracts, which are not subjects of the state programs;

Illegal performance of reciprocal accounting;

Illegal change of type of property, which has led to the major losses of budget funds;

Illegal spending of budget funds from different budgets simultaneously for financing of budget institutions;

Support of the organization of higher status at the expense of funds assigned for support of subordinated institutions;

No-target employment of budget funds, assigned for the current expenses;

Improper business;

Budget violations, connected with placement and fulfillment of state order;

No-target employment of funds of the State budget of Ukraine, assigned for restructuring of the coal industry;

Underpay to the budget as a result of financial and economic activity of enterprises.

It can also be stated, that judging from the experience of analytical measures, certain systematic types of ineffective employment of budget funds have happened. The most significant types for the financial year are the following:

Ineffective employment of budget funds as a result of approval of groundless administrative decisions;

Ineffective spending of budget funds, connected with service of the foreign loan untimely cancelled by the debtor;

Ineffective employment of funds of the State budget of Ukraine by means of their prolonged retention without employment on registration accounts of allocators of the budget funds;

Ineffective employment of budget funds as a result of payment of interest on the credits and penalty provisions;

Ineffective employment of budget funds because of prolonged disuse of financing from the State budget of Ukraine;

Ineffective employment of budget funds because of participation in share construction

works;

Ineffective employment of budget funds because of unregulated order of employment of returned credits and interests by the debtor;

Ineffective employment of the funds of the State budget of Ukraine because of the financing of measures, which are not of the first priority;

Ineffective spending of state budget funds, connected with attraction of foreign councils;

Ineffective employment of budget funds for the payment of construction works at the objects, which exploitation is considered inexpedient or the construction is terminated as having no future.

Spending of budget funds for the purposes, which are not provided by the budget, is the most common way of budget violation. Total amount of such violations for the financial year comprised 696.7 million UAH (15.9 % from the total amount of illegally employed budget funds).

Thus, during examination of expenditures of the State budget of Ukraine assigned for service and acquittance of the state debt and its management in 2003, it has been established that in the absence of budget assignments from the Ministry of Finances of Ukraine, determined by the Laws of Ukraine about the State Budget of Ukraine for 2001-2002 for fulfillment of secret decisions of the Government within this period there has been spent budget funds for the purchase of Turkmenistan bills to pay back public debt for the total amount of 622 million UAH (117 million USD). Within these funds and regardless of the Part 4, Article 15 of the Budget codex of Ukraine, despite the absence of agreement about the restructure of the state debt of Ukraine towards Turkmenistan there have been spent 145 million UAH (27.5 million USD) of the funds to service the state debt.

The examination of employment of state budget funds, assigned for fulfillment of the projects of National program of informatization has revealed that the Ministry of Finances of Ukraine, State Treasury of Ukraine and State Tax Administration of Ukraine, violating the second part of the Article 24 of the Law of Ukraine "About national program of informatization", stating that the amount of financing of NPI from the State budget of Ukraine is determined by the Law of Ukraine about the State budget of Ukraine for the next year and is stated in a separate paragraph, have spent the funds not assigned for the projects of informatization, in particular, instead of other budget programs, for the total amount of 25.4 million UAH.

State Committee of Ukraine in energy saving, violating the Laws of Ukraine about the State budget 2001 and 2002, which have determined the expenditures for performance of interdepartmental energy saving measures as current, within 2001-2002 has accepted the works of the capital character for the total amount of 7.9 million UAH. State Committee of Ukraine in energy saving has spent 6.5 million UAH for no-target purposes, which mean purposes not assigned by the budget, by the agreements on performance of the capital works and without the control provided by the State Treasury of Ukraine. These facts were revealed during performance of examination and analysis of target employment of state budget funds, assigned in 2001-2002 to the State Committee of Ukraine in energy saving for interdepartmental measures.

Wrong practice of **retraction of state budget funds to accounts receivable continues to exist for a long time**. There have been revealed violations for the total amount of 435.1 million UAH (9.9% of illegal employment of budget funds).

Examination of the employment of state budget funds by the internal troops of the Ministry of Internal Affairs has revealed that the existing system of employment of investor funds (which are considered as budget funds according to the current legislation) for the building (purchasing) of houses for military personnel and members of their families leads to the long lasting retraction of the funds (they are used by subcontractors), which are considered as accounts receivable, and comprised 145.2 million UAH in 2002 and have been completely overdue.

Analysis of employment of state budget funds by the bodies of executive power in 2002 testifies of the numerous violations of budget legislation in employment of state budget funds at direction "Management in a certain field". The amount of accounts receivable (advance payments) as of 01.01.2003 comprised 25.3 million UAH, which is in conflict with requirements of the Article 51 of the Budget codex of Ukraine (part of the Article about the established order of expenditures, the order of payment after receiving of goods and services).

The same violations have been revealed during performance of *analysis of fulfillment of Complex measures for comprehensive development of Ukrainian language, planning and employment of State budget funds for their implementation*. Thus, violating the requirements of the order of the Ministry of Finances of Ukraine "About the order of making agreements as for

the provision of services (fulfillment of works) and purchase of stocks of materials and capital equipment from the agents of management, in case of payment at the expense of the budget funds", State Committee of Television and Radio of Ukraine has systematically diverted the budget funds in accounts receivable for the amount of 6 million UAH for more than one month, what is, practically, interest-free crediting of the enterprises.

State Treasury of Ukraine and the Ministry of Finances of Ukraine have controlled insufficiently and considered partially the state of debt in assignment of funds from the state budget to local budgets for provision of benefits and subventions to population. As a result, a number of districts for a long time had the accounts receivable with organizations, which sell liquefied natural gas and solid fuel. Thus, *the analysis of formation, transfer and use of subventions from the state budget to local budgets, stated in the paragraphs 4,5 of the Article 34 of the Law of Ukraine "About the State budget 2002"* has revealed that in 2002 such kind of debt just for Ivano-Frankivsk and Chernivtsi districts comprised 1.8 million UAH and 0.9 million UAH correspondingly.

Employment of State budget funds with violation of the Law of Ukraine "About purchase of goods and services at the expense of the state funds" is still one of the most common budget violations. In 2003 the mentioned above violations have been revealed during the majority of the control measures. The total amount of the revealed violations comprised 423.7 million UAH (9.7% of the total amount of illegally employed budget funds).

Thus, *the examination of adherence to the requirements of the current legislation as for the agreement of separate procedures of purchase of goods and services at the expense of the state budget funds by the Ministry of Economy and European integration of Ukraine* has revealed the insufficient activity of the Ministry as authorized body of the executive power in purchase of goods and services at the expense of state funds. According to the results of examination of 527 materials, in 2002 the Ministry of Economy of Ukraine, as an authorized body, has given 103 letters of agreement for the total amount of 220.3 million UAH with violation of the current legislation, in particular of the paragraph 2 of the Article 1 of the Law of Ukraine "About purchase of goods and services at the expense of state funds" (in the paragraph concerning determination of subjects, who can be contractors), of the part 2 of the Article 22 of the mentioned Law (about the reasons for agreement by the authorized body of the procedure of purchase by contractor of goods and services from one executor) and the Order of agreement with contractors of the separate purchase procedures.

Neglect of the current legislation has been established during *examination and analysis of observance by the State Committee of information policy, television and broadcasting of Ukraine and by TV companies, which are under its jurisdiction, of the Law of Ukraine "About purchase of goods and services at the expense of state funds"*. Thus, till July 2002 there was no tender committee in the National TV Company of Ukraine. 44 purchases of goods and services for the amount of 1.3 million UAH have been performed without procedures of purchase, violating the requirements of the Articles 2 and 13 of the mentioned above Law of Ukraine.

The same violations have been made by the National TV Company of Ukraine. From 85 agreements made by the National TV Company of Ukraine for the purchase of goods and services for amount of 2.5 million UAH, 56 agreements of the amount of 0.6 million UAH (23.3 %) have been made without performance of the procedures of purchase, required by the current legislation. Actual payment according to these agreements comprised 0.5 million UAH.

Failure to comply with the procedure, determined by the Law of Ukraine "About the purchase of goods and services at the expense of the state funds" by the board of the Fund of social insurance from the temporary loss of capability, revealed during performance of the *analysis and examination of formation and execution of the Fund budget in 2002*, has led to illegal employment of funds for the purchase and construction of premises for the placement of Funds bodies for the total amount of 24.1 million UAH.

Purchases performed by the State committee of Ukraine in energy saving for the amount 2.8 million UAH have not complied with the procedures of auctions. This was confirmed by the examination and *analysis of the target employment of state budget funds, assigned in 2001-2002 to the Committee for interdepartmental energy saving measures*.

All analytical measures, performed by the Accounting Chamber on the financial year in the Ministry of Fuel and Energy have revealed numerous violations of the current legislation during purchasing of goods and services.

Examination and analysis of the employment of state budget funds, assigned to the Ministry of Fuel and Energy of Ukraine in 2002 and first quarter of 2003 according to the article "Rescue operations at coal mines" have revealed that the State military mine-rescue service in coal mining industry has performed purchases at the expense of the state funds for the amount of 10.7 million UAH, violating the requirements of the mentioned above Law and Order of inter-

departmental coordination of purchases of separate groups of goods at the expense of the state budget, approved by the Cabinet of Ministers of Ukraine as of 10.10.2001 № 1312. In particular, purchase of goods and services, with estimated value not higher than 200 thousand EURO, has been performed not by the main funds manager - the Ministry of Fuel and Energy of Ukraine, but by recipient of the budget funds - Headquarters of the military mine-rescue service. Headquarters and subdivisions of the Service have spent 2.8 million UAH for the mentioned purchases.

Examination and analysis of employment of state budget funds, assigned to the ministry of Fuel and Energy in 2002 for labor protection and improvement of safety measures at the coal mines, have confirmed the formalism of the Ministry in the purchasing at the state expenses. The procedure of purchase looked just like preparation of reports about results of auctions for execution of scientific research and design works after signing of agreements or even before tender performance. Total amount of state budget funds, employed in 2002 by the Ministry and coalmining industries (recipients of the budget funds) with violation of the Law of Ukraine "About purchase of goods and services at the state expenses" comprised 8.5 million UAH.

Similar violations for the amount of 6.4 million UAH have been revealed during *examination and analysis of employment of state budget funds, assigned to the Ministry of Fuel and Energy of Ukraine for the state support of construction at the coal, brown coal and peat mining enterprises*.

Similar situation exists also in the Ministry of Industrial Policy of Ukraine. In the absence of its necessary control over the enterprises producers of the agricultural machinery, 7.1 million UAH have been spent with the violation of the Law of Ukraine "About purchase of goods and services at the expense of the state funds". This fact was established *by the examination and analysis of employment of state budget funds, assigned for the financial support of domestic mechanical engineering for the agro-industrial complex*.

Thus, violating the Article 1 of the Law of Ukraine "customers" of the goods and services were the enterprises of the branch, not authorized by the Cabinet of Ministers of Ukraine, because they are not bodies of the state power. In general, OJSC "Kharkiv Tractor Plant" has purchased at the expense of the state budget funds materials, spare parts and other stocks of materials and capital equipment for the total amount of 2.9 million UAH; OJSC "JSC ADVIS" - for 0.9 million UAH; OJSC "Kherson combines" - for 2.6 million UAH; OJSC "Ternopil combine factory" - for 0.7 million UAH.

Examination of the employment of state budget funds, assigned for construction and reconstruction of highways of the general use has testified that the State service of highways of Ukraine, while signing separate agreements on the purchase of equipment and machinery has violated the requirements of the Article 33 of the Law of Ukraine "About purchase of goods and services at the expense of the state funds", and used illegally the amount of 46.4 million UAH. Thus, the agreement with German enterprise "Wirtgen" for the total amount of 9.9 million EURO has been signed one day before the receipt of expert conclusions of Kiev Chamber of Commerce and Industry and Mechanical engineering department of the Ministry of Industrial Policy of Ukraine and two days before receipt of the letter of the Ministry of Economy and European Integration of Ukraine about reconciliation of the procedure of purchase by one executor.

Funds of the Surplus fund of the State budget of Ukraine have been employed with violation of the Law of Ukraine "About purchase of goods and services at the expense of the state funds" too.

Thus, for the partial reimbursement of losses, yielded to the agricultural manufacturers because of the natural disasters on March-July 2002 in Zhytomyr, Lugansk and Kherson districts have been illegally used 14.2 million UAH. The mentioned above violations have been revealed during *examination of employment of the funds of the Surplus fund of the State budget of Ukraine, assigned in 2002-2003 for reimbursement of losses of agricultural manufacturers, who suffered from the natural disasters in 2002*.

Another control measure - *examination of employment of the funds of the Surplus fund of the State budget of Ukraine in 2002* - has also revealed the illegal employment of state funds for the purchase of goods and services for the amount of 5.7 million UAH. Thus, violating the Article 33 of the Law of Ukraine "About purchase of goods and services at the expense of the state funds", the agreement for purchase of the equipment for the Institute of cardiovascular surgery has been signed one day before reconciliation of the purchase procedure with one of the executors.

Facts of the **illegal wage payment** have been revealed in the current financial year. Thus, the *examination of employment of state budget funds, assigned to the Ministry of Culture and Art of Ukraine in 2002 and first quarter of 2003 for development of circus*, has revealed that violating the requirements of the current legislation, in particular, of the Law of Ukraine "About

remuneration of labor", the Ministry of Culture and Art of Ukraine on the basis of approved staff lists, with the aid of the Ministry of Labor and Social Policy of Ukraine and Ministry of Finances of Ukraine, at the expense of the budget assignments for reimbursement of losses of 2002 and first quarter of 2003, has performed expenditures for the 100% increase of the salaries at 15 state circuses and National circus of Ukraine for the total amount of 3 million UAH, which is a budget violation according to the Article 116 of the Budget codex of Ukraine.

1.4 million UAH of the budget funds have been used in the system of Ministry of Emergency situations and population protection from the sequences of Chernobyl disaster with violations of the current legislation, which regulates remuneration of labor and insurance of the workers of fire safety. This fact has been revealed during *examination of employment of state budget funds, assigned for support of the ecologically safe condition at the alienation zone and zone of obligatory resettlement*.

Increase of salaries has been performed without taking in consideration of the announced state priorities, state budget implementation and budgets of managers of the budget funds, as well as evaluation of budget debt and available financial resources and is a consequence of the grounded planning of state budget expenditures, "hand management" of budget funds and their inadequate distribution. But decisions, approved in 2001-2002 have not solved the problems, which have arisen in the system of labor remuneration of workers of budget sphere. Level of their salary kept low, the disproportion in labor remuneration has not been liquidated.

Negative practice of **illegal assignment of funds from the Surplus fund of the State budget of Ukraine** persists. Thus, *examination of employment of the funds of the Surplus fund of the State budget of Ukraine in 2002* has revealed that the Cabinet of Ministers of Ukraine, violating the Article 24 of the Budget codex of Ukraine, continues to approve assignment of funds from the Surplus fund for regular spending, which could be included to the project of state budget. Specific weight of such expenditures of the total amount of assigned from the surplus fund has increased to 43.4% (33.1% - in 2001). The total amount of 63.1 million UAH of expenditures has been spent in 2002 in this direction.

Assignment of funds from the surplus fund of the state budget in 2002-2003 for reimbursement of losses of agricultural manufacturers, which suffered from the natural disasters on March-July of 2002, has been performed with violations of requirements of standard acts too. 2.4 million UAH have been received from the surplus fund of the state budget without provision of necessary economic and juridical grounds.

One of the results of illegal assignment of funds from the surplus fund is **indebtedness that has arisen from the illegal provision of budget loans** from the surplus fund. The examination of the employment of funds of the surplus fund has also revealed that the Cabinet of Ministers of Ukraine within 1997-2000, regardless current for that time Law of Ukraine "About budget system of Ukraine" and Provision about the surplus fund of the Cabinet of Ministers of Ukraine, which have not included budget loans from the surplus fund, has assigned 397.9 million UAH on terms of reimbursement. State Treasury of Ukraine has not taken appropriate measures for reimbursement of the mentioned funds to the state budget. 138.9 million UAH or 4.9% from the amount of assigned funds have been reimbursed as of the 01.01.2003. In 2002 the intake of the mentioned funds, has practically stopped and comprised only 3.7 million UAH. Total amount of indebtedness as of 01.01.2003 comprised 259 million UAH.

During fulfillment of the control measures by the specialists of the Accounting Chamber there have been revealed a number of **losses of the State budget of Ukraine because of approval of illegal management decisions**. *Results of the audit of effectiveness of management of forest resources of Carpathian region of Ukraine* testify that the mechanism of employment of the payment for the special utilization of forest resources, as a source of financing, is imperfect, because its amount does not cover more than half of the actual expenditures for creation of sawmills and is not bound with prices for logs and exceed its size by 10-100 times. Thus, in 2002 temporary users (commercial structures) have not covered the actual expenditures of the State for creation of sawmills in the amount of 8.5 million UAH. In case of sale of the felled wood through the state auction, the State could have received about 100 million UAH of the additional revenues, which is an important reserve for financing.

Results of the *examination of provision and employment of subvention from the State budget of Ukraine for the social and economic development of the city of Sevastopol in 2001 and 2002* have led to conclusion that in case of legislative unadjustment of the order of payment of taxes from the material stocks and capital equipment to the budget and their employment for spending of funds from the state budget as well as employment of provisions of the Law of Ukraine "About the value added tax", the State has not received revenues in the amount of 20.4 million UAH.

In course of realization of two control measures, there were also discovered facts of direct **losses to state budget due to irrational and illegal allocation of state property**.

Thus, in case of implementation of market, not subvention, prices and competitive conditions while realization of natural gas, transferred to the Sevastopol city council in lieu of subvention, the State could have received over 40 mln UAH of revenue.

Because of allotment of part of logging fund for the year 2003 by Chernivtsi and Ivano-Frankivsk oblast administrations to subjects of economy, who do not possess the right of permanent utilization of land areas of the forestry fund (commercial structures), in defiance of Article 9 of the Forestry Code, Rules of timber allotment for stumps and failure to comply with requirements of the Decree of the Verkhovna Rada of Ukraine as of 15.03.2001 № 2290-III "About emergency measures connected with catastrophic floods in Zakarpattia", the State, according to preliminary calculations, will not receive about 15.6 mln UAH of additional revenue (in 2001-2002 - over 65 mln UAH).

The State budget of Ukraine also suffered losses because of failure to implement the principle of Integrated Treasury Account. *Inspection of implementation of funds of the State Budget of Ukraine, assigned for provision of functional activity of the State Customs Service* revealed the fact, that existing system of administration of taxes and customs duties while transportation of goods over customs border is not correlated with this norm of the law.

Taxes, duties (compulsory payments) and other income is accumulated at accounts № 2603 (opened for the State Customs Service in "Aval" bank, as of a subject of economic activity) are not considered as included into the budget, since they are not being included directly into the Integrated Treasury Account of the State Budget.

As the result, the State suffers significant losses to budget funds. During 2002 and nine months of 2003 there were charged to, for customs registration of goods, but not paid, according to court decisions, 1.6 billion UAH of taxes, duties and other compulsory payments by subjects of external economic activity, which accumulated on accounts of the commercial bank. In case of transfer of these payments to the Integrated Treasury Account, compulsory procurement of these payments based on court decision would have been impossible without appropriate decision of the State Treasury.

After provision of this information to the State Treasury of Ukraine, the latter announced that, since taxes, duties (compulsory payments) and other income of the State Budget in the process of customs registration are transferred by subjects of external economic activity not to Treasury but bank accounts, the State Treasury of Ukraine does not relate to them in any way.

But the problem, addressed by the Accounting Chamber, is much wider: first of all it concerns inclusion of these funds, according to requirements of paragraphs 4, 5 of Article 50 of the Budget Code of Ukraine. This regulation provides their inclusion directly into the Integrated Treasury Account and forbids their accumulation at accounts of procuring bodies.

Having forwarded information on the issue to the Cabinet of Ministers of Ukraine on 19.12.2003 and a proper letter to the Central State Treasury of Ukraine, the Accounting Chamber was hoping to meet understanding of importance of such a valuable source of budget income for the country. But, considering letters of the Central State Treasury of Ukraine to the Accounting Chamber the proper reaction, including on execution of paragraph 4 of the Instruction of the First Vice-Prime Minister, Azarov M. J., as of 15.01.2004, it seems that 1.6 billion UAH are simply not needed for the budget of the country, and their inclusion is deemed too problematic.

That is why the Chairman of the Accounting Chamber, Symonenko V.K., on 19.04.2004 forwarded a letter to the Prime Minister of Ukraine, Yanukovich V.F., addressing issue of fulfillment of our proposals.

There are also have not been noticed any changes for better in the system of planning and compilation of budgets. The practice of provision of budget requests, which exceed real needs, and subsequent improvement of excessive budgets, lead to continuous existence of such kind of budget violation, as **excessive assignments and excessive received funds, due to unjustified estimate allocations.** Such facts were revealed by employees of the Accounting Chamber and comprise 73.8 mln UAH.

Considerable amounts of violations, connected with excessive planning of budget allocations, are discovered in the course of analysis and inspection of financial provision of raise of wages in budget sphere in 2003, connected with introduction of new amount of minimal wage. While estimation of amounts of additional allocations in 2003, according to the Decree of the Cabinet of Ministers of Ukraine as of 19.05.1003 № 740 "About raise of official salaries (rates of wages) of employees of institution, bodies and organizations of budget sphere", for advancement of official salaries (rates of wages) for budget sphere employees, the Ministry of Finance did not adjust their calculations with chief fund allocators, which resulted in excessive amounts of such

allocations. Thus, more precise calculations of data of the State Budget of Ukraine concerning raise of official salaries in 2003 only for Ministry of Science and Education of Ukraine revealed 25 mln UAH of excess allocations. As the result of introduction by the Ministry of Finance of Ukraine of unjustified changes to monthly estimate of state budget allocations, in July-August of 2003 over 30 mln UAH were assigned groundlessly for raise of official salaries for employees of executive authorities, while official salaries were introduced in such authorities starting from September 1st of the previous year according to the Decree of the Cabinet of Ministers of Ukraine as of 06.08.2003 № 1207.

Absence of proper control on behalf of the chief allocator of funds - Ministry of Agrarian Policy of Ukraine - over implementation of state budget funds, errors of the State Department of veterinarian medicine, as a responsible executive of budget programs in the sphere of veterinarian medicine, while planning and distribution of budget funds, caused unreasonable excess of assignments in budget request for labour payment in the amount of 9 mln UAH. It was revealed in the process of *inspection of usage of state budget funds by the State Department of veterinarian medicine in 2003 for management in the sphere of veterinarian medicine and organization of activity of institutions of the indicated sphere.*

Analysis of implementation of state budget funds by executive authorities in 2002 testifies, that the existing system of financial provision of executive authorities does not provide transparency of budget process. The Ministry of Finance of Ukraine, while estimation of amounts of funds for financial provision of management programs in a certain sphere of activity, in the State Budget Project for the year 2002 did not provide execution of proper analysis of budget requests from chief funds allocators, judging from the point of view of their aim correspondence, priority and efficiency of usage of budget funds. Estimation of allocations was performed by a separate central body of executive power without appropriate reasoning and grounds. As the result, the State Material Reserve Committee of Ukraine received over 0.4 mln UAH of excessive allocations, Taras Shevchenko National Award Committee - over 0.1 mln UAH. State Customs Service of Ukraine received 6 mln UAH of excessive assignments for transportation services.

Similar violations are detected in the course of *inspection of usage of Reserve Fund of the State Budget of Ukraine, assigned in 2002-2003 for reimbursement of losses to formers, caused due to natural disasters of 2002.* Thus, the Ministry of Agrarian Policy of Ukraine in their estimates of loss reimbursement did not use the Method of estimation of losses caused by emergency situations of natural or man-caused character, approved by the Decree of the Cabinet of Ministers of Ukraine as of 15.02.2002 № 175, which led to excess of expenditures and, as a result, unreasonable allocation of money from the Reserve Fund of the State Budget. In particular, only Kherson, Kirovograd and Rivno oblast administrations received unjustified 2.4 mln UAH.

Due to control measures, performed by the Accounting Chamber in the reported year, there were detected cases of **expenses, which exceed approved limits for a certain period.**

Analysis and inspection of financial provision of salary raise in budget sphere in 2003 due to introduction of new amount of minimal wage confirmed, that at expense of the general fund of the State Budget there is still supported excessive number of research and educational and other personnel in higher educational institutions of 3-4th levels of accreditation, subordinated to the Ministry of Science and Education of Ukraine. Only in 20 institutions of higher education in 2003 there were registered 870 over-normative wages, which required additional 8.6 mln UAH.

To the same kind of budget violations can be referred expenses in the amount of 53 mln UAH for reimbursement of internal state debt over amounts, approved by the Law About State Budget, which resulted in failure to comply with all the necessary procedures of introduction of changes to the State Budget of Ukraine, presupposed by the Budget Code of Ukraine. It was detected in the course of *inspection of expenses of the State Budget of Ukraine for maintenance and repayment of the state debt and its management in 2002.*

Actual expenses of the *National Television Company of Ukraine*, compared to the approved by the budget amount of special fund allocations, comprise 10.2 mln UAH. In addition, actual expenses from the general fund exceeded the approved budget assignments for 0.2 mln UAH, which contradicts the requirements of the Article 51 of the Budget Code of Ukraine and paragraph 5 of the Procedure of creation, consideration, approval and basic requirements for compliance with budgets of budgets institutions, approved by the Decree of the Cabinet of Ministers as of 28.02.2002 № 228.

In the reported year there were revealed **numerous cases of off-purpose usage of budget funds, assigned for execution of governmental programs.** Specialists of the Accounting Chamber, *in course of inspection of allocation of State Budget funds, assigned to the Ministry of Health of Ukraine for provision of insulin to people with diabetes* discovered, that in violation of the Decree of the Cabinet of Ministers of Ukraine as of 06.03.2002 № 261 "About state order for

purchase of goods, execution of work and provision of services for state needs in 2002", funds of the State Budget, assigned for fulfillment of state order of insulin supply in 2002 in the amount of 13.8 mln UAH were used not according to the purpose, but for repayment of bill payable for supplied insulin medications in 2001.

Financing of objects, not defined in the Program "Ukrainian Coal", which consumed 13 mln UAH of state budget funds, was illegal. Instead of concentration of funds on execution of works, defined in the Program, for the most important and with high level of readiness objects of the Ministry of Fuel and Energy of Ukraine, increasing the number of objects under construction, dispersing the state budget funds. The indicated violations were detected in the course of *inspection and analysis of usage of state budget funds, assigned to the Ministry of Fuel and Energy of Ukraine in 2002-2003 for state support of construction at coal-, lignite (brown coal), and peat mining enterprises.*

Under conditions of serious lack of financing of measures of *National Program of protection of environments of the Azov and Black Seas in 2001-2002*, inspection of usage of budget funds, assigned for execution of the mentioned above Program, revealed a series of budget violations on behalf of the Ministry of Ecology and Natural Resources of Ukraine while implementation of state budget funds assigned for its realization, in the amount of 2.7 mln UAH.

Off-purpose allocation of budget funds due to financing of agreements, which are not presupposed by state programs are also to be considered budget violations.

Specialists of the Accounting Chamber have revealed the fact of purchase of insulin by the Ministry of Health of Ukraine from the OJSC "Farmak", which actually realizes insulin produced by the "Eli Lilly" company (USA). Thus, The Ministry of Health used 12 mln UAH, assigned by the Law of Ukraine "About State Budget of Ukraine for the year 2002" for purchase of domestic insulin, not according to the purpose, but for purchase of foreign insulin.

The indicated violations were also discovered in the course of *inspection of usage of State Budget funds assigned in 2002 to the State Family and Youth Committee of Ukraine*. In particular, absence of control of state budget funds allocation by the State Committee, assigned for execution of national programs, resulted in off-purpose usage of 4.8 mln UAH for realization of own programs of public organizations and their maintenance, which is a violation of the Article 87 of the Budget Code of Ukraine. Instead of planned creation of National Resource Center of Youth Public Organizations and Youth-Student Hotel, the funds were spent for construction works, purchase of office apartment and office equipment. So, the Center and the Hotel were not actually created. Thus, with support of the State Committee, the indicated amount of money was lost for the budget and illegally stays in possession of public organizations, which makes it an off-purpose usage of state budget funds.

Off-purpose usage of state budget funds was revealed *in the course of inspection and analysis of allocation of state budget funds assigned in 2002-2003 to the State Committee of Water Industry for exploitation of state melioration systems, for execution of programs of protection of settlements from damaging influence of waters and anti-flood protection*. This, funds assigned from the State Budget of Ukraine for exploitation of state melioration systems in the amount of 4.4 mln UAH were actually used for pumping of waste waters of the city of Kyiv by the Bortnichi pumping station.

3.4 mln UAH of budget funds were used for purposes, which are not connected with information projects and do not comply with the national program of informatization, that is for current expenses (renovation, technical service, purchase of consumption materials). For example, the State Tax Administration of Ukraine performed current expenditures for maintenance of computer equipment (purchase of materials, spare parts, service, support of the legal "League" system) in the amount of 2 mln UAH. These facts were revealed by specialists of the Accounting Chamber in the process of *inspection of usage of state budget funds, assigned in 2002 and 9 months of 2003 for fulfillment of tasks (projects) of the National Informatization Program*.

In 2003, there were revealed **facts of inter-accounting**, in a concealed form, even though it has been prohibited. During the year there are discovered facts of such settlements for the amount of 25.8 mln UAH.

Thus, due to *analysis of creation, transfer and implementation of subventions from state budgets to local budgets, provided for by paragraphs 4, 5 of the Article 34 of the Law of Ukraine "About State Budget of Ukraine for the year 2002"* it has been discovered, that failure of the Ministry of Finance of Ukraine and of the State Treasury of Ukraine to comply with requirements of the Budget Code of Ukraine and other normative-legal acts created conditions for provision of subventions by way of transfer of natural gas from storage vaults of the Ministry of Finance of Ukraine to the Council of Ministers of the Autonomous Republic of the Crimea and to the city of Sevastopol in the amounts of 14 mln UAH and 9.6 mln UAH respectively, and forced them to

perform realization of this product.

Payment in the form of gas transfer lead to violation of the Article 39 of the Law of Ukraine "About State Budget of Ukraine for the year 2002", according to which the only source of financing of subventions and benefits to people for provision of payments for electric energy, natural gas, services of heat and water supply and sewage, and communication services, can only be in-payments to the general fund of the State Budget and budget funds which were not used according to assignments for more than one month.

In the process of *inspection of usage of state budget funds, assigned to the Ministry of Health of Ukraine for provision of insulin for patients with diabetes* there was revealed the fact of inter-accounting settlements. As the result of improper control on behalf of the Ministry of Health of Ukraine, CJSC "Indar" performed such settlement of debt before local budgets for supplied insulin to separate health departments of oblast administrations instead of insulin preparations, purchased for state budget funds and supplied, according to distribution scheme of the Ministry, to these departments. In such manner there was performed hidden subvention to local budgets in the amount of 2.2 mln UAH.

In 2003 in the course of control measures there was revealed such budget violation, as **illegal usage of the Special Fund of the State Budget of Ukraine**. Such violations were allowed in significant amounts by the *State motor licensing and inspection Department of the Ministry of Internal Affairs of Ukraine*, which was inspected by specialists of the Accounting Chamber *regarding usage of the general and special funds of the State Budget of Ukraine for provision of traffic safety, registration and keeping record of means of transportation*. As the result of failure to comply with requirements of the Article 23 of the Budget Code of Ukraine, which specifies, that allocations of the special budget fund have constant budget purpose, which allows to perform them exclusively within limits and on account of respective incomes to the special fund, the mentioned above funds lost their target purpose, were deprived of personal responsibility, which caused their uncontrolled usage. In general in the system of the State motor licensing and inspection Department during the year 2002 according to instructions of the Ministry of Internal Affairs of Ukraine and regional departments of militia, dealing with the program of "Provision of safe traffic, registration and keeping record of means of transportation", there were re-distributed resources of the special fund of the State Budget and material resources in the amount of 111.9 mln UAH for purposes, which are not connected with execution of this program.

Facts of significant amounts of illegal usage of the special fund of the State Budget were revealed by *analysis and inspection of financial provision of salary raise in budget sphere in 2003 due to introduction of the new amount of minimal salary*. In violation of requirements of the Article 48 of the Budget Code of Ukraine some institutions of higher education of 3-4th levels of accreditation of the Ministry of Science and Education of Ukraine performed operations of allocation of resources of the special fund beyond control of authorities of the State Treasury of Ukraine. As of 01.07.2003 these institutions performed such allocations for the amount of 61.2 mln UAH, of them for labour payment - 30.2 mln UAH.

The Ministry of Finance of Ukraine, being de jure a guarantor of legal execution of the State Budget of Ukraine, de facto in many cases violated current legislation regarding execution of the state budget, in particular, allowed **illegal under-financing of the protected entries of the State Budget of Ukraine**. Thus, in violation of the Article 111 of the Budget Code of Ukraine, it was not performing control of compliance with budget legislation, and as the result, allocations for purchase of insulin were underfinanced in 2002 for the total amount of 29.8 mln UAH. The indicated fact was proved by the results of *inspection of usage of State Budget funds assigned to the Ministry of Health of Ukraine for provision of patients with diabetes with insulin*.

Improper bookkeeping, underestimation of capital assets and other inventory holdings, non-posting of the amount of cost of real assets, according to results of control measures, undertaken by specialists of the Accounting Chamber have become a standard. Total amount of indicated budget violations in the reported year comprised 278.5 mln UAH.

Thus, *inspection of the state of provision and implementation of subventions from the State Budget of Ukraine for social and economical development of Sevastopol in 2001 and 2002* revealed, that the Ministry of Finance of Ukraine during 1999-2002 has not settled the discrepancy regarding the amounts of natural gas, received from NJSC "Naftogaz of Ukraine" and its remainder, stored at SC "Ukrtransgaz" in the amount of 100 mln UAH. Up till now the NJSC "Naftogaz of Ukraine" has not proved the fact of transmission of natural gas in 1999 to the Ministry of Finance of Ukraine (for budget debt repayment) for the indicated amount. Agreements for responsible storage of gas are absent, and common verification of gas remainders at place of its storage was not performed.

Besides, there took place discrepancy between the amount of subvention actually received by

the Sevastopol city state administration (CSA) with data of the State Treasury of Ukraine regarding amounts of the provided subvention and data, depicted in the report on execution of the State Budget of Ukraine. Out of the total amount of provided subvention 25.3 mln UAH, Sevastopol CSA does not confirm reception of 13.4 mln UAH. Data of the Statement about fulfillment of the State Budget of Ukraine for the 3rd quarter of 2002 on allocations in the amount of 13.4 mln UAH is not authentic.

Result of the analysis confirmed *creation and implementation of subventions from the state budget to local budgets for provision of benefits to the people, who suffered because of the Chernobyl disaster, provided for by paragraph 10 of the Article 40 of the of the Law of Ukraine "About State Budget of Ukraine for the year 2003"*, and unaccounted, conformed by verification acts, state budget debt for provided benefits in accounting registries of enterprises - providers of service for the amount of 7.2 mln UAH.

Specialists of the Accounting Chamber based on the results of *inspection of usage of state budget funds, assigned to the Ministry of Health of Ukraine for provision of insulin for people ill with diabetes* came to the conclusion that the current mechanism of centralized provision of insulin for people with diabetes makes it impossible for the Ministry of Health of Ukraine, as the chief allocator, to control actual consumption of insulin preparations. Totally in 2002 the Ministry has unreasonably allocated insulin preparation usage in the amount of 13.3 mln UAH, which, actually, are accounted at balances of medical institutions, which constitutes a budget violation.

Results of the *inspection of usage of the state budget funds, assigned to the Ministry of Culture and Arts of Ukraine for the year 2002 and 1st half-year of 2003 for circus industry* testify that regardless of the requirements of the Law of Ukraine "About enterprises in Ukraine", annual financial plans were not composed by the state circus enterprises and were not forwarded for approval to the Ministry of Culture of Ukraine. In the process of planning of income for circus enterprises, the Ministry insufficiently considered the achieved level of income received in the previous years and real conditions of functioning in the current year, which resulted in planning of additional assignments from the State Budget for coverage of losses. As the result, in 2002 planned income by the two circuses was understated for 2.2 mln UAH.

Results of the *inspection of usage of the state budget funds, assigned for provision of functional activity of the State Customs Service of Ukraine* testify presence of multiple instances of the indicated kinds of violations. Thus, significant understatement by state executive authorities of the cost of confiscated property, in the process of its realization caused loss of additional income to budget only in 2002 and the first half-year of 2003 approximately 19 mln UAH.

Besides, violating requirements of current legislation, state executives for a long period of time (up to seven months) were not accepting confiscated property, as the result within the indicated period of time customs authorities carried out expenses in the amount of almost 0.7 mln UAH, connected with storage of the property.

In course of the indicated inspection there was also discovered the fact of **underpayment to the budget, according to the results of financial and economical activity of subjects of economy**. Creation by the Law of Ukraine "About introduction of changes to some legislative acts of Ukraine regarding state support of automobile industry" of the norm, according to which sales of cars, confiscated by court decision, is performed with calculation of taxes and duties, caused loss of budget income in 2002 and 1st half-year of 2003 in the amount of almost 7.7. mln UAH.

Facts of **illegal change of form of property** was registered in the course of execution of the following two control measures - *inspection of usage of funds of the State Budget of Ukraine for construction of the "Emergency Ambulance" and of the "Fitness Center" in Odessa and compliance with legislation in the process of privatization and analysis of usage of state budget funds, assigned to the Ministry of Fuel and Energy of Ukraine for state support of construction works at enterprises of coal-, lignite (brown coal) and peat mining industry*.

The State Property Fund of Ukraine and its regional departments in Odessa oblast performed privatization of objects of unfinished construction of the "Emergency Ambulance" (balance cost - 17.1 mln UAH, sales cost - 1.1 mln) and of the "Fitness Center" (balance cost - 2.9 mln UAH, sales cost - 870 thousand UAH) with violation of requirements of current legislation, which resulted in loss by the city of two important social and cultural objects at total cost of 20 mln UAH.

Also, with violation of the current legislation, the Ministry of Fuel and Energy of Ukraine issued permission for transfer into shared property and to other owners objects of unfinished construction for the total amount of 14.7 mln UAH.

In 2003 specialists of the Accounting Chamber continued revealing cases of **hidden financing of superior (parent) organization at cost of funds of subordinated organizations**. In particular, *in course of inspection of usage of state budget funds, assigned to the State Border Protection Committee of Ukraine in 2002 and the 1st half of 2003 by the program "State Border Protection"* it was revealed, that the military unit 2428 in 2002 performed allocation of funds for maintenance of the State Border Protection Committee in the amount of over 3.5 mln UAH. The funds were used for capital renovation of offices, exploited by the central apparatus of the State Border Protection Committee of Ukraine; purchase of cars "Shkoda Octavia", "Opel Omega", "Toyota Landcruiser"; payment for the TV program "Border"; repairs and maintenance of cars; purchase of home equipment and kitchen devices, furniture, mobile phones; other allocations for maintenance of central apparatus.

Analysis of usage of state budget funds by executive authorities in 2002 also brought evidence that State Standardization, Metrology and Certification Committee of Ukraine violated the Laws of Ukraine "About source of financing of executive power" and "About bookkeeping and financial accounting in Ukraine" in the sphere of hidden allocation of funds of subordinated institutions for maintenance of the mentioned Committee in the amount of 1.9 mln UAH without their inclusion into the special fund of the State Budget.

Resources of the special fund of subordinated institutions in the amount of 0.4 mln UAH were also illegally used in 2003 for maintenance of the State Department of veterinarian medicine and its territorial bodies.

Facts of illegal **concurrent allocation for financing of budget institutions from different budgets** was detected by *inspection of usage of State Budget funds assigned to the Ministry of Health of Ukraine for provision of insulin for people with diabetes*. While planning of insulin purchases the Ministry did not take into consideration actual needs of patients, taking insulin of foreign production, and planned provision only of insulin of domestic production. Neglecting the fact of prohibition, stated in the Article 85 of the Budget Code of Ukraine, to perform concurrent allocations during the budget period for financing of budget institutions from different budgets, only during 8 months of 2003 at cost of local budgets there were purchased insulin preparations of foreign production for the total amount of over 10.3 mln UAH.

Audit of efficiency of management of local resources of the Carpathian region of Ukraine, conducted by specialists of the Accounting Chamber in the reported year, revealed also such kind of budget violation as **illegal losses and deficiency of material stock due to improper control of their storage**. Because of absence of strict coordination of activity of the state forest protection institutions, local authorities, law-enforcement forces, ecology, tax and customs services, illegal felling of woods caused the State losses in the amount of 15.9 mln UAH.

There also still exists such kind of budget violation as **off-purpose allocation of budget funds assigned for current expenses**.

Thus, *inspection of allocation of state budget funds and analysis of interdepartmental accounting in Kyiv oblast* revealed, that in violation of the Article 52 of the Budget Code of Ukraine, at cost of subventions from the state budget for assistance to families with children, handicapped from birth and handicapped children there financed allocations in the amount of 2.3 mln UAH, provided by the Law of Ukraine "About state social support of families with insufficient provision". Besides, at cost of state budget funds there was performed acquittance of accounts payable for works, performed in previous years for the amount of 0.2 mln UAH.

Similar violations were discovered in course of *analysis of creation, transfer and implementation of subventions from state budget fund to local budgets, provided by paragraphs 4, 5 of the Article 34 of the Law of Ukraine "About State Budget of Ukraine of the year 2002"*. It means, that state budget funds were forwarded for acquittance of accounts payable for works, performed in previous years, which was not taken into consideration in estimate calculations of assignment needs and was used not according to target purpose.

In the Autonomous Republic of the Crimea at cost of subventions from the State budget for provision of benefits to the people for payment of electricity, natural gas, heat-, water supply, sewage and communications services, based on protocol-registries there was performed acquittance of debt for condensed gas, which had formed by 01.01.2002, while, according to the Law of Ukraine "About State Budget of Ukraine for the year 2002", such allocations are to be financed at cost of subventions for provision of benefits and subsidies to the people for payment for solid and liquid fuel, condensed gas, rent, waste disposal. Thus, the funds assigned for provision of allocations by one subvention were directed for financing of another one, that is off-purpose.

Similar cases of subvention usage were discovered in course of *analysis of formation and usage of subventions from the State Budget to local budgets for provision of benefits to the*

people, who suffered in the result of the Chernobyl disaster. Thus, at cost of subventions there was performed acquittance of debt for provided benefits, which had created by 01.01.2003, and payment for benefits provided in previous years, which are not indicated as part of the debt, and which constitutes its illegal usage in the amount of over 0.6 mln UAH. Such cases were registered in Desnianskiy region of Kyiv, Khmelnytsk and Poltava oblasts.

In violation of the Article 17 of the Law of Ukraine "About State Budget of Ukraine for the year 2002", capital allocations were financed at cost of current allocations in the amount of 1.2 mln UAH, which means the funds were used off purpose. It was discovered in the result of *inspection of usage of State Budget funds in 2002 for support of ecologically safe state in the alienation zone and in the zone of unconditional (compulsory) resettlement*.

Absolutely similar budget violation for the amount of 1 mln UAH was performed by the UkrStateFund, which was discovered in the result of *inspection and analysis of allocation of funds of the State Budget of Ukraine, assigned for state support of agriculture (farming) in 2002*.

Specialists of the Accounting Chamber have also registered **budget violations connected with placement and execution of the state order**. State Committee of Ukraine on Land Resources has entered into agreements for production of forms of certificates and of state acts for the amount, which exceeds the amount, proved by the state order for 4 mln UAH. It was verified by *inspection and analysis of legality and efficiency of usage of state budget funds, assigned for execution of land reform, issuance of state acts for the right of private property and protection and rational use of lands in 2000-2002 and the first quarter of 2003*.

Analysis of formation and usage of subventions from the State Budget to local budgets, provided for by paragraphs 4, 5 of the Article 34 of the Law of Ukraine "About State Budget of Ukraine for the year 2002" revealed such budget violation as **illegal failure to include funds into bills payable**. The amount of unused coupons, distributed among the people for reception of solid fuel in previous budget periods, in not included into the amount of bills payable and in calculations of required funds in the planning process.

In the Autonomous Republic of the Crimea in 2001 the amount by unused coupons, which is not included into bills payable, comprises 9.2 mln UAH, in 2002 - 6.7. mln UAH.

Inspection of usage of budget funds and analysis of inter-budget accounting in Kyiv oblast has also revealed the fact of **illegal overstating of the amount of additional subvention** for oblast budget for the amount of 9.7 mln UAH.

Specialists of the Accounting Chamber have also registered **budget losses due to improper control of reception taxes and payments**. Results of the *analysis of usage of state budget funds by executive authorities in 2002* testifies, that a number of payments, included into the special fund of the Sate Budget of Ukraine are not included into the list of national taxes and duties (obligatory payments) set by the Law of Ukraine "About taxation system" and other laws of Ukraine about taxation. Control over correctness and timeliness of their handling by state taxation or other bodies is not being performed, which allows some taxpayers to avoid fulfillment of such transfers, and in the result of which the State Budget experiences significant losses.

Due to improper control on behalf of the State Committee of Ukraine of technical regulation and consumer policy over execution of paragraph 6 of the Article 21 of the Law of Ukraine "About Advertising", losses of the special fund of the State Budget comprised about 8.4 mln UAH per year.

State off-budget funds were also used with budget violations. Specialists of the Accounting Chamber, based on the results of *analysis and inspection of creation and execution of the budget of the Fund of Social insurance against temporary loss of working ability in 2002* came to the conclusion, that creation and usage of the Fund's resources beyond the state budget limits and weakens state control over its implementation.

In 2002, due to legislatively established amortization and restructuring of debts of insurants and placements of funds into stocks of enterprises and organizations, losses of the Fund comprised 24.4 mln UAH.

By decision of the Board of Directors of the Fund and based on approved normative documents, 34.3 mln UAH were used not according to target purpose. In particular, 8.1 mln UAH were illegally used for provision of financial assistance in case of uninsured births; for maintenance of employees of trade-unions - 5.7 mln UAH; awarding bonuses of insurable assets - 2.3 mln UAH. Illegal creation of development fund by the Board of Directors at cost of passive income resulted in off-purpose usage of funds for creation of material-and-technical basis of health-improving and healing institutions and other measures - 5 mln UAH. Provision of the Social Insurance Committee (by paragraph 2.2.9. of the Instruction of the procedure of creation and execution of the Fund budget, approved by the decree of the Board of Directors as of

26.01.2001 № 15) with the right to provide four passes for sanatorium-and-spa treatment to unemployed veterans of war and labour does not comply with the Article 4 of the Law of Ukraine "About compulsory state social insurance due to temporary loss of working ability and expenses, connected with births and funerals" and resulted in off-purpose usage of funds in the amount of 10.7 mln UAH. Due to definition in the paragraph 3.13 of the Instruction, in defiance of the Article 48 of the mentioned Law, one of the main directions of allocation of Fund resources - salary for governing bodies of sport societies - consumed 2.4 mln UAH as off-purpose allocations.

2.1. mln UAH of the Fund of Social Insurance against accidents at work and professional illnesses were spent for purposes not provided by current legislation. Thus, for allocations, which are supposed to be made at cost of state budget funds and enterprises (purchase of cars, computers, medical equipment, working clothes etc) - over 1.9 mln UAH, there were performed excessive payments for unperformed medical consultations, cost of living for people, who accompanied 1st group invalids in the amount of 0.1 mln UAH, payments for works and services in the amount of 0.1 mln UAH, acts of performed works being absent.

Each year usage of State Budget funds is marked by violation of one of the main principles of budget system of Ukraine - principle of efficiency.

Ineffective usage of state budget funds and resources of target budget and off-budget funds became the systematic violation of the budget process.

Control-analytical measures, conducted by the Accounting Chamber in 2003, revealed numerous facts of such usage of budget funds. Total amount, as it was already indicated, equal **over 2.8 billion UAH**.

Most considerable amounts of violations are connected with **ineffective usage of state budget funds due to unreasonable management decisions**.

According to the results of inspection of usage of state budget funds by the State Department of veterinarian medicine in 2003 for management in the sphere of veterinarian medicine and organization of activity of institutions in the indicated sphere there is made the conclusion, that usage of state budget funds by the State Department for implementation of budget programs "Management in the sphere of veterinarian medicine" and "Organization and regulation of activity of institutions in the system of veterinarian medicine" was performed inefficiently, with violations of requirements of the Budget Code of Ukraine and of the Law of Ukraine "About veterinarian medicine". As the result, state budget funds, assigned in 2003 for realization of the budget program "Management in the sphere of veterinarian medicine" for regional (town) departments of veterinarian medicine in the amount of 33.6 mln UAH were used ineffectively.

The State Department also does not undertake any proper measures in order to decrease the burden of the general fund of the State Budget. Own intakes for services, provided by state veterinary clinics, considerably exceed resources of the general fund of the State Budget, which are assigned for their maintenance. It testifies of the possibility to maintain the clinics exclusively at their own cost, and allocate funds at cost of appropriate budget program only for anti-epizootic measures.

Ineffective usage of funds is also discovered in course of *analysis of usage of state budget funds by executive authorities in 2002*. Creation and liquidation of bodies of executive power without any system, change of their status, re-creation of earlier liquidated bodies resulted in parallelism of their work, doubling of functions, and, in the end, in ineffective and irresponsible usage of budget funds.

Thus, reorganizations consumed additional ineffective expenses of budget funds in the amount of 6.5 mln UAH. In particular, structural modifications in the Ministry of Economy of Ukraine took 1.4 mln UAH; organizational changes in Держбюду of Ukraine - 2.6 mln UAH; of the Public Service of Export Control of Ukraine - 0.8 ml UAH; for creation of territorial bankruptcy bodies of the Ministry of Economy and European Integration of Ukraine - 1.7 mln UAH.

The Cabinet of Ministers of Ukraine also used resources of the *reserve fund of the State Budget of Ukraine* ineffectively. Actually they became the additional source of financing of state centralized capital investments. In 2002 at cost of the reserve fund there were assigned 14.9 mln UAH for financing of those objects, which were supposed to be financed by the Cabinet of Ministers of Ukraine at cost of state centralized capital investments.

In the result of inconsistent and irresponsible actions there was allowed *ineffective usage of state budget funds for provision of functional activity of the State Customs Service of Ukraine*. In July of 1999 the State Customs Service of Ukraine signed a contract for execution of work of development and construction of the "Poliscan-3" complex at total cost of 16 mln UAH, while the decision of its future location was accepted only in March of 2001. Besides, this decision was not coordinated with management of the enterprise on the territory of which the complex was

supposed to be built (Illichivsk Port). So far the construction works haven't even started yet, while 11.5 mln UAH of budget funds have already been spent.

Inspection of provision and employment of subventions from the State Budget of Ukraine for social and economic development of the town of Sevastopol in 2001 and 2002 revealed, that in the result of failure of the Cabinet of Ministers of Ukraine to determine and approve directions of subvention allocations in 2002, Sevastopol town administration made their own decisions regarding this issue, which led to inefficient usage of 25.3 mln UAH.

Inefficient allocation of budget funds due to groundless administrative decisions was revealed in course of *inspection of allocation of state budget funds, assigned for fulfillment of tasks (projects) of the National Informatization Program in 2002 and 9 months of 2003*. State Tax Administration of Ukraine (STAU) in 2002-2003 the major amount of allocations (76.7%), assigned from the state budget for informatization, was used for acquittance of commodity credit by the contract with the Joint Stock Company OPTIMUS S.A. (Poland) for supply of semi-finished products and component parts for working stations OPTIMUS S.A. and mounting of ready products in Ukraine for needs of the STAU for the total amount of 12 mln USD. According to the conclusion of the State Information-Analytical Center of monitoring of external commodity markets, complex of equipment offered by the JSC OPTIMUS S.A., exceeds the average level of retail prices in Ukraine by 1.8. Accordingly, Отаже, the STAU entered into agreement, in which the amount of excessive cost of equipment and component parts, otherwise inefficiently used funds, comprised 5.3 mln USD or 28.1 mln UAH according to the exchange rate of the National Bank of Ukraine.

Results of the *inspection and analysis of usage of the state budget funds, assigned in 2002-2003 to the State Committee of Water Industry for exploitation of state melioration systems, for execution of programs of protection of settlements from damaging influence of waters and anti-flood protection* testify of ineffective usage of funds in the amount of 6.3 mln UAH due to groundless decisions. Thus, due to dispersion of financing for a great number of unfinished objects of anti-flood measures over 1 mln UAH was used inefficiently; due to discard of 33 unfinished anti-flood objects by Zakarpattia oblast water industry on river Tisa, which were destroyed by floods of 1998 and 2001 - 5.3 mln UAH.

Inspection of allocation of funds of the State Budget of Ukraine by the Ministry of Science and Education of Ukraine for provision of educational institutions with study books and manuals, performed by specialists of the Accounting Chamber revealed, that in the result of approval by the Ministry of the decision to present textbooks "Bukvar", issued in 2001, for students of the 1st grades without introduction of any changes to the Procedure of provision of students of institutions of secondary education and technical schools with textbooks and manuals, in 2002 there were spent over 2.6 mln UAH of budget funds for printing of this textbook, which was ineffective usage of the funds.

Besides, under unsatisfactory state of textbook issuance and minimal satisfaction of the need, the Central Department of Science and Education of the Kyiv city state administration and Department of Science and Education of the Kyiv oblast state administration have received excessive number of textbooks - 350.6 thousand copies for the total cost of 1.9 mln UAH, of which, as revealed by selective inspections, 44.4 thousand copies for the total cost of 0.3 mln UAH are kept in library vaults of educational institutions, which resulted in their inefficient usage.

Selective inspections at six state circus enterprises revealed, that in the result of unprofitable agreements with foreign and private enterprises for execution of circus performances, there were experienced losses for the total amount of over 0.9 mln UAH, which constitutes ineffective usage of state budget funds.

According to the results of activity in 2002 four circuses, having received budget funds for coverage of losses in the amount of 4.3 mln UAH, were actually receiving profits. The amount of income tax paid by them constitutes almost 0.5 mln UAH, which also should be considered ineffective usage of budget assignments.

Numerous facts of groundless administrative decisions, which resulted in inefficient usage of budget funds, were also revealed in course of *inspection of usage of State Budget funds in 2002, assigned for provision of invalids with cars and orthopedic products*. In the result of purchase in 2002 of prosthetic devices from enterprises of non-governmental form of property towards execution of the state order by PE "Ukrprotez" for prices, which exceed by 2-5 times the prices of analogues, produced by public and state enterprises, 1.8 mln UAH were used ineffectively.

Unlawful delegation of function of formation of state order by the Ministry of Labour and Social Policy of Ukraine to the Producing Enterprise "Ukrprotez" and its provision, in violation of the Budget Code of Ukraine, with the authority if allocator of budget funds in the sphere of distribution of wheelchairs to regions and improper execution of these functions resulted in

inefficient usage of budget funds in the amount of 2.9 mln UAH and caused groundless, under condition of presence of financial resources, failure to provide 2653 handicapped people with wheelchairs of needed modifications.

Performance of payments by PE "Ukrprotez" with state and public enterprises for supplied products at actual prices, unrelated to contract prices, resulted in inefficient usage of budget funds in the amount of almost 2.7 mln UAH, assigned for prosthesis.

Besides, under condition of sufficient number of domestic producers able to execute the state order of wheelchair production in full amount based on the Contract, signed between Lviv State Experimental Enterprise of Means of Transportation and Prosthesis and Limited Liability Company "Slajg", starting with 2002 there were purchased and brought into Ukraine, with assistance of three agents, 6180 wheelchairs of foreign production, which resulted in inefficient usage of budget funds in amount of 1.7 mln UAH.

Considerable amounts of **inefficient usage of budget funds are connected with service of untimely acquitted foreign loan.**

Analysis of reasons and financial consequences of restructuring of foreign liabilities of Ukraine before governing bodies of foreign countries - members of the Paris Creditors Association testified, that in the result of agreements, entered into by the Cabinet of Ministers of Ukraine, about restructuring of debts and due to activation of state guarantees, direct responsibility for repayment of these funds is placed on the State, which means reprocessing of the liabilities of subjects of economic activity into direct state debt.

According to the conditions, additional allocations on service of restructured debts during 12 years will comprise over 209 mln USD or over 1.1. billion UAH, according to current exchange rate, of which 38.5 mln USD, or over 200 mln UAH according to the official exchange rate of the National Bank of Ukraine, have already been paid off.

Inefficient usage of state budget funds was also verified by *inspection of the state of realization of conclusions and proposals of the Accounting Chamber according to inspection of implementation of the loan of IBRD by the Project of Development of the Market of Electric Energy*. Thus, during 2003 according to this loan IBRD has received 7.4 mln USD, or 39.5 mln UAH according to official exchange rate of the National Bank of Ukraine, at cost of the State Budget of Ukraine. It is to be noted, that this project was annulled as of 23.09.1999. The state of payments from the generating companies to the state budget for actually received in 1997 part of the IBRD loan in the amount of 76.4 mln USD is unsatisfactory. During 1997-2003 overdue debt kept growing and by 01.01.2004 reached 33.2 mln USD. It results in transfer of liabilities of generating companies - participants of the Project to the state debt.

Decision of the Ministry of Finance of Ukraine about cessation, as of 24.01.2000, of payments for maintenance and acquittance of guaranteed liabilities before countries-members of the Paris Creditors Association, was hasty, organizationally unprepared, economically non-calculated and resulted in **inefficient usage of budget funds due to payment of interests by debt credits and penalty provisions.**

The indicated decision was made under conditions of realization of the Program of Government of Ukraine coordinated with the International Currency Fund, even though execution of the program is one of the main conditions of acceptance of the decision of debt restructuring by the Paris Creditors Association. In the result official negotiations with creditors of Ukraine started only in March of 2001, or 14 months after cessation of payments.

It resulted in employment of punitive measures against Ukraine for failure to perform payments for creditors' benefit in the amount of over 16 mln USD or over 80 mln UAH during 2000.

In addition, the Ministry of Finance of Ukraine turned out incapable with their own forces and with assistance of specialists from other state economic and legal organizations to prepare and conduct negotiation regarding restructuring, that is why foreign companies were included into the process. Additional, actually ineffective allocations of state budget funds for attraction of foreign consultants comprised 2.4 mln USD or 12.7 mln UAH, which were fully paid regardless of their failure to fulfill provisions of the agreement in full amount and in indicated terms.

Numerous facts of ineffective usage of funds were discovered by specialist of the Accounting Chamber in course of annual **inspection of budget of expenses of the National Bank of Ukraine.**

In general there were detected ineffective and in violation of current legislation allocations in the amount of 51 mln UAH.

During 10 years the issue of employment of objects of unfinished construction for

reconstruction of paper-making machine № 12 of the former State Enterprise "Malin Paper Plant" of the Manufacturing Association "Ukrpapirprom" (now - OJSC "Malin Paper Plant") remains unsolved. Back in 1991 it was planned to re-equip and rebuild it in order to create facilities for production of special paper for issuance of national currency. Total amount of ineffective allocations connected with reconstruction of this machine equals almost 5.2 mln UAH.

Out of 60 objects which were under construction and reconstruction in 2002, 30 were included into the plan only on 30.12.2002. 8.2 mln UAH were spent for their construction and reconstruction. Additional inclusion of some objects into the plan of capital investments was not reasonably justified, since they are not connected with provision of main tasks and functions of the national Bank of Ukraine defined by current legislation.

In 2002 additional 0.8 mln UAH were ineffectively used for substitution of 12 serviceable cars "Opel Vectra", which were in service only for two years, with new cars "Opel Omega", which cost at least twice as much.

National Bank of Ukraine also referred to expenses operations, connected with payment of commission for reservation of funds, which were not reimbursed due to failure of the Government of Ukraine to fulfill its obligations and cessation of the program of extended crediting from IMF. In 2002 such allocations comprised 20.7 mln UAH and totally since 1998 - 34 mln UAH, which constitute direct losses of the State.

In 2002 the National Bank of Ukraine performed allocations in violation of current legislation and of its own normative acts.

As in previous years, the National Bank of Ukraine performed sponsorship activity, which was not provided for by current legislation. In 2002 it constituted over 3 mln UAH and was aimed mostly at modernization of material-and-technical base of the Verkhovna Rada of Ukraine. At the same time provision of financial assistance to the Verkhovna Rada of Ukraine violates the Law of Ukraine "About sources of financing of government bodies", which verifies that government bodies shall perform their activities only at cost of budget financing within the limits provided by the Law of Ukraine about the State Budget of Ukraine for the corresponding year.

National Bank of Ukraine had also violated the procedure of goods purchase. Thus, the Banknote paper plant performed purchase of products from the "Sojuz and C ltd" (Kyiv) and from Private Industrial Trading Company "Yusi" (Kharkiv) without tenders and signing of contracts, and payments were performed based on suppliers' invoices. Payment for one and the same products was performed through numerous transfers, which allowed the Plant to avoid tender procedures in violation of the Regulations about tender procedures in the process of purchase of products, works and services by the National Bank of Ukraine. Totally in 2002 there performed such purchases for the amount of 0.1 mln UAH, since the Banknote Paper Plant performed purchases for the amount of 90 thousand UAH.

There was discovered the fact of violation of the Regulations about long-term crediting of employees of the National Bank of Ukraine for construction and purchase of accommodations for the period of 20 years at the amount of almost 0.1 mln UAH. Interest-free beneficiary long-term credit for construction of housing was provided to the employee, who had no appropriate record of service and did not relate to the category of employees who had the right to receive benefits at cost of the bank. After his retirement from the bank at his own will he received the possibility to repay the credit and the interests within 20 years, even though according to the Regulations such borrower was supposed to repay all existing credit debts at the moment of his retirement.

During 2003 there were revealed numerous facts of **inefficient usage of budget funds by means of its long-term retention without usage on registration accounts of budget funds allocators**, which also can be considered ineffective management of budget funds.

Results of *inspection of completeness of financing and effective usage of state budget funds assigned in 2002 for provision of social services, material provision of unemployed and re-grouping of labour forces of Donbass* revealed that during 2002 allocations for material provision and provision of social services to unemployed uninsured people was performed at cost of the Fund of compulsory state social insurance for case of unemployment, and funds of the State Budget of Ukraine remained untouched at the budget account of the State Employment Center and were not included into the Fund's account due to long-term inconsistency of positions between the the State Treasury of Ukraine, Ministry of Labour of Ukraine and the State Employment Center. Funds in the amount of 40 mln UAH were actually transferred to the Fund's account only in December of 2002.

Violation of the Article 108 of the Budget Code of Ukraine and the Procedure of Subvention Transfers, approved by the Cabinet of Ministers of Ukraine as of 11.04.2002 № 490 at the stage of state budget allocations caused to ineffective usage of 31.7 mln UAH of *subventions for social and economic development of the town of Sevastopol in 2001 and 2002*.

Inspection of the state of provision, lawfulness and effectiveness of usage of subventions from the state budget for execution of investment projects, aimed at development of social infrastructure of the Autonomous Republic of the Crimea in 2003 testifies of the low level of management of financial resources. Subvention allocators did not provide for their timely and effective implementation. Permanent remainders of funds at account, under conditions of limited budget financing, comprise over 3 mln UAH.

Ineffective management of budget funds, assigned for management of the sphere of veterinarian medicine and organization of activity of organizations of the indicated sphere was allowed by the State Department of Veterinarian Medicine in 2003. Miscalculations in the process of planning and distribution of budget funds and attraction of resources of the special funds for financing of measures, which were supposed to be financed by the general fund, resulted in creation of considerable remainders of funds, which as of 01.10.2003 comprised 25.6 mln UAH.

Facts of ineffective management of budget funds was revealed in the result of *analysis and inspection of financial provision of salary raise in the budget sphere in 2003 due to introduction of new amount of minimal wage*. The Ministry of Agrarian Policy of Ukraine issued orders about introduction of new amount of official salaries only on 12.08.2003 and revision of manning tables of budget institutions within the system of the Ministry started only in the second half of August. As the result, over 50 thousand employees started receiving raised salaries only starting with the end of September and beginning of October of 2003. Due to this, remainders of funds, unused during the two months for the assigned purpose as of 01.09.2003 comprised over 10 mln UAH.

Ineffective management and usage of state budget funds has also been revealed due to *analysis of the state of execution of complex measures aimed at thorough development of the Ukraine language, planning and implementation of funds of the State Budget of Ukraine and their introduction*. In the process of creation of the state order for 2002 for the State Committee of Television and Broadcasting of Ukraine there was defined production of TV and radio programs in the Ukrainian language in the amount of 203276.2 a year, and for the State Communications Committee of Ukraine - broadcasting of TV and radio programs in the amount of 111955.9 hours. Actually the State Committee of Television and Broadcasting of Ukraine executed the state order in full amount, while the State Communications Committee of Ukraine executed the order only in the amount of 169749.5 hours. Which means that 33526.6 hours of produced programs for the amount of 17.7 mln UAH remained unused. In the result of violation of requirements of normative-legislative acts by the Ministry of Economy and European Integration of Ukraine in the process of creation of the state order for production and broadcasting of TV and radio programs for 2002, the State suffered 17.7 mln UAH of direct losses.

Inspection of usage of state budget funds assigned in 2002 and 9 months of 2003 for execution of tasks (projects) of the National Informatization Program revealed the facts of inefficient usage of budget funds by means of their freezing at registration account in the amount of 14.1 mln UAH.

Inefficient usage of funds by means long-term non-usage of financing from the state budget can also be referred to ineffective management of budget funds.

Inspection of usage of budget funds, assigned in 2001-2002 for execution of the state order of accumulation of mineral resources, performed by specialist of the Accounting Chamber verified, that the existing scheme of financing of geological surveys does not provide for effective control over rational usage of budget funds.

In the result of delay of acceptance by the Cabinet of Ministers of Ukraine of the decision of settlement of the amounts of state order, the State Treasury of Ukraine during January-February of 2001 accumulated 72.2 mln UAH, which remained without movements regardless of accumulation of debt for performance of geological surveys.

During 9 months of 2003 the Ministry of Finance of Ukraine was receiving funds, assigned for the *National Informatization Program*, in the amounts, which exactly corresponded with the planned allocations. Total amount of received funds comprised 13.5 mln UAH, which as of 01.10.2003 remained at the account of the allocator unused (taken out of turnover). At the same time separate organizations - Ministry of Labour of Ukraine, Ministry of Science and Education of Ukraine, Ministry of Justice of Ukraine, State Committee of Consumers' Standards of Ukraine during this period of time received financing for execution of their tasks in the amount of one third of the year assignment. During this period 12 organizations within the list of tasks of the national Informatization Program, defined by the regulation of the Cabinet of Ministers of Ukraine, were not financed at all.

There were also discovered considerable amount of **ineffective allocation of funds of the**

Fund of Social Insurance against temporary loss of working ability. In 2002 the Fund ineffectively used almost 68 mln UAH due to placement of insurable funds in stocks of enterprises and organizations in the amount of 66.4 mln UAH and untimely and insufficient transfer of funds in the amount of 1.6 mln UAH by the Ministry of Ukraine on Emergency Issues and People's protection from the consequences of the Chernobyl disaster to the Fund for reimbursement of actual expenses for provision of state benefits to insured persons.

In the reported year there was revealed **ineffective usage of resources of the Fund of Social Insurance against accidents at work and professional illnesses.** Board of Directors of the Fund and its executive bodies at places did not provide for full normalization, effective planning an usage of resources of the Fund, state control of the Ministry of Labour and Social Policy of Ukraine over activity of the Fund was insufficient. As the result 7.8 mln UAH were used ineffectively, including 7.7 mln UAH were prepaid to performers of works, funds not being mastered, almost 0.1 mln UAH - for education of handicapped people without their future employment.

Specialists of the Accounting Chamber have also discovered facts of **ineffective usage of budget funds connected with conversion.** *Inspection of usage of funds of the State Budget of Ukraine for external political activity in 2002 by the Ministry of External Affairs of Ukraine* revealed, that the State Treasury of Ukraine did not provide execution of decision of the Government regarding allocations for international activity in foreign currency, and , in violation of the Article 487 of the Budget Code of Ukraine, did not provide fiscal execution of the five budget programs. It resulted in ineffective allocation of target budget funds in the amount of almost 1.5 mln UAH, which is connected with the necessity of conversion of hryvna into foreign currency and favoured distraction of considerable amounts of budget funds (2.8 to 7.1 mln UAH) for a prolonged period of time to banking accounts.

0.7 mln UAH of additional allocations of the state budget, connected with purchase of foreign currency for settlement of arbitration case in the sphere of owner's rights, detected by *inspection of allocations of the stet Budget funds for maintenance and acquittance of state debt and its management in 2002* are also not repaid.

1.3.1. Analysis of fulfillment of the State Budget of Ukraine for the year 2002, 1st quarter, 1st half-year and 9 months of 2003.

According to current legislation, in particular to the Article 98 of the Constitution of Ukraine, Articles 2, 6, 7, 22 and 30 of the Law of Ukraine "About the Accounting Chamber" there was performed analysis of fulfillment of the Law of Ukraine "About the State Budget of Ukraine for the year 2002" and allocation of state budget funds in 2003.

According to the data of performed control and analytical measures regarding fulfillment of the state budget in 2002 and 2003, there were prepared Conclusions about fulfillment of the State Budget of Ukraine for the year 2002; Conclusion based on results of analysis of fulfillment of the State Budget of Ukraine for the first quarter of 2003; Conclusion based on results of analysis of fulfillment of the State Budget of Ukraine for the first half-year of 2003; Conclusion about fulfillment of the income part of the State Budget of Ukraine according to results of three quarters of 2003; Conclusion based on results of analysis of fulfillment of the State Budget of Ukraine for nine months of 2003.

According to the results of analysis of fulfillment of the State Budget of Ukraine for the year 2002, **the Board of the Accounting Chamber has made a whole set of systematic conclusions. The main conclusion is the following:** the Cabinet of Ministers of Ukraine and the Ministry of Finance of Ukraine have not provided proper execution of the Law of Ukraine "About the State Budget of Ukraine for the year 2002". In spite of real possibilities for successful execution, the general funds of the State Budget of Ukraine has not been fulfilled in the income part (94.1%) as well as in the allocations part (85.2%). Fulfillment of approved amounts of financing of the state budget was also not provided for.

Execution of the State Budget of Ukraine in 2002 was being performed under conditions of slowing down of economical development. Forecast of macro-economical data, according to which the budget was created and approved, mostly turned out not be true, which negatively influenced execution of the income part of budgets. Real Gross Domestic Product increased only for 4.8 % against 9.2 % in 2001, nominal GDP reached 220.9 billion UAH and in calculation per head constituted 4583 UAH, which is 483 UAH less than expected.

Due to weak control and economical performance of the State Tax Administration of Ukraine and other central executive authorities, responsible for reception of income, annual plan of income has not been fulfilled by 34 sources, **and in the result** the State Budget has not received over 5 billion UAH, including 3.5 billion UAH by payments, reception of which

was provided by the State Tax Administration; 0.3 billion UAH - by the State Property Fund of Ukraine; 0.2 billion UAH - by the State Customs Service of Ukraine.

In the result of unsatisfactory administration of income, tax debt in 2002 increased per 7.9 billion UAH and by 01.01.2003 reached the amount of 14.2 billion UAH, which comprises one fifth part of the total amount of income of the brought budget. A large number of major debtors belonged were solvent. Thus, the OJSC "Dniprovskiy metallurgical plant named after Dzerzhinskiy", having the debt before the state budget in the amount of 64.6 mln UAH, in 2002 received 289.6 mln UAH of income. OJSC "Nikopol plant of ferroalloys", having received income in the amount of 18.4 mln UAH according to results of financial and economic activity in 2002, owes state budget 4.9 mln UAH.

Miscalculations in administration of Value Added Tax resulted in considerable narrowing of taxation basis and its loss of budget-forming meaning, having unreasonably aggravated the problem of its reimbursement. Budget debt on reimbursement of VAT in 2002 increased per 1.4 billion UAH and by 01.01.2003 reached the amount of 7.2 billion UAH, which constitutes 53.3 % of the annually paid tax amount. The amount of overdue debt increased during the year per 800 mln UAH and by the beginning of 2003 comprised 2.9 billion UAH. The State Treasury of Ukraine in 2002 paid 36 mln UAH at cost of the state budget as punitive measure for untimely reimbursement of VAT.

The existing system of beneficiary taxation resulted in loss of income by budgets of all levels in the amount of 56.3 billion UAH, including direct losses in the amount of 32 billion UAH only by nine types of payments, accounted by the State Tax Administration.

Privatization processes were unsatisfactory, and in the result almost 2.7 billion UAH were not received for financing of the state budget. As the Accounting Chamber warned in the process of expertise of the projects of the state budget for the year 2002, exclusion of privatization income from the income part of the state budget resulted in weakening of control on behalf of the Government and reduction of responsibility of the State Property Fund of Ukraine for performed privatization activities.

While execution of the expense part of the budget, in violation of requirements of the Budget Code of Ukraine and the Law of Ukraine "About the State Budget of Ukraine for the year 2002", the Ministry of Finance of Ukraine and the State Treasury of Ukraine in 2002 executed the state budget according to allocations and management of the budget funds in the "manual" mode. It is verified by numerous facts of restriction by the Ministry of Finance of Ukraine of allocations, approved by legislation, execution of excessive and off-purpose allocations.

Failure to fulfill the State Budget negatively influenced fulfillment of primary objectives in social sphere, in particular, increase of expenses for education, health protection, social compensations, as well as reduction of the poverty level and improvement of the quality of life of the people.

Allocations for education, health issues and social compensations were performed in the amounts, which are considerably lower compared to amounts approved by the Law of Ukraine "About the State Budget of Ukraine for the year 2002", salary debt for budget employees as of 01.01.2003 comprised 54.8 mln UAH, debt on payment of compensations and financial support for the people, who suffered in the result of the Chernobyl disaster during 2002 increased per 41.9 mln UAH and by 01.01.2003 reached the amount of 646.6 mln UAH.

Limitation of assignments was performed regarding 35 chief allocators of budget funds, including the Ministry of Health of Ukraine - their allocations were reduced per 212.9 mln UAH; the Ministry of Science and Education of Ukraine - per 72.2 mln UAH; the Ministry of Culture and Arts of Ukraine - per 36.4 mln UAH; the Ministry of Agrarian Policy of Ukraine - per 167.7 mln UAH; the Ministry of Labour and Social Policy of Ukraine - per 40 mln UAH; the Ministry of Ecology and natural Resources of Ukraine - per 57.8 mln UAH.

In course of 2002 there were assigned 292.6 mln UAH from the state budget for capital investments, or only 59.7 % of the planned funds for the year. The main reason of low level of financing was introduction of temporary restriction of assignments according to the Order of the Ministry of Finance of Ukraine as of 09.08.2002 № 626, which limited the state capital investments per 375 mln UAH, under approved annual allocations in the amount of 490 mln UAH.

Article 95 of the Constitution of Ukraine states, that any allocations of the state for public needs, amounts and target assignment of these allocations are determined exclusively by the Law about the State Budget of Ukraine. Article 39 of the Budget Code of Ukraine provides for consideration of the main directions of the budget policy for the

successive budget year in the State Budget. Thus, taking into account that changes to the law of the state budget can be introduced only by the Verkhovna Rada of Ukraine, acceptance within the course of the budget year of any decisions regarding increase (reduction) of budget assignments and changes of target purpose of allocations, which are already approved in the state budget, is unlawful.

Regardless of this fact and insufficient provision of allocations, approved by the state budget, with funds, the Cabinet of Ministers of Ukraine during 2002 accepted 16 regulations about raise of salaries in the systems of separate ministries, organizations and several budget institutions, raise of salaries for which was not provided by the Law of Ukraine "About the State Budget of Ukraine for the year 2002". Additional allocations of budget funds for salaries, resulted by acceptance of such regulations, according to expert estimates in 2002 comprised at least 400 mln UAH.

The State Treasury of Ukraine, Ministries, organization, other central bodies of executive power failed to provide proper control of the state of accounts receivable and accounts payable. In course of 2002 accounts payable of organizations, maintained at cost of the state budget, increased per 298.9 mln UAH and as of 01.01.2003 comprised 3 billion 708.6 mln UAH.

By the end of 2002 allocators of budget funds allowed distraction of 5 billion 68.8 mln UAH into accounts receivable, which constitutes 11.4% of the state budget. The amount of accounts receivable exceeded the amount of accounts payable by 1.4 times, which testifies of the low level of discipline of payments of budget organizations and of possibilities to liquidate the debt. Creation of creditor's indebtedness was caused due to wide-spread practice of preliminary payments by allocators of budget funds for purchases of equipment, other inventory holdings and execution of hidden advance payments for received services; provision of services by budget institutions without proper payment, untimely (overdue) reception of rental payments; uneven financing of activity of budget institutions and allocation of considerable funds only in last months and days of a budget year.

The Cabinet of Ministers of Ukraine failed to provide effective legal support of execution of the Law of Ukraine "About State Budget of Ukraine for the year 2002". Realization of 18 articles of the law presupposed obligatory acceptance of the necessary legal acts by the Government. But requirements of some articles of the Law are still out of the scope of attention of the Government or are fulfilled with violation of the set terms.

Analysis of fulfillment of the State Budget of Ukraine for the 1st quarter of 2003 makes it possible to come to the following conclusions.

In the 1st quarter of 2003 the State Budget of Ukraine is fulfilled with income exceeding the allocations in the amount of 1billion 343.2 mln UAH, including the general fund - 891.6 and the special fund - 451.5 mln UAH, contrary to the fact that estimates of execution of the general fund of the State Budget predicted deficit in the amount of 252.7 mln UAH.

Fulfillment of the income part of the general fund of the State Budget was achieved due to reduction of the amount of the planned sum, and due to incomplete VAT reimbursement. Augmentation of the State Budget income, compared to January-March of 2002, was achieved due to actual expansion of taxation base conditioned by changes introduced to existing laws on taxation issues.

Planned assignments according allocations of the general fund of the State Budget were not fulfilled by the Ministry of Finance of Ukraine and by the State Treasury of Ukraine. So the Ministry of Finance of Ukraine introduced changes to the budget and changed planned allocations of the general fund per 203.1 mln UAH.

Fulfillment of the State Budget in January-March of 2003 was happening under conditions of activation of economic activity and renewal of inflation processes. Main factors of augmentation were external demand for main export products of metallurgical and chemical industries and basis effect.

Government measures regarding provision of income reception to the State Budget did not provide expected results. Regardless of economic growth, tax indebtedness continued to increase and as of 01.04.2003 comprised 15.2 billion UAH.

The Law of Ukraine "About State Budget of Ukraine for the year 2002" provided development of 17 normative documents - Procedures of execution of allocations by separate directions. In the 1st quarter requirements of the Law and Instruction of the Prime Minister of Ukraine as of 10.01.2003 regarding timely development and approval of the indicated Procedures were not fulfilled. During the period of time from January through March the Government approved only 8 of them, which negatively influenced

fulfillment of the budget.

The Ministry of Finance of Ukraine and the State Treasury of Ukraine exceeded their authorities having limited allocations of chief allocators of budget funds with the aim of 10%-saving of budget assignments.

During the 1st quarter the Government was also making separate decisions, which were changing target assignments of state budget funds, and were violating not only current legislation of Ukraine but also its own earlier decrees and orders.

The Board of the Accounting Chamber, having reviewed the state of fulfillment of the State Budget of Ukraine for the 1st half-year of 2003, came to the following conclusion.

Execution of the income part of the general fund of the State Budget in the first half-year was achieved, mainly, due to numerous corrections of the accepted planned estimate of income reception, attraction of additional sources and incomplete VAT reimbursement.

In the result of multiple changes of the budget, the planned amount of income in the 1st half-year was reduced by the Ministry of Finance of Ukraine per 456.7 mln UAH. Actual income of the general fund constituted 19 billion 244.2 mln UAH, or 102 % of the corrected planned amount and 99.7 % of the originally planned amount, considering the introduced changes to the Law about the State Budget.

Results of the analysis present convincing evidence that **during the reported period Value Added Tax was basically used as instrument for adjustment of the level of fulfillment of the State Budget.** Failure to return VAT to taxpayers in set terms makes state budget income overstated per almost 1.1 billion UAH. At the same time overdue budget debt by this tax increased to 4 billion UAH. **Under conditions of economic growth** and taking into account the necessity to reimburse the indicated debt, compared to the corresponding period of the previous year **income intake, actually, decreased per 0.7 billion UAH or per 4.1 %.**

Administration of taxes, duties and payments to the state budget practically did not improve in the analyzed period. Under conditions of general overfulfillment of the planned amount of income part of the general fund, **almost 758 mln UAH of income was not received from some spheres**, of it 472.5 mln UAH or 62.3 % - income, administered by the State Tax Administration of Ukraine. **Tax and duty payments debt increased, compared to the previous year, per 4.8 billion UAH, and for the first half of the current year - per 0.5 billion UAH and reached the amount of 14.7 billion UAH.** And this is taking into consideration the fact that, according to current legislation, the State Tax Administration of Ukraine wrote off 1.5 billion UAH of hopeless debts.

Under conditions of overfulfillment of planned income data of the general fund of the State Budget per 379 mln UAH, the Ministry of Finance of Ukraine and the State Treasury of Ukraine did not provide its fulfillment by allocations. Considering the adjustments introduced by the Ministry of Finance of Ukraine and transfer of some allocations from the first half-year to the second one, the adjusted plan comprised 19 billion 911 mln UAH. **Actually, allocations of the general fund are posted in the amount of 18 billion 341.2 mln UAH, which is 1 billion 569.8 mln UAH less than the adjusted plan, and 903 mln UAH less than the received income.**

The task as for the main priorities, set by the Government while approval of the State Budget for 2003 - provision of allocations of social direction, in particular social guarantees, social protection and free medical help, **are also not being fulfilled.**

Social allocations have not been posted at target assignments in the amount of 620.9 mln UAH or 16.4 %. Due to insufficient control on behalf of the Ministry of Finance of Ukraine and the State Treasury of Ukraine, **assignments set for allocations by protected articles were used untimely and not in full amount.** In January-March of the current year 390.4 mln UAH were not used for salary payments; 65.5 mln UAH - for provision of transfers to the people; 62 mln UAH - for purchase of medications and bandages; 55.3 mln UAH - for construction (purchase) of housing for military servants.

The Ministry of Finance of Ukraine, with the aim of successful fulfillment of the general fund of the State budget in the first half of the year, adjusted planned data of state budget financing and service of the state debt, having reduced them to the level of actual data.

Fulfillment of the State Budget in general with profit in the amount of 1 billion 692 mln UAH allowed the government and the Ministry of Finance of Ukraine **to use the resource as the main source of acquittance of the state debt.** But, as of 01.07.2003 the indicated funds are recreated at cost of income from state loans and privatization of state property. External loans in the amount of 4 billion 266.4 mln UAH, received in June of the current year, allowed to

perform payments for reimbursement of the external debt in the amount of 119.9 mln UAH. The remaining currency funds increased the remainder of the resources of the general fund, which as of 01.07.2003 comprised 5 billion 748.2 mln UAH.

On execution of requirements of the second part of the Article 53 of the Budget Code of Ukraine the Board of the Accounting Chamber reviewed the operative report about fulfillment of income part of the State Budget of Ukraine as of 01.10.2003 and made the Conclusion about fulfillment of the income part of the State Budget of Ukraine according to results of three quarters of 2003, which is verified by the Order of the Board of the Accounting Chamber as of 21.10.2003.

In particular, the document states that the Law of Ukraine "About the State Budget of Ukraine for the year 2003" approves the income part of the State Budget in amount of 50 billion 20.9 mln UAH. The general fund of the State Budget is set to be equal 39 billion 511.4 mln UAH, and the special fund - 10 billion 509.5 mln UAH.

In the result of approval by the Verkhovna Rada of Ukraine of Laws of Ukraine as of 06.03.2003 № 630-IV "About introduction of amendments to the Law of Ukraine "About the State Budget of Ukraine for the year 2003", as of 22.05.2003 № 849-IV "About introduction of amendments to the Law of Ukraine "About the State Budget of Ukraine for the year 2003" and some other legislative acts", as of 09.07.2003 № 1068-IV "About introduction of amendments to the Law of Ukraine "About the State Budget of Ukraine for the year 2003" and some other Laws of Ukraine" and as of 09.07.2003 № 1069-IV "About introduction of amendments to the Law of Ukraine "About the State Budget of Ukraine for the year 2003" there has been increased the planned income part of the State Budget for the year 2003 and set in the amount of 53 billion 228.5 mln UAH, including of the general fund - 42 billion 185.9 mln UAH and of the special fund - 11 billion 42.6 mln UAH.

According to the Table of the State Budget of Ukraine for the year 2003, approved by the Minister of Finance of Ukraine as of 20.02.2003, with consideration of all introduced changes and amendments, the income plan of the general fund of the State Budget for January-September of the current year is established in the amount of 29 billion 616 mln UAH or 70.2 % of the yearly amount, and income part of the special fund is set in yearly amounts without monthly division.

Actual income of the general fund of the state budget, according to results of three quarters of 2003 equals 30 billion 282.8 mln UAH or 102.3 % of the plan, assumed by the Budget Table. **Overfulfillment of planned amounts was achieved due to tax income - 1 billion 393.8 mln UAH or 6.1 %, income from operations with capital - 9.1 mln UAH or 9.2 %, and official transfers - 74 mln UAH or 4.3 %. Non-tax income was 810.1 mln UAH or 15.9 % less than planned.**

Total of 39 billion 280.6 mln UAH arrived to income part of the State Budget during from January through September of the current year, which comprised 73.8 % of the amount approved by the law. Compared to analogous period of the previous year, state budget income increased per 7 billion 317.2 mln UAH or 22.9%, of it income of the general fund comprises 5 billion 636.5 mln UAH or 22.9%.

Under compared conditions nominal income of the state budget in general increased per 6.8%, income of the general fund - per 4.2%. Under conditions of GDP increase per 6.5% real income of the State Budget increased per 1.6%, but income of the general fund decreased per 0.9%.

Article 49 of the Budget Code of Ukraine states that the State Budget of Ukraine is fulfilled according to the Table, approved by the Minister of Finance of Ukraine according to budget assignments. This legislative norm does not set any exclusions for component parts of the budget - general or special funds. But the Ministry of Finance of Ukraine composes the Budget Table with monthly distribution of plan data only for the general fund of the Budget. Budget Table of the special fund of the State Budget, which was established in 2002, with monthly breakdown is not being composed by the Ministry.

At the same time level of fulfillment of the State Budget each year has much higher income rate than the special fund. Yearly plan of income to the general fund of the State Budget in 2000 was fulfilled per 95.3%, and the approved amount of income of the special fund of the State Budget was overfulfilled by 1.8. In 2002 this data constituted, accordingly, 85.6 and 129.5%, in 2002 - 94.1 and 126.7%. During January-September of the current year special fund of the State Budget received 8 billion 997.8 mln UAH or 81.5% of the approved yearly amount.

In order to provide effective control over execution of the State Budget of Ukraine, the Board of the Accounting Chamber considers it appropriate to oblige the Ministry of

Finance of Ukraine to compose monthly budget table for the special fund of the State Budget as well.

Further it is proposed to introduce appropriate changes to the part one of paragraph 1 of the Article 49 of the Budget Code of Ukraine, stating in such wording: "The State Budget of Ukraine shall be fulfilled according to the table with monthly breakdown of income and allocations of the general and special funds, which shall be approved by the Minister of Finance of Ukraine according to budget assignments in one-month period from the moment, when it comes into force according to the Law of the State Budget of Ukraine".

Data of the analysis of fulfillment of the State Budget of Ukraine for nine months of 2003 give the reasons for the Board of the Accounting Chamber to come to the following conclusions.

In January-September of 2003 the State Budget was fulfilled with income prevailing over allocations (profit) in the amount of 1 billion 424.9 mln UAH, of it of the general fund - 1 billion 27.8 mln UAH (under planned deficit in the amount of 1 billion 384.9 mln UAH) and of the special fund - 1 billion 397.1 mln UAH. But the Law of Ukraine "About the State Budget of Ukraine for the year 2003" has approved the state budget deficit in the amount of 2 billion 634.9 mln UAH, of it of the general fund - 1 billion 510 mln UAH and of the special fund - 1 billion 124.9 mln UAH, and the budget table assumes fulfillment of the general fund of the nine months of the current year with the deficit in the amount of 1 billion 384.9 mln UAH.

The general fund of the State Budget has received 30 billion 282.8 mln UAH or 102.3% of the adjusted planned amount during January-September of the current year. Overfulfillment per 666.8 mln UAH or 2.3% is achieved, mainly, due to adjustment of the planned amount.

Amount of the Value Added Tax, reimbursed to taxpayers during January-September of the current year comprised 6 billion 239.9 mln UAH and, compared to the analogous period of the previous year, increased per 2.1 billion UAH or 52.4%. Regardless of considerable amount of reimbursement, overdue budget debt kept increasing. During January-September of the current year overdue budget VAT debt increased per 0.4 billion UAH and as of 01.09.2003 comprised 3.3 billion UAH, and the total un-reimbursed amount - 7.4 billion UAH.

At the same time tax debt of taxpayers also kept increasing. During January-September of 2003 taxpayers debt before the budget increased per 943.6 mln UAH and by October 1st of the reported year comprised 15 billion 115.6 mln UAH.

Expenditure part of the general fund of the State Budget of Ukraine for January-September of the current year was not fulfilled. **Allocations were fulfilled in the amount of 29 billion 255 mln UAH, which comprises 94.4% of the planned allocations for the period (that is 1 billion 746 mln UAH less than planned) and 67% of yearly allocations. In the result of multiple adjustments of the Budget Table a considerable amount of allocations was put off until the 4th quarter of 2003, which resulted in ungrounded overloading of the State Budget in the indicated period. Allocations of the special fund were posted in the amount of 7 billion 711.1 mln UAH, which comprises 54% of yearly amount.**

Total amount of the state debt from the beginning of the year reduced per 174.8 mln UAH and as of 01.10.2003 comprised 75 billion 554.3 mln UAH, including internal state debt, which reduced per 907.6 mln UAH and comprised 20 billion 479.4 mln UAH. External debt increased per 732.8 mln UAH and comprised 55 billion 74.9 mln UAH.

1.3.2. Conclusions and proposals to the draft Law of Ukraine "About the State budget of Ukraine for 2004"

The Accounting Chamber according to the Articles 40 and 41 of the Budget code of Ukraine and Articles 7 and 27 of the Law of Ukraine "About Accounting Chamber" has performed analysis and examination of the draft Law of Ukraine "About the State budget of Ukraine for 2004".

Analysis and examination have been performed taking into account the provisions of the Constitution of Ukraine, Budget code of Ukraine and number of laws and standard acts in questions of tax policy and budget expenditures.

Messages of the President of Ukraine to Verkhovna Rada of Ukraine "European choice. Conceptual prerequisites of the strategy of economical and social development of

Ukraine in 2001-2011" and "Ukraine: step to the 21st century. Strategy of economical and social development of Ukraine in 2001-2011", "Basic direction of the budget policy for 2004", Governmental program "Openness, efficacy and effectiveness", "Basic principles of the monetary management for 2004", analytical materials and calculations to the project of the state budget, reports and analytical data, have been used in the process of analysis of the project of Law. The actual state of financing of subjects of departmental classification, divisions and subdivisions of the functional classification of expenditures, income part of the state budget, external and internal debts, inter-budget relationships etc.

Performed analysis and examination have testified that presented by the Cabinet of Ministers of Ukraine draft Law of Ukraine "About the State budget of Ukraine for 2004" is imperfect from the point of the chosen state strategy of the social and economic development and does not provide solution of the accumulated problems, achievement of the determined by the Government for the next year priorities of the budget policy and possesses numerous methodological and technical deficiencies.

Augmentation of the income is expected to be achieved not by the economical growth, but by employment of administrative instruments - increase of taxation, additional sources of income, withholding of the force of certain tax laws. Underdeclaration of the amount of certain incomes and ungrounded determination of expenditures have not provide with the possibility to make the draft state budget without deficit.

Separate articles of the draft law contradict the provisions of the Constitution of Ukraine and number of standard acts.

Results of analysis and examination of calculations of intakes to the state budget have established that because of mistakes and faults in the number of indicators, the income of the state budget is underdeclared for 11.6 billions UAH.

Conclusions of the Accounting Chamber have testified the possibility to increase the intake of income tax from the enterprises for the amount of 1 billion UAH; value added tax - for 6.2 billions UAH; dividends from the subjects of economy - for 0.9 billions UAH; tax duties - for 0.5 billions UAH; funds from realization of the surplus arms, military and special machines, other property of the Armed Forces of Ukraine and other military units, established in compliance with the current legislation due to offset of debts of NJSC "Naftogaz of Ukraine" towards the Ministry of Defense of Ukraine - for 0.3 billions UAH; funds from privatization of the property at the expense of reserved by the Government intakes from privatization of Oblenergo and OJSC "Ukrtelecom" - for 1 billion UAH.

The Accounting Chamber has mentioned that because of the violations of requirements of the Budget codex of Ukraine and other standard acts, 1.8 billions UAH have been groundless included to the list of expenditures of separate directions of the state budget.

The Accounting Chamber has submitted a number of offers concerning other questions, having relation to the draft law.

In general, the Board of the Accounting Chamber has made a conclusion, that the Draft Budget of Ukraine for 2004 does not correspond to the strategic goals of the state, supposes deceleration of the achieved rates of the economic development, does not solve the question of tax reform and does not fulfill the announced social priorities. Mistakes and faults during preparation of the draft state budget, in particular, concerning determination of the financial resources of the state and local budgets, limitation of the expenditures for social needs, especially of the local budgets in case of economical growth, are ungrounded.

1.4. Results of audit of the separate directions of employment of budget funds

In the process of implementation of modern standards of audit to the methods of the Accounting Chamber, the majority of Conclusions of analytic measures and examinations made by the Board of the Accounting Chamber within 2003 have been based on the generalized evaluation of the system and mechanism of financing of the certain direction of employment of state budget funds, evaluation of management decisions, which have been approved by the Cabinet of Ministers of Ukraine and chief managers of budget funds concerning certain fields of spending of state budget funds.

Control measures, performed by the Accounting Chamber within 2002-2003 concerning *employment of State budget funds, assigned for financing of measures, connected with reimbursement of indebtedness for domestic agricultural machinery, partial compensation of the value of elaboration and construction of domestic machinery and support of domestic*

mechanical engineering for the agroindustrial complex have provided reasons to the Board of the Accounting Chamber to make a number of systematic, generalized conclusions.

Thus, the analysis of employment of state budget funds in junction "producer of agricultural machinery - consumer of agricultural machinery (the farmer)" allows making a conclusion about a number of deficiencies and abuses in solving of the critical problem of provision of food independence and capability to export of the Ukrainian state.

Negligent and irresponsible relation of the Cabinet of Ministers of Ukraine, Ministry of Industrial Policy of Ukraine and Ministry of Agricultural Policy of Ukraine to management of budget funds, which are provided to the farmer as financial help, have led to greater complication of state of affairs in the agroindustrial sector of national economy, aggravation of the financial situation of the farmer. Low level of technical management and scientific elaborations of agricultural machinery caused greater gap of the technical level of domestic agricultural mechanical engineering in comparison with the level of best world examples of equipment by both technical-exploitation parameters and corresponding price indexes.

Cabinet of Ministers of Ukraine and the Ministry of Industrial Policy of Ukraine have not provided the necessary conditions for development and state support of the domestic mechanical engineering for agroindustrial complex.

Schedule of the state (financial) support of domestic mechanical engineering for the agroindustrial complex, compiled by the Cabinet of Ministers of Ukraine and realized by the Ministry of Industrial Policy, is ineffective and non-transparent. It does not provide considerable augmentation of machinery production, which could be bought by the rural economy, which is currently reforming. Unsatisfactory level of management of these processes can be characterized by the fact, that the major part of the produced at the expense of state (financial) support agricultural machinery stays not negotiated, i.e. unclaimed.

Ministry of Industrial Policy of Ukraine has not provided the most optimal and effective employment of state budget funds while signing of agreements of financial support with enterprises-producers of machinery.

The policy of the Ministry in provision of the state support for enterprises is inadmissible and leads to artificially created conditions for impossibility of further control of the target and effective employment of budget funds, taking into account the State interests.

Starting from 1998, the government has taken measures for provision of producer of agricultural machinery with equipment by implementation of the mechanism of financial leasing. These measures appeared to be insufficient and imperfect, first of all because of their non-transparency, difficultness, unreality of the sources of funds intake to the special fond of the state budget and complexity of such mechanism for producers of agricultural machinery. In general, farmers have been provided with equipment on terms of financial leasing within 2000-2001 just for 2% of their needs.

Further actions of the Government in the field of search and implementation of new, more effective mechanisms of state support in technical reequipment have not led to positive changes because of their inconsistency and partial solving of a problem. Thus, as a result of implementation, starting from 2002, of the mechanism of village support by the partial compensation of the value of heavy agricultural machinery of domestic production, the real needs of farmers have been satisfied just for 0.2%.

Established by the Government unreal sources of intake of funds to the special fund of the state budget, which has been consequently accomplished just for 3%, are the main cause of such situation.

So, the state policy, directed nowadays for support of the domestic producer of agricultural machinery by assignment of funds from the State budget of Ukraine for the purchase of domestic agricultural machinery on terms of financial leasing and for the partial compensation of the value of domestic heavy agricultural machinery, in a way it's being implemented and in such amount of financing, has practically failed.

Besides, residual approach and underfinancing of the elaboration of new machinery for the village and total neglect by the state of such problem as control of implementation of new elaborations into production leads to the absence of expected effect from the spending of money for elaboration of the new machinery. Under these circumstances, domestic producers of agricultural machinery are forced to buy more qualitative foreign machinery at their own expense.

Analysis of administrative and technical side of formation and performance of measures in the field of support of domestic mechanical engineering for agroindustrial complex testifies that there are considerable differences between Ukrainian "science of

management" and real practice of management, complexes of interrelated actions, aimed to reach a final result are not approved. It's necessary to change radically the attitude to financing and performance of measures for provision of support to domestic farmer and to provide him with effective, competitive, available machinery of domestic production, taking into consideration the strategic state interests, its economic safety and independence.

State of cultural and natural heritage of Ukraine is disturbing because of the destructive processes, happening to it. Solution of the accumulated problems requires system approach and, certainly, close attention from the national, regional and local authorities, as well as institutions, services or associations, having relation to these fields.

The Accounting Chamber has performed a complex of analytical and expert measures, separate examinations of subjects of economy in the field of *protection of cultural and natural heritage*. Analysis of the mentioned above measures testifies that the system of their management acquired mostly a negative character.

Rule-proclaiming activity of the Cabinet of Ministers of Ukraine has led to the fact, that the actual management in this complicated social and economic sphere as protection of the natural reserve fund and cultural heritage is carried by the number of subjects of management. Interaction in this system between Government and central bodies of the executive power do not provide the national effect.

To provide fulfillment of target budget programs for protection of cultural and natural heritage, the Law of Ukraine about the State budget of Ukraine as of the certain financial year determines a number of central bodies of executive power as main managers of the budget funds. The mentioned above situation facilitates dispersal of the budget funds, assigned for realization of the targets, stated in the state programs and does not provide a possibility to concentrate them for employment by the basic directions, implied by the legislative acts for solution of the current problems.

Cultural and natural heritage is in danger of being destructed, caused not only by traditional reasons of decline, but also by evolution of social and economic life, which aggravate these reasons by the dangerous events of deformation and destruction. In the current situation, the State is obliged to formulate and to make more specific national, regional and local policy as for the distribution of authorities between national, regional and local bodies and social measures, directed on protection and adjustment to the requirements of the modern life of historical or traditional ensembles and their environment.

Results of the *examination of employment of state budget funds by internal forces of the Ministry of Internal Affairs* have allowed to make a conclusion that the system of management and employment of financial and material resources by headquarters of the Central administrative board of internal forces of the Ministry of Internal affairs is ineffective. There have happened budget violations for the amount of 13.4 millions UAH.

The existing system of employment of investor funds, who receive benefits in taxation for construction (purchase) of lodgings for military workers and members of their families - is ineffective. Building of lodging in such a manner is inexpedient - provision of benefits in payment of income tax leads to the double losses of the State: absence of intakes to the budget and depreciation of the "invested" funds. Building of lodgings in the mentioned above manner results in considerable increase of its price, including, by the way of overpricing and slowdown of solution of the basic problem - provision with lodgings of military workers and members of their families. Besides, funds are withdrawn for a long time (are used by contractors) and are considered as accounts receivable.

Analysis of results of control measures, performed by the Accounting Chamber while examining the *legal, financial and administrative provision of fulfillment by education institutions of Ukraine of the state order for training of specialists and examination of employment of state budget funds, assigned to institutions of higher education and vocational schools for this purpose*, testifies that the system of administrative and economical management in the sphere of state order for the training of specialists-workers and specialists with higher education does not provide the effective employment of budget funds and does not contribute to unification of the state and public control.

Absence of the state agreement made impossible the determination of the real need of the State in training of the necessary amount of specialists-workers and specialists with higher education; created conditions when education institutions do not bear responsibility for the quality of training as well as legal, financial and other liabilities for the ineffective and no-target spending of budget funds.

Legally unregulated, unclear and non-transparent, contradicting the current legislation is a system of financing of the State budget of Ukraine for provision of subventions for rendering of benefits and subsidies to population for payment of electricity bills, natural gas, heat- and water supply, drainage system, communication services, solid and liquid stove fuel, liquefied gas, rent, removal of domestic waste.

Despite the fact that subventions from the State budget of Ukraine to the local budgets for provision of benefits and subsidies for payment of housing and communal services, electricity and communication services belong to transfers, which are, according the Article 21 of the Law of Ukraine "About State budget of Ukraine for the year 2002", protected articles, expenditures on these articles have a social directivity, fulfillment of these indexes for the year 2002 has not been provided in a full range.

Acting system of the social protection does not provide in a proper way guaranteed by the Constitution of Ukraine rights of citizens for their acquisition. The Ministry of Labor and Social Policy of Ukraine, which is obliged to control realization of the state policy of social protection of population, does not cover the whole system of social payments concerning housing and communal services and does not control the question of rendering of benefits (except benefits for participants of war operations). Besides, the Ministry has not provided the necessary administrative measures and the State Committee of Ukraine in housing and communal services, correspondingly, elaboration of the social standards of consumption of housing and communal services.

Provision of people with disabilities with means of transportation, prosthetics, provision of cars, wheelchairs, orthopedic manufacture, are the possible ways of social protection of people with disabilities, rendered by the State.

The Ministry of Labor and Social Policy of Ukraine is the main body of the central executive authorities for provision of the State policy in the field of social protection of population, especially of people with disabilities.

The Board of the Accounting Chamber, basing on the results of examination of employment in the year 2002 of state budget funds, assigned for provision of invalids with cars and orthopedic manufacture, has made a conclusion that because of the too complicated structure of the bodies in the system of the Ministry of Labor, which possess a power to fulfill the duties of lower level manager of the budget funds, assigned for provision of invalids with cars and orthopedic manufacture, it does not provide the transparent and full control of target and effective employment of budget funds.

The fund for the social protection of people with disabilities, designated by the Law of Ukraine "About State budget of Ukraine for the year 2002" to be executor of the budget program for provision of people with disabilities with orthopedic manufacture, has not practically fulfilled its duties, violating the Article 21 of the Budget codex of Ukraine.

Ministry of Labor of Ukraine delegated to the production association "Ukrprotez" a part of its duties in management of budget funds, assigned for these purposes, has not provided the necessary control of their fulfillment.

According to the results of examination of employment of state budget funds, assigned in 2002 to the State Committee of Ukraine of family and youth affairs, it has not developed the mechanism of realization of target national programs concerning children, youth, women and family, and a system approach in planning and carrying out of specific measures for realization of the state programs. State Committee has practically withdrew itself from determination of the priority measures of realization of the state programs and does not fulfill economic calculations of expenditures, necessary for their realization. The analysis of fulfillment of target national programs and achievement of social-economic purpose, determined by the programs, is also absent.

By results of the examination of employment of the budget funds in the years 2001-2002 for fulfillment of measures of the National program for protection of environment of the Black and Azov seas, the Board of the Accountancy Chamber has made a conclusion that the Cabinet of Ministers of Ukraine, the Ministry of Ecology and Nature resources of Ukraine have not launched within 2001-2002 the mechanism of the National program of protection of the environment of Black and Azov seas. Because of the absence of the system approach in organization of fulfillment of the Program, its main targets have not been reached.

Financing of actions of the Program within 2001-2002 have been performed irregularly. The Cabinet of Ministers of Ukraine and the Ministry of Ecological resources of Ukraine have not provided coordination of activity of the ministries and departments, local executive power authorities, separate enterprises and organizations in employment of the funds of state and local budgets, additional sources of financing.

As a matter of fact, the Program requires improvement of its scientific background; its separate provisions need to be revised for improvement and specification.

According to the results of the performed by the Accounting Chamber *analysis of fulfillment of the Complex measures for comprehensive development of Ukrainian language, planning and employment of State budget funds for their implementation*, the State, on behalf of central executive authorities, the Cabinet of Ministers of Ukraine and subordinated departments and organizations, has not fulfilled provisions of Articles 10 and 12 of the Constitution of Ukraine about provision of the comprehensive development and functioning of Ukrainian language in all fields of public life on the whole territory of Ukraine and satisfaction of national, cultural language needs of Ukrainians, which live out of the borders of the country.

Deadline for the Complex measures expired in 2002. They have not been fulfilled. Extremely important cultural and ethical needs of the majority of population of Ukraine and Ukrainians abroad remain not in the scope of attention of the State. Having analyzed the *state of legal regulation by the Cabinet of Ministers of Ukraine, the Ministry of Finances of Ukraine, State Treasury of Ukraine, other executive power authorities of relationships that arise from the requirements of the Budget codex of Ukraine during compilation and execution of the State budget of Ukraine*, the Board of the Accounting Chamber has concluded, that non-fulfillment or untimely execution by the Cabinet of Ministers of Ukraine of its duties, determined by the Budget codex of Ukraine, which lie in legal regulation of the budget process, lead to ineffective management of the state financial resources, loss of transparency of funds transfer, complicate the control of their proper employment.

Results of the control measures of the Accounting Chamber testify of the numerous budget violations, performed by the main managers of state budget funds, while executing decisions, approved despite the violation of standards of budget codex. The mentioned above is caused by imperfection of the separate provisions of the Budget codex of Ukraine, lack of their coordination with requirements of other laws, existence of legal standards, which could be understood in different ways, providing a possibility to use them by the individual choice of participant of the budget process.

Analysis of employment of state budget funds by the executive power authorities in the year 2002 have led to conclusion that the regular reorganization of the system of central authorities of executive power, started in 1999, has not resulted in improvement of the structure of these structures, optimization of expenditures for their maintenance and increase of the efficacy of state management system. Instead, while changing this system, a number of executive power authorities, number of their employees and expenditures of the State budget for their maintenance have only increased.

Appearance and liquidation of authorities of executive power change of their status, restoration of earlier liquidated authorities have not been systematic, have led to parallel fulfillment of their duties, doubling of their functions and, finally, to irresponsibility and ineffective employment of budget funds.

Implementation from 2002 of the target method of budget formation was not properly prepared by the Ministry of Finances of Ukraine and, actually, has not changed the system of employment of state budget funds by the authorities of executive power, assigned for realization of their designated duties.

Budget funds, assigned for the budget program "Supervision and management in a certain field", have been used, as always, for the maintenance of staff, without establishment of interaction between resources and specific results of activity, that have led to ineffective and uneconomical employment of budget funds.

Unsatisfactory fulfillment by separate central executive power authorities of the tasks, for execution of which the corresponding budget assignments are approved, is a consequence of unsatisfactory management in the corresponding sphere of activity and management of processes, which happen in it.

The existing system of financial provision of executive power authorities also does not provide the transparency of the budget process. Ministry of Finances of Ukraine, while determining in the draft State budget of Ukraine for the year 2002 of amount of funds for financing of supervision and management programs in a certain field of activity has not provided the necessary analysis of the budget inquires from the main managers of funds from the point of view of their correspondence to the goal, priority and efficacy of employment of budget funds. Determination of the amount of expenditures by the separate bodies of executive power has been performed without necessary grounds.

Results of *examination of employment of state budget funds of the surplus fund of the State budget of Ukraine*, testify that the Cabinet of Ministers of Ukraine every year violates the requirements of the current legislation, which regulates the employment of funds from the surplus fund of the budget. Periodicity and stability of violations, which acquired a system character, testify about deliberate non-fulfillment by the Cabinet of Ministers of Ukraine of these requirements. Surplus fund has become an example of ineffective employment of state budget funds and their "manual" management.

The Cabinet of Ministers of Ukraine, violating paragraphs 22,24, approved by the resolution as of 29.03.2001 № 415 of the Order of employment of funds of the surplus fund, in 2002 approves nearly each fourth resolution about assignment of funds from the surplus fund without conclusion of the Ministry of Economy and European integration of Ukraine, which is responsible for preparation and submission of draft resolutions about assignment of funds from the mentioned fund, each fifth - with comments of this Ministry about violations of the legal base.

The Cabinet of Ministers of Ukraine has used the surplus fund as additional source of financing of the state centralized capital investments.

Management of funds of the surplus fund and control of their employment has been performed unsatisfactory.

Average free remains of funds of the surplus fund on accounts of payee comprised in 2002 16 mln UAH per month, and sometimes exceeded 50 mln UAH.

Besides, the Board of the Accounting Chamber according to results of the *examination of employment of funds of the surplus fund of the State budget of Ukraine, assigned in 2002-2003 for reimbursement of losses of farmers, who suffered from the natural disasters in 2002* there was made a conclusion that the functioning system of reimbursement of losses to producers of agricultural machinery on irrevocable basis at the expense of surplus fund of the State budget of Ukraine, does not correspond to the market and contradict provisions of the paragraph 11 of the Order of employment of funds of the surplus fund, approved by the resolution of the Cabinet of Ministers of Ukraine as of 29.03.2002 № 415.

Standard uncertainty of the mechanism of reimbursement of funds creates conditions for subjective approach in distribution of funds. The Ministry of Agricultural policy of Ukraine has not developed the Order of employment of funds, assigned from the surplus fund of the budget for the partial reimbursement of losses, suffered by farmers because of the natural disasters. Regional public administrations also have not approved standard acts about the order of employment of funds for a certain purpose. As a result, single farms of the non-governmental type of property at the expense of the budget funds acquired more favorable economical conditions. Ministry of the Agricultural policy of Ukraine has not determined priorities of assignment of funds, which have been assigned from the surplus fund of the state budget for reimbursement of farmers losses, only to those farms, which cultivate only those cultures, which are strategically important for the food safety of the country.

According to results of examination of the employment of state budget funds, assigned for construction and reconstruction of highways of the general, the Board of the Accounting Chamber has made a conclusion that the system budget financing, directed on solution of problems of development of network and maintenance of highways of the general use, is not legally regulated, unclear and does not provide the transparent effective employment of budget funds.

State service of highways of Ukraine (Ukravtodor) has not provided the effective management of budget funds, because it was performed in conditions of imperfect organization of the system of road management and its legal unadjustment. This has led to budget violations at the stage of planning, assignment, transfer and spending of budget funds, as well as their ineffective and irrational employment.

System of budget financing of the mineral exploration at the expense of charges from the earlier fulfilled exploration works, created during soviet times, also requires reforming. Even 100% employment of the mentioned charges could not provide financing of exploration works, especially taking into account that the amount of charges decrease because of decrease of financed from the budget exploration works.

Current system of financing of exploration works does not provide the effective control of the rational employment of budget funds.

From the beginning of its activity the Accounting Chamber, according to the Law of Ukraine "About the Accounting Chamber", fulfills annually the *analysis of reports of the Fund of state property of Ukraine* and monitoring of privatization processes in Ukraine.

Information and analytical base of the problems of privatization, accumulated by the Accounting Chamber during the years of its activity, gives grounds to make a conclusion, that the existing system of distribution and spending of funds for fulfillment of the State program of privatization has not provided their economical and rational employment by the Fund of state property of Ukraine.

Control of the actual spending of funds in certain directions has been performed by the Fund only in comparison with general norms of expenditures for fulfillment of the Program of privatization, and with maximum level of employment of funds, but not with determined in advance problems according to approved budgets.

The Fund has received more possibilities for management of funds at its own discretion with improvement of the State program of privatization for 2000-2002, the paragraph 126 permits redistribution of funds from the Off-budget state privatization fund between directions of their spending for fulfillment of this program. With rendering of such permission, norms of expenditures, approved by the Program, have lost their sense and have become a cover of the uncontrolled employment of funds.

Processes of reforming of the property are accompanied by the structural reconstruction of economy and cause creation of the stock market (market of capital issues), as a part of market relations, that provide free turnover of funds in capital issues.

According to the results of legal and administrative provision of functioning of the stock market examination of employment of state budget funds by the State Commission of capital issues and stock market of Ukraine, the Accounting Chamber have made a conclusion that the State Commission of capital issues and stock market of Ukraine, as a body, which performs state regulation of the stock market, for seven years of its activity could not provide foundation in the country of the organized stock market, with institutions, which could guarantee transparency, openness and liquidity of the national stock market, determination of the fair price for the capital issues and created conditions for effective mobilization and distribution of financial resources by participants of the stock market.

Currently, a common national system of storing and management of capital issues turnover, having as a basic body a full-scale National depository, is absent in Ukraine.

According to the results of analysis of reasons and financial consequences of restructure of external debts of Ukraine towards government of the countries-members of the Paris club of creditors, the Accounting Chamber has made the following conclusions.

One of the main reasons, which caused the debt crisis and the necessity of restructuring of the external debt of Ukraine, have become economically groundless and uncontrolled decisions of the Government within 1992-1999 concerning attraction of foreign credits on security of the state and in favor of insolvent enterprises, which have led to the mass non-fulfillment by them of financial liabilities by the received loans and their displace on the state budget.

The debt crisis, which Ukraine experienced at the end of 1999, was a result of the absence of legally determined strategy of management of the national debt, critical indexes of its size, as well as ineffective measures of the Cabinet of Ministers of Ukraine and of the Ministry of Finances of Ukraine towards enterprises-debtors concerning fulfillment by them of financial liabilities towards the State by external loans.

Calculations indicate that provision by the executive power authorities of reimbursement by debtors of at least 30% of overdue debt or provision of the current payments in a full measure, in case of restructuring of the overdue debt, could allow Ukraine not to perform restructuring of this part of external debt.

But these possibilities have not been used by the Government and the Ministry of Finances

Decision of the former Minister of Finances of Ukraine, Mityukov I.O. concerning termination as of 24.01.2000 of payments for service and clearance of the guaranteed debt liabilities towards countries - members of the Paris club of creditors, was too fast, administratively not prepared and economically not calculated, and have led to the fall in 2000 to the lowest level of international credit rating of Ukraine and closed an access to credit resources at the international capital markets for almost three years.

Besides, the decision have been approved during processes of termination of the program of the Government of Ukraine, approved by the International currency reserves, while fulfillment of the program was one of the main conditions of decision of the Paris club of creditors to restructure the debts.

Non-fulfillment of the State budget of Ukraine within 2000-2002 in the articles concerning provision of financing from external loans has become the consequence of this decision.

The Board of the Accounting Chamber have made a summary conclusion on the basis of results of examination of expenditures of the State budget of Ukraine for servicing and clearance of the state debt and its management in 2002 in the questions of system of budget financing of expenditures for servicing and clearance of the state debt - it is imperfect and does not provide the transparent, legal and effective employment of budget funds.

The integral system of legislative regulation of expenditures for servicing and clearance of the state debt, which exceed 20% of the total expenditures of the State budget of Ukraine, has not been created.

The order of appearance and clearance of the state internal and external debt, as it is stipulated by the Constitution of Ukraine, is not regulated by the current legislation, because the special base law about the state debt has not been approved till now.

The current legislation does not regulate at all the order of spending of funds of the State budget of Ukraine for the management of the state debt.

The foreign policy was not a priority direction of the budget policy for the Cabinet of Ministers of Ukraine in 2002. System of its financing is imperfect. The Cabinet of Ministers of Ukraine, the Ministry of Foreign Affairs of Ukraine have not standardized the separate directions of financial and material provision of the foreign policy, that influences negatively the efficacy of management of budget funds and their rational use. These conclusions have been made on the basis of *examination of employment of state budget funds for the foreign policy in 2002 by the Ministry of Foreign Affairs of Ukraine.*

2. Analysis of reaction of the central executive authorities, bodies and organizations on the conclusions and proposals of the Accounting Chamber prepared by the results of the control measures

Obligatory field of activity of the Accounting Chamber is following of the measures of reaction on information and Conclusions of the Accounting Chamber performed by supervisors of the higher executive power authorities, ministries, bodies, objects, which have been examined.

Remarks and proposals of the Accounting Chamber by the materials of conclusions concerning fulfillment of the budgets and examination of the draft law about the state budget have been considered by the Verkhovna Rada of Ukraine and the Government while taking decisions concerning improvement of execution of the state budget and budget in general.

In the course of consideration of the draft Law of Ukraine "About State budget of Ukraine for the year 2004" in the first reading and preparation of the Budget conclusions to the mentioned draft Law of Ukraine, conclusions and proposals of the Accounting Chamber have been considered by the Budget Committee of Verkhovna Rada of Ukraine and almost completely used. From the main questions, conclusions and proposals of the Accounting Chamber have been included to the Budget conclusions of Verkhovna Rada of Ukraine, approved by the resolution of Verkhovna Rada of Ukraine as of 23.10.2003 № 1238 "About approvement of Conclusions and proposals to the draft law about the State budget of Ukraine for the year 2004".

From 50 proposals of the Accounting Chamber, which have been submitted to the draft law, 31 proposals have been considered in the draft law about the State budget of Ukraine for the year 2004.

In particular, draft law about the State budget of Ukraine for 2004 includes increase of the amount of intake against the governmental draft law of income tax; value added tax; funds, received for fulfillment of consul duties; import duty; part of the revenue (profit) economical organizations, which are raised to the budget; dividends, accumulated on the shares of economical associations; customs duties for the total amount of 5.3 billion UAH.

Remarks of the Accounting Chamber concerning the necessity of removal from the State budget of Ukraine of the separate articles of expenditures in the amount of 223 mln UAH have also been considered.

Besides, a number of proposals, presented by the Accounting Chamber are realized in

the Budget conclusions of Verkhovna Rada of Ukraine to the draft law about the State budget of Ukraine for the year 2004. The Cabinet of Ministers was entrusted to calculate the amount of intakes from the payments for property rent, which belong to the budget institutions; to consider the question of increase of the income part of the state budget from realization of the surplus weapon; to submit the Program of the state loan of Ukraine for the year 2004 in the separate amendment and to separate in a single budget program expenditures for management of the state debt from expenditures for servicing and clearance of the state budget; to improve the order of removal of part of the income (profit) of the state enterprises to the state budget.

The Board of the Accounting Chamber has remarked, that in calculations of the draft state budget the own revenues of the local budgets have been groundless increased by 1.6 billion UAH because of overstating of the fund of remuneration of labor and, correspondingly, of the amounts of income taxes from the physical bodies. Verkhovna Rada of Ukraine supported this proposition and entrusted the Cabinet of Ministers of Ukraine, in order to establish the real indexes of income tax from the physical bodies, to make the final decisions concerning legislative regulation of supplementation of the profit part of the local budgets in the year 2004.

In passed by Verkhovna Rada of Ukraine Law of Ukraine as of 27.11.2003 № 1344-IV "About the State budget of Ukraine for the year 2004" finally of partially have been included 20 proposals of the Accounting Chamber.

The Law was passed with the increase of income for 3 billions UAH. Besides, the Article 13 of the Law has obliged the State tax administration of Ukraine to perform measures concerning decrease of the tax debt and to demand 1.5 billions UAH of arrears. In general, income of the state budget has been increased for 4.5 billions UAH due to proposals of the Accounting Chamber.

Intake of the following payments has been increased in the current draft budget: income tax from enterprises - 0.6 billion UAH; value added tax - 1.3 billion UAH; import duty - 0.3 billion UAH; dividends of economic associations - 0.1 billion UAH; customs duties - 0.6 billion UAH.

Separate remarks of the Accounting Chamber concerning the necessity of removal from the State budget of some of expenditures for the total amount of 0.8 billions UAH have also been considered.

Remarks of the Accounting Chamber concerning the necessity of completion and improvement of monthly schedule of the special fund of the state budget have also been realized. The Article 99 of the Law postulates that the Ministry of Finances of Ukraine, in one month from taking into effect of the Law of Ukraine "About the State budget of Ukraine for the year 2004", prepares and approves the monthly schedule of the special fund of the state budget (except own intakes of budget institutions and corresponding expenditures).

The question of payment by agricultural enterprises-payers of the fixed agricultural tax of insurance fee for the obligatory pension insurance has also been regulated. The Law has extended for the year 2004 payment of insurance fees by these enterprises in the amount and order, established by the Law of Ukraine "About the fixed agricultural tax".

Proposal concerning the amount of revenues of the local budgets, which was decreased for 66 mln UAH has also been established. The Article 68 of the Law has established, that 50% of the revenues, which are fixed with corresponding local budgets and are considered in determination of the amount of interbudget transfers, which will be received over the annual estimated amounts, determined in the Attachment № 5 to the Law "Indexes of interbudget transfers (leveling subsidies and funds, which are transferred to the state budget) between state and local budgets for the year 2004", are accumulated at the accounts of the State Treasury for their further transfer to local budgets, which revenues are not received in a full measure, in the order determined by the Cabinet of Ministers of Ukraine.

Besides, the Law of Ukraine "About the State budget of Ukraine for the year 2004" includes conclusions of the Accounting chamber concerning the necessity to increase the expenditures for social sphere for 1.1 billion UAH, and insufficient validity of improvement of the minimal wages in amount of 237 UAH by the mechanism of additional payment, without restoration of correlations in labor remuneration for the employees of budget institutions, for that purpose expenditures have been increased for 1 billion UAH.

During parliament hearings in Verkhovna Rada of Ukraine with participation of the Cabinet of Ministers of Ukraine and the Accounting Chamber, conducted as an execution

of resolution of Verkhovna Rada of Ukraine as of 11.09.2003 № 1149 "About parliament hearings", "State budget of Ukraine: actual sources of replenishment and extension of restoration of financial resources of the state" there was considered a question concerning fulfillment of the State budget of Ukraine of 2003, key problems of replenishment of the profit part of the state budget have been analyzed, improvement of interbudget relations and extended replenishment of financial resources of the state.

Materials of the Accounting Chamber have been used during preparation of other parliament hearings as well. Thus, on 26.02.2003 there have happened parliament hearings about the state of privatization in Ukraine in the subject "Consequences and perspectives of privatization in Ukraine". Chairman of the Accounting Chamber has made a report during these hearings. Special information bulletin for people's deputies has been prepared for this event.

Results of examination, performed by the Accounting Chamber have been employed during hearings in Verkhovna Rada of Ukraine of information of the Cabinet of Ministers of Ukraine about compliance to the requirements of nature protection legislation during activities, connected with minerals use, providing grounds for the resolution of Verkhovna Rada of Ukraine as of 20.11.2003 № 1310 "About the state of compliance to the requirements of nature protection legislation, during activities, connected with minerals use in Ukraine".

In preparation of parliament hearings for the subjects "Moral crisis of society and the ways of its overcoming", which have taken place on 05.11.2003, were used the results of the analysis of fulfillment of the Complex measures for comprehensive development of Ukrainian language, planning and employment of State budget funds for their implementation. of the Accounting Chamber, Simonenko V.K., made a report during these hearings.

Remarks and proposals, prepared as Conclusions of the Accounting Chamber on the basis of results of the control measure, have been revealed also in the laws, approved by Verkhovna Rada of Ukraine, have been considered in preparation of resolutions of Verkhovna Rada of Ukraine, have been discussed at the meetings of its committees.

Thus, taking into consideration the propositions of the Accounting Chamber by the Article 74 of the Law of Ukraine "About the State budget of Ukraine for the year 2004" it is prohibited in 2004 to fulfill restructuring or write-off of the debt (arrears) of subjects of economic activity by the taxes, charges (obligatory payments), to provide delays as for terms of their payment, as well as to write-off the indebtedness of subjects of economic activity by the credits, received by the state or under the state guarantees, budget loans, financial assistance on the opposite basis of the budget.

In order to investigate and summarize the experience of the functioning of special (free) economic zones and territories of priority development with the special regimen of investment activity, by the order of Verkhovna Rada of Ukraine as of 22.05.2003 № 848-IV there was created a special parliament-governmental commission.

This commission is obliged to fulfill the systematic control of the adherence to the legislation of Ukraine concerning creation and functioning of the special (free) economic zones and implementation of the special regimes of investment activity in Ukraine.

Thus, results of examination of employment of funds of the State budget of Ukraine for provision of the safety of the road traffic, registration and accounting of means of transportation by Department of the State Car Inspection of the Ministry of the Internal Affairs of Ukraine, have been reflected in the approved by Verkhovna Rada of Ukraine Law of Ukraine "About the local militia". Changes to some of the legislative acts of Ukraine, including the Budget codex of Ukraine, have also been made.

It is necessary to emphasize that information about reaction on the materials, sent by the Accounting Chamber to Verkhovna Rada of Ukraine, have been rendered for the first time in 2003.

Special privatization control commission having considered the analysis of the Report of the Fund of state property of Ukraine about fulfillment of the "State privatization program for the years 2000-2002" in 2002 have sent its decision to the Accounting Chamber concerning examination of employment of budget funds by the Fund of state property.

Budget committee has considered the information of the Accounting Chamber concerning examination of employment of state budget funds, assigned to the Ministry of Health Protection of Ukraine for provision with insulin of diabetic patients. In the process of consideration there have arisen additional questions and the Committee approved a decision about the necessity of rendering of additional information. The Accounting Chamber has sent this information.

Working groups with participation of people's deputies - members of the Budget Committee on 11.06.2003 had a meeting in order to discuss the following: "About employment of state

budget funds by the State highway service by the budget programs in 2002 and first quarter of 2003 and directions of spending of funds in the current and next year", during the meeting a number of propositions of the Accounting Chamber have been supported.

Committee of ecological policy, nature management and liquidation of the consequences of Chernobyl disaster has considered the information about results of the examination of efficacy of management of forest resources of Carpathian region. Decision № 451 "About results of the examination of efficacy of management of forest resources of Carpathian region on the basis of information rendered by the Accounting Chamber" has been approved. Propositions of the Accounting Chamber have been supported in this decision and the Cabinet of Ministers of Ukraine has been entrusted to provide their fulfillment. Besides, changes to the new edition of the Forest codex have also been made.

Committee of fuel and energy complex, nuclear policy and nuclear safety has considered the execution of the Law of Ukraine as of 18.12.96 № 612/96-VR "About ratification of the Agreement between Ukraine and IBRD about provision of the loan for the project of development of power industry market". The Committee supported proposals of the Accounting Chamber, which relate to solution of problems with settlement of accounts of electrogenerating companies due to the loan of IMRD and has approved the draft resolution of Verkhovna Rada of Ukraine about creation of the temporary investigative commission to clear out the reasons of appearance of the accounts payable.

Committee of financial and bank activity having processed the information from the Accounting Chamber concerning examination of employment of state budget funds, assigned in 2002 and 1st half of 2003 for **provision of functional activity of the State customs service of Ukraine**, informed about creation of the working group for preparation of consideration of this question at the meeting of the Committee.

According to results of examination of employment of State budget funds by the institutions of reserve fund, on 16.04.2003 the Committee of Verkhovna Rada of culture and spirituality has carried out a meeting.

By the results of examination of employment of state budget funds for sanatorium treatment and recovery of people with disabilities and war veterans, to discuss the problems of their social protection on 21.10.2003 took place a meeting of the Committee of Verkhovna Rada of Ukraine of pensioner, veteran and invalid affairs, on 11.12.2003 - parliament hearings "About provision in Ukraine of social, economic, legal and constitutional guarantees in the sphere of social protection of war veterans, determined by the current legislation", which resulted in approval of the resolution of Verkhovna Rada of Ukraine as of 11.12.2003 № 1390-IV.

There have been prepared a number of materials for the Temporary investigative commission of Verkhovna Rada of Ukraine dealing with effective employment and return of the foreign credits, received under the guarantees of the Government of Ukraine, and clarification of the reasons of indebtedness by the credits, received by the State or under the state guarantees.

Proposals of the Accounting Chamber concerning correction of disadvantages and increase of the efficacy of employment of state budget funds have been considered not only by Verkhovna Rada of Ukraine in approvement of lawmaking documents for a financial year, but have also been taken into consideration in preparation of the Edicts of President of Ukraine.

Thus, the Conclusions of execution of the State budget of Ukraine for the first half of 2003 postulate that approvement by the Government of the certain decisions concerning changes of assignment of state budget funds creates conditions for their illegal and groundless employment. The Cabinet of Ministers of Ukraine by its order as of 13.06.2003 № 355 "About the offset of debt for import of corn seeds of the company "Pioneer Hi-Bred International, inc" changed the direction of employment of funds and entrusted the Ministry of Agricultural Policy of Ukraine to transfer 461 thousand USD (about 2.4 mln UAH) for the offset of debt, which appeared in 1993 in connection with non-fulfillment by the State association "Ukragrohim" of its liabilities by the agreement for the delivered corn seeds. Thus, budget funds are directed for the measures, not provided by the Program "Grain - 2000-2004".

The same Order, the Cabinet of Ministers of Ukraine has approved on 17.07.2003, № 423-p "About offset of debt towards the firm "Industrialexport S.A.", by which agreed with the proposition of the Ministry of Fuel and Energetic to transfer 5.5 mln USD according to the official rate of exchange, established by the National bank of Ukraine for the previous of the day of payment day, for the offset of debt towards the firm "Industrialexport S.A." (Romania) for the pumps, which have been received by enterprises of coalmining

industry within 1992-1993, as a part of assignments by the budget program "State support of construction and technical reequipment of coal mining enterprises, brown coal and peat".

By the Order of the President of Ukraine as of 18.09.2003 № 1049, the Order of the Cabinet of Ministers of Ukraine as of 17.07.2003 № 423-p is cancelled as those, which was approved by the Government violating the general principles of execution of the State budget of Ukraine, determined by the Budget codex of Ukraine, stipulating that budget funds are to be employed only for purposes, determined by the corresponding budget assignments and by the Law of Ukraine "About the State budget of Ukraine for the year 2003", which does not provide funds for the purposes, mentioned in the order of the Cabinet of Ministers of Ukraine.

By results of examination and analysis of legality and efficacy of employment of state budget funds, performed by the Accounting Chamber, assigned for fulfillment of land reform, delivery of the state acts for the right of property for land and protection and rational use of lands within the years 2000-2002 and 1st quarter of 2003, there has issued the Order of President of Ukraine as of 06.06.2003

№ 485 "About decision of the Council of the national safety and defense of Ukraine as of 6 June, 2003 "About the urgent measures concerning increase of the efficacy of minerals exploitation in Ukraine".

Basing on the Conclusions of the Accounting Chamber concerning examination of employment of the budget funds within 2001-2002, assigned for fulfillment of measures of the National program of restoration of environment of Azov and Black seas, President of Ukraine, by the Order as of 17.12.2003 № 1456/2003 "About the urgent measures concerning improvement of protection and exploitation of land in Autonomous Republic of Crimea", entrusted the Cabinet of Ministers of Ukraine to take appropriate measures concerning target employment of land in Autonomous Republic of Crimea, especially of natural reserves, lands of sanitary and recreation appropriation, and to develop a draft law about the special regimen of exploitation and protection of the lands of the Southern coast of Crimea and created Commission for examination of the state of protection and rational use of land in Autonomous Republic of Crimea.

President of Ukraine, according to results of the audit of efficacy of management of forest resources of Carpathian region, fulfilled by the Accounting Chamber, signed to Orders - as of 05.01.2004 № 1 "About the measures of strengthening of the state control in the sphere of protection, defense, exploitation and restoration of forests" and as of 07.02.2004 № 171 "About additional measures for development of forestry".

Materials of examination performed by the Accounting Chamber have been employed in preparation for the meetings of the Council of national security and defense (CNSD) of Ukraine.

Thus, materials of the Accounting chamber concerning efficacy of employment of budget funds, assigned for accumulation of minerals, have been used in preparation to the meeting of CNSD, which has taken place on 06.06.2003 "About the urgent measures concerning increase of the efficacy of minerals exploitation in Ukraine". At the meeting of CNSD there was decided to dismiss the Minister of defense of Ukraine Shkidchenko V.P. Chairman of the Accounting Chamber, Simonenko V.K., took part in this meeting.

The Accounting Chamber have prepared materials about employment of budget funds, assigned for the needs of agriculture within the years 2002-2003, in particular, for the purchase of food in the system of state reserve for the meeting of CNSD as of 21.10.2003. First Deputy of Chairman of the Accounting Chamber, Malikov V.V., took part in this meeting.

Materials of the Accounting Chamber have been considered and provided grounds for the Cabinet of Ministers of Ukraine to approve a number of resolutions and orders concerning the course of budget process.

Thus, by the resolutions as of 16.01.2003 № 39 "About the measures concerning mobilization of revenues to the state budget in 1st quarter of 2003" and as of 17.07.2003 № 1093 "About measures concerning mobilization of revenues to the state budget in 3rd and 4th quarters of 2003", in order to provide execution of the revenue part of the state debt in 2003, are confirmed the tasks of mobilization of taxes, charges (obligatory payments) and offset of the tax debt.

The Government has entrusted:

- Ministers, heads of the other central executive power authorities to consider urgently and to approve for the year 2003 financial plans of the state enterprises, which are under jurisdiction of the Ministries, other central executive power authorities and open joint stock companies, with the state share of stocks of the statutory fund comprising 50% plus 1 stock and to submit

generalized materials concerning approval of the annual financial plans to the Ministry of Economy and European Integration of Ukraine till 01.02.2003;

- State tax administration of Ukraine to submit weekly the information concerning mobilization of revenues to the state budget and offset of the tax debt and monthly - personified indexes of intakes to the state budget and offset of the tax debt of gross tax payers to the Ministry of Finances of Ukraine and other central executive power authorities, as well as to consider at the meetings of the working group the coordination of activities of the central executive power authorities concerning provision of tax and other intakes, provided by the state budget, the state of execution of the approved amounts of intake of taxes, charges (obligatory payments), and to inform concerning the results of their consideration the Cabinet of Ministers of Ukraine and to make proposal concerning possible measures of mobilization of revenues to the state budget;

- Fund of the State property of Ukraine, State committee of statistics of Ukraine, State tax administration of Ukraine, Ministry of Economy and European Integration of Ukraine to fulfill in a month term the work concerning ordering of the accounting of enterprises with a part of state property, of the ministries (other central executive power authorities) and local executive power authorities;

- State tax administration of Ukraine to work more intensively for provision of intakes of funds to the state budget, acquisition of taxes, charges (obligatory payments) by means of employment of the procedure of bankruptcy according to regulations of the current legislation, to inform each month about results of the Cabinet of Ministries of Ukraine and to provide submission till 25th of each month, which follows the accounting month, to the Ministry of Finances of Ukraine of information about the state of charges and taxes, charges (obligatory payments) payment, to the budget by the kinds of taxes, by different districts, gross tax payers, ministries, by kinds of economic activity, which is controlled by the State tax administration and State tax service of Ukraine.

The new working group for coordination of activities of the central executive power authorities concerning provision of tax and other kinds of intakes to the state budget is created according the Order of the Government as of 26.03.2003 № 383 "Some aspects of coordination of activities of executive power authorities concerning provision of tax and other kinds of intakes to the state budget".

To increase the efficacy of management of the corporative rights of the State by the Cabinet of Ministries of Ukraine, taking into consideration remarks and proposals made by the Accounting Chamber by the results of analysis of efficacy of management of the state property and compliance with the current legislation while creation and management of state (national) joint stock and holding companies, there was developed a set of normative acts, which define respective powers for management of corporate rights of the State, in particular:

- Decree as of 07.03.2003 № 301 "About declaration of some Acts of the Cabinet of Ministers of Ukraine as such, that lost their powers", according to which the functions of management of the state corporate rights of central and local bodies of executive power are imposed on the Fund of the State Property of Ukraine;

- Decree as of 31.03.2003 № 415 "About provision of authorities to Ukrzaliznitsya for management of the state corporate rights of open joint stock companies";

- Decree as of 02.06.2003 № 818 "About introduction of changes to the list of acts of the Cabinet of Ministries of Ukraine, that lost their powers", which deprived the local state administrations of powers to manage the state corporate rights concerning management of state share holding of some of the enterprises, because of their low efficiency.

- Regulation as of 06.08.2003 № 479-p "About transfer of authority to manage state corporate rights of OJSC "Equipment-producing plant "Sokil" to NSAU.

By the Order of the Government as of 28.03.2003 № 175-p to obligate the State Communications Committee of Ukraine to provide and transfer in a two day term to the dollar account of the State Treasury of Ukraine 100% of the funds from selling of part of the statutory fund of of Joint Enterprise "Ukrainian mobile communication", which belong to OJSC "Ukrtelecom".

By the Order of the Government as of 27.06.2003 № 973 "About changes to the certain orders of the Cabinet of Ministers of Ukraine" there was reviewed the list of the priority kinds of economic activity in special economic zones and territories with a special regiment of investment activity.

A number of standard acts of Cabinet of Ministers of Ukraine concerning regulation of the problem of clearance by the credits acquired by the State or under the state guarantees have

been approved. These are the following:

- Decree as of 31.01.2003 № 414 "About the order of intake of funds to the state budget on account of clearance of the debts on the credits, acquired by the state of under the state guarantees and rendered for the purchase of foreign agricultural machinery";
- Decree as of 16.05.2003 № 735 "About approval of the Order of set off the value of delivered agricultural products on account of clearance of the overdue debts on the credits, acquired by the state of under the state guarantees";
- Decree as of 17.07.2003 № 1070 "About signing of agreements on restructure of the overdue indebtedness of legal bodies by the credits, acquired by the state or under the state guarantees and budget loans, existed on January 1, 2003", which has obligated the Ministry of Finances of Ukraine to provide signing of contracts of debt on behalf of the state with debtors and/or other creditors (property guarantees), as well as contracts of agency or other contracts, according to which solvent third parties (owners and joint owners of debtors, banks) take upon themselves solidary with debtor obligations, with the aim to provide fulfillment of debtors obligations under the contracts on restructure of indebtedness under the credits and budget loans;
- resolution as of 25.07.2003 № 462-p "About additional measures on clearance of debt under the credits, acquired by the state or under the state guarantees", which entrust the State Tax Administration of Ukraine together with the Ministry of Finances of Ukraine, State Treasury of Ukraine, OJSC "Ukreksimbank" and the Ministry of Justice of Ukraine to prepare and submit for consideration of the Government the project of the order of clearance of overdue debt towards the state under credits, acquired by the state or under the state guarantees. State Tax Administration of Ukraine is obligated to take measures concerning acquisition of pledged property, according to the contracts of mortgage, signed between debtors of credits, acquired by the state or under the state guarantees, and OJSC "Ukreksimbank" in the estimated order.

By the order of the Cabinet of Ministers of Ukraine as of 26.11.2003 № 1826 there has been approved the list of gas-main pipelines and their branches for gasification of the villages, which are being built on account of clearance of the past debts of NJSC "Naftogaz Ukrajiny" by the payments to the State budget of Ukraine.

By the resolution of the Cabinet of Ministers of Ukraine as of 10.12.2003 № 762-p "About improvement of the Program of contraction of the tax debt for the year 2004" the ministries, other central and local executive power authorities are obligated to provide the intake of all taxes and charges (obligatory payments) to the state budget from enterprises, institutions and organizations, which are under their jurisdiction, as well as to submit developed administrative measures concerning contraction of the tax debt.

Meeting of the Governmental committee on reforming of the agrarian sector of Ukraine of the Cabinet of Ministers of Ukraine took place on 07.04.2003, basing on the results of the examination of employment of funds of the State budget of Ukraine, assigned for the purchase of domestic agriculture machinery under conditions of financial leasing and measures, connected with reimbursement of indebtedness for it in the years 2000-2002. The question of employment of state budget funds, assigned for the purchase of domestic agriculture machinery under conditions of financial leasing has been considered during this meeting.

Considering the remarks of the Accounting Chamber, prepared on the basis of results of examination, performed in 2002, of correspondence of the actions of Ministry of Economics and European Integration to the requirements of the current legislation concerning concordance of others than advertised bidding procedures of purchase of goods and services at the expense of the budget funds and regulating of the mentioned above procedures, the Cabinet of Ministers of Ukraine has issued a resolution as of 02.06.2003 № 819 "About making of alterations and considering as those, which lost their validity, to some of the resolutions of the Cabinet of Ministers of Ukraine concerning state purchases".

By resolution of the Cabinet of Ministers of Ukraine as of 04.06.2003 № 846 "About making of alterations to the list of documents, which are attached to application for issue of the license for the special field of economy", production of medicines, wholesale and retail of medicines are considered as license activity.

Taking into consideration the existing state of affairs and proposals of the Accounting Chamber concerning improvement of provision of people with disabilities with cars and prosthetic devices, the Government of Ukraine has issues a resolution as of 04.06.2003 № 866 "About making of alterations to the Order of provision of invalids with cars".

Resolutions of the Cabinet of Ministers of Ukraine as of 06.08.2003 № 1221 "Some aspects

of road complex management" and as of 05.11.2003 № 1731 "About approvement of the Order of direction of funds of the surplus fund of the state budget, assigned for financing of development of road network and its maintenance" include all the propositions of the Accounting Chamber based on the results of examination of employment of State budget funds of Ukraine for the year 2002, connected with construction and reconstruction of public highways.

Despite the President Decree as of 18.09.2003 № 1049, issuance by the Cabinet of Ministers of Ukraine of resolutions as of 26.03.2003 № 385 "About purchase of services, connected with performance of the state foreign loans, servicing and clearance of the state debt" and as of 27.08.2003 № 1354 "About approvement of Agreement between the Cabinet of Ministers of Ukraine and Government of Turkmenistan about restructure of the debt of Ukraine towards Turkmenistan" and resolution as of 25.07.2003 № 462-p "About additional measures concerning clearance of indebtedness by the credits, acquired by the state or under the state guarantees" has become a consequence of examination, performed by the Accounting Chamber, of expenditures of the State budget of Ukraine for the year 2002 for servicing, clearance and management of the state debt.

The mentioned above resolution of the Cabinet of Ministers of Ukraine № 385, which regulate the services of servicing and clearance of the state debt, could be considered a result of analysis, performed by the Accounting Chamber of reasons and financial consequences of restructure of foreign debt instruments of Ukraine towards governing bodies of foreign countries - members of the Paris Creditors Club.

The Government Committee has considered the questions, raised by the Accounting Chamber on thee basis of results of examination of employment of state budget funds, assigned for the partial compensation of the value of heavy machinery of domestic production and development of machinery for agriculture, on two sessions. Besides, for implementation of proposals of the Accounting Chamber concerning improvement of the mechanism of employment of budget funds, the Cabinet of Ministers of Ukraine has issued a resolution as of 21.08.2003 № 1314 "About approvement of the Order of employment of state budget funds, assigned for the partial compensation of the value of heavy agricultural machinery of domestic production".

In order to improve provision of pupils and students with textbooks and manuals, as of 28.08.2003 № 1378 the Cabinet of Ministers of Ukraine has issued the resolution "About improvement of work for provision of pupils and students with textbooks and manuals".

By the results of examination of employment of state budget funds for construction of lodging for military servants and investments, assigned for construction works, the Cabinet of Ministers of Ukraine by the resolution as of 17.09.2002 № 1394 obligated the State Committee of Ukraine on construction and architecture to develop a draft Law of Ukraine "About the state financing and target long-term crediting of construction of lodging".

The Cabinet of Ministers of Ukraine, basing on the Conclusions of the Accounting Chamber concerning examination of employment of state budget funds by the program "Protection of the state border", have issued a draft law "About making of alterations to the Budget codex of Ukraine" to be considered by Verkhovna Rada of Ukraine, which provide more flexible mechanism of budget distribution on general and special funds, determination of sources of creation of special fund and mechanism of funds accounting.

Besides, propositions of the Accounting Chamber concerning financing of expenditures, connected with material support of Frontier troops, have been partially considered. In the Law of Ukraine "About the State budget of Ukraine for the year 2004" expenditures for material support of the State Frontier service of Ukraine (new program has been introduced instead of the program "Protection of the state border". Expenditures for the purchase of technical devices, necessary for protection of the border have been performed on account of this program) in comparison with the year 2003 have been increased for 28.4 mln UAH, that will partially solve the problem of equipment of the Frontier troops with modern security devices.

In order to correct the disadvantages, revealed by the Accounting Chamber during analysis of employment in 2002 of the state budget funds by executive power bodies, the Cabinet of Ministers of Ukraine has issued two resolutions - as of 04.06.2003 № 848 "About ordering of employment of cars by budget institutions and organizations", and as of 06.11.2003 № 1736 "About approvement of the Order of clearance of debt from benefits to population for the provided communication services, as well as for indebtedness and current payments for communication services, rendered to budget institutions", which determines the mechanism of clearance of debt from benefits to population for the provided communication services, as well as for indebtedness and current payments for communication services, rendered to budget institutions, on account of funds, which come into the general funds of the state budget from

OJSC "Ukrtelecom" on account of clearance of indebtedness from the transfer of dividends on shares of this company, which are the property of the State.

Apart from the Governmenty, results of examinations, performed by the Accounting Chamber have been considered and have been taken into consideration by leaders of the executive power bodies - main distributors of the budget funds.

Thus, in order to react on the Conclusion of the Board of the Accounting Chamber based on the results of examination of employment of state budget funds in the year 2002, assigned for provision of invalids with cars and prosthetic devices, the Ministry of Labor and Social Policy of Ukraine has approved by the order as of 24.04.2003 № 104 the measures concerning correction of deficiencies and has issued an order as of 07.08.03 № 221 "About making of alterations to the Instruction on the order of provision of population of Ukraine with prosthetic devices", conducted personnel changes of leaders of the Fund of social protection of people with disabilities and Department of the policy of social protection of people with disabilities of the Ministry of Labor of Ukraine, prepared a draft resolution of the Cabinet of Ministers of Ukraine as of the changes to Provision about the Fund of social protection of people with disabilities, approved by the resolution as of 26.09.2002 № 1434, in its part concerning determination of the amount of financing of programs for social protection of people with disabilities and widening of Fund participation in management of budget funds, assigned for provisions of people with disabilities with prosthetic devices.

The ministry, on the basis of results of examination of the Fund of social insurance from the temporary loss of capability to work has prepared three draft laws (one of them together with people's deputy Hara V.G.) concerning employment of penal sanctions for non-submission and untimely submission of reports, clearance of indebtedness in rendering of assistance in case of temporary loss of capability to work, improvement of material well-being of insured families with children.

In order to correct the deficiencies, revealed by the Accounting Chamber during examination of employment of subventions from the state budget to local budgets, assigned according to paragraphs 4, 5 of the Article 34 of the Law of Ukraine "About the State budget of Ukraine for the year 2002", the Ministry of Labor of Ukraine has prepared the order "About approval of the Plan of measures for ordering of the system of financing of expenditures, provided by the State budget for provision of benefits and housing subsidies".

The Ministry of Ecology and Natural resources of Ukraine has developed the Plan of measures to liquidate violations and deficiencies, revealed during examination of employment of state budget funds in the years 2001-2002 for fulfillment of measures of the National program of restoration of environment of the Azov and Black Seas, and the draft resolution of Verkhovna Rada of Ukraine as of 08.07.2003, registr. № 3727 "About development of the National program of reinforcement of coasts of the surface water objects, seaside and their engineering protection".

The Ministry of Ukraine on Emergency situations and protection of population from the consequences of Chernobyl disaster on the basis of results of consideration of conclusions of the Board of the Accounting Chamber of the results of examination of employment of State budget funds in the year 2002 for support of ecologically safe condition at the zone of alienation and zone of absolute (obligatory) resettlement, has approved a decision as of 18.11.2003 № 20 "About taking of measures on the basis of results of examination performed by the Accounting Chamber of Ukraine", which provide the complex of measures concerning acceleration of removal of blank points in legislation and contradictions in the existing legal base in the field of overcoming of sequences of consequences of Chernobyl disaster at the zone of alienation. For the faults, done in the work, there were dismissed from the work positions the following people: first deputy of the Head of the state department - Administration of alienation and zone of absolute (obligatory) resettlement Rindenko V.M., chief accountant Pryshchepa V.K., a number of employees of the department and state enterprises have been called to account, four directors of enterprises have been fired. The draft resolution of Verkhovna Rada of Ukraine as of 24.11.2003, registr. № 4419 "About foundation of the Temporary Committee of Inquiry of Verkhovna Rada of Ukraine for examination of the efficacy of bodies of state administration concerning solving of problems, related to withdrawal of Chornobyl power station, implementation of the Plan of measures at the object "Shelter" and at the zone of alienation connected with radioactive waste products" has been prepared.

The Ministry of Fuel and Energy of Ukraine has considered the Conclusion of the Accounting Chamber based on results of examination and analysis of employment of state budget funds, assigned to the Ministry in 2002 for the labor protection and improvement of safety engineering at the coalmining enterprises at the session of the Ministry and at the meeting of department "Coalmining industry" of the Scientific and technical Council of the Ministry, with participation of heads of the state enterprises,

holding companies, production associations and mines. According to the results of consideration and in order to fulfill the corresponding resolution of the Government, the Ministry of Fuel and Energy of Ukraine has prepared the proposal of making changes and additions to approved by resolution of the Cabinet of Ministers of Ukraine as of 06.07.2002 № 939 "Programs for improvement of safety measures at coal mines", order as of 07.02.2003 № 57 "About improvement of distribution of coalmining enterprises by groups and amounts of budget assignments by the programs of financing from the State budget of Ukraine for the year 2003" and according to the order has developed the new order of rendering and employment of budget funds in 2003 by the program "Labor protection and improvement of safety measures at the coalmining enterprises".

For correction of deficiencies, revealed by the Accounting Chamber during performance of examination and analysis of employment of state budget funds, assigned to the Ministry of Fuel and Energy of Ukraine in 2002 and 1st quartet of 2003 by the Article "Rescue operations at the coalmining enterprises", the Ministry has issued an order as of 23.06.2003 № 90 "About results of examination of the Central Headquarters of the State Militarized Mountain-Rescue Service in the coalmining industry by the Accounting Chamber", determined the terms and has begun the work on bringing in correspondence with requirements of legislation and standard acts having relation to the activity of of State Militarized Mountain-Rescue Service.

The board of the Ministry of Industrial Policy of Ukraine, on 26.06.2003 approved the Measures for realization of conclusions of the Board of the Accounting Chamber, based on the results of examination and analysis of the target employment of state budget funds, assigned for financial support of national mechanical engineering for the agroindustrial complex. For fulfillment of Conclusion of the Board of the Accounting Chamber based on results of examination and analysis of employment of state budget funds for financial support of domestic producer of potassium fertilizers there have been developed measures for development of the national production of potassium fertilizers, including restoration of activity of Stebnitskij State Mining and Chemical Enterprise "Polimineral". Head of the tender committee of the state enterprise "Potassium plant" Koval M.T. has got admonition.

The Ministry of Agrarian Policy of Ukraine to correct deficiencies, revealed during examination and analysis of employment of State budget funds, assigned in 2002 for the state support of peasant (farmers') economies, by its order as of 04.04.2003 № 35 has approved the corresponding measures, statute of Ukrainian State Fund has passed the legal examination in the Ministry of Justice of Ukraine, by another order as of 29.12.2002 № 674-к has approved the structure, list of staff members and designated the general director of Ukrainian State Fund. The Department of the Ministry for control and revision measures has strengthened the control over the transfer of funds of the reverse financial assistance, which return to the special fund of the State budget of Ukraine.

The report on the results of examination, performed by the Accounting Chamber, of employment of the funds of surplus fund of the State budget of Ukraine, assigned in 2002-2003 for reimbursement of losses of agricultural producers, which suffered from the natural disasters on March-July of 2002 have been transferred by the ministry of Agrarian Policy of Ukraine to the regions for consideration at the meetings of the boards of district state administrations.

The Ministry of Culture and Art of Ukraine and the State Committee of Ukraine on construction and architecture, by the results of consideration of Conclusion of the Board of the Accounting Chamber based on the performed examination of employment of state budget funds, assigned in 2002 to the State Committee of construction and architecture for the objects of historical-architecture, architecture-historical heritage and nature reserves, have developed and submitted for the improvement the National Program of conservation and employment of immovable objects of cultural heritage. By the decision of the Board of the Ministry as of 25.04.2003 № 26 there were approved measures on correction of the revealed deficiencies and their further prevention.

The Board of the Ministry of Culture and Art of Ukraine, on 30.04.2003, by the results of examination of expediency and efficacy of spending of state budget funds in 2002, connected with preservation of the cultural heritage, has approved a decision on correction of deficiencies, revealed during examination. A working meeting with directors and chief accountant of reserves, subordinated the Ministry have been carried out for familiarization with consequences of examination and interpretation of standard acts. By the Order as of 12.06.2003 № 352 "About organization of works on restoration of memorials of the cultural heritage in 2003", nature reserves have received the information about amounts of state order for fulfillment of repairs and restoration works at the objects of cultural heritage, taking into consideration requirements of legislation. According to the resolution of the Board of the Ministry of Culture as of 30.04.2003 general director of the National reserve "Ancient Galich" has got admonition.

By the results of examination of employment of State budget funds, performed by the

Accounting Chamber, assigned to the Ministry of Culture and Art of Ukraine for development of circus industry, the Ministry of Culture has issued an order "About realization of Conclusion of the Accounting Chamber of Ukraine by the results of examination of employment of state budget funds, assigned for the circus industry", which obligated the heads of the state circuses to take measures for correction of the revealed violations and deficiencies in employment of budget funds. The Ministry has taken into account the proposals concerning ordering of the administrative management of the circus branch, development of standard acts, provision of the necessary level of planning and financial discipline etc.

In order to correct deficiencies, revealed by the Accounting Chamber in the process of analysis of fulfillment of Complex measures on all-round development of Ukrainian language, planning and employment of State budget funds for their implementation, the Ministry of Culture and Art of Ukraine has prepared the draft resolution of the Cabinet of Ministers of Ukraine "About creation of the State department of language policy", approved cultural and art actions, assigned for the all-round development of Ukrainian language (order as of 19.08.2003 № 509). Another order of the Ministry as of 07.10.2003 № 635 has obligated the heads of Departments, while working on the draft State budget of Ukraine, to take appropriate measures for the comprehensive development of Ukrainian language and to develop the measures for effective employment of budget funds for the mentioned targets. In order to fulfill the State program of development and functioning of Ukrainian language for the years 2004-2010, the State committee of television and radio of Ukraine has developed their own measures, which are at the stage of improvement.

The Ministry of Health Protection of Ukraine on the basis of results of examination of employment of state budget funds, performed by the Accounting Chamber, assigned to the Ministry of Health Protection of Ukraine for provision of diabetic patients with insulin, on 16.01.2003 had carried out the operative meeting with the State secretary and the meeting of Diabetic coordination council with participation of public organizations (20.01.2003). The Ministry has approved a decision on taking measures during planning, purchase, distribution and employment of insulin preparation.

The Ministry of Education and Science of Ukraine, for fulfillment of Conclusion of the Board of the Accounting Chamber based on the results of examination of employment of State budget funds for provision of educational institutions with textbooks and manuals, in order to improve the administrative management of the field of provision of educational institutions with textbooks, has issued the order as of 04.09.2003 № 594, which regulates creation of the scientific institution - Institute of educational literature on the basis of Methodical-publishing center of issue and delivery of education literature, which is being liquidated. Other orders as of 01.09.2003 № 587 approve the measures for correction of violations, revealed by the examination of the Accounting Chamber as of 16.09.2003 № 28, the Order of provision of students with textbooks and manual have been developed and approved. Main department of education and science of Kiev city state administration has also issued the order as of 15.05.2003 № 139 "About correction of deficiencies, revealed during examination, performed by the Accounting Chamber".

The Ministry of Defense of Ukraine to fulfill conclusions of the Board of the Accounting Chamber based on the results of examination of employment of State budget funds, assigned in 2002 for construction of lodging for military servants and investments, assigned for construction of housing, has developed the plan of measures for correction of deficiencies.

In order to increase the responsibility of distributors of funds and for correction of the revealed by the examination of employment of State budget funds deficiencies, assigned for fulfillment of measures on reforming of the Armed Forces of Ukraine in 2001-2002, the Ministry develops the Provision about the order of financial planning and employment of budget funds, with indication of authorities, rights and duties of the employees.

By the conclusion of the Accounting Chamber based on examination of employment of State budget funds in 2002 and 1st quarter of 2003, assigned for provision of protection of rights and freedom of people, society and state from the illegal infringements, for protection of the public order, the Ministry of Internal Affairs of Ukraine has developed and approved "Measures of the Ministry of Internal Affairs of Ukraine on prevention of budget violations in financial-economic activity of subordinated subdivisions, reinforcement of financial and executive discipline". Official inquiries have been performed by the facts of revealed violations, guilty subjects have been called to material and disciplinary account.

The Ministry of Foreign Affairs of Ukraine, fulfilling the Conclusion of the Board of the Accountancy Chamber based on the results of employment of state budget funds for foreign policy in 2002 by its order as of 24.06.2003 № 127 developed the Rules of conditions of work of officials of foreign diplomatic institutions of Ukraine and the Order of creation, reorganization and liquidation of the foreign diplomatic institutions of

Ukraine. By the Order as of 11.11.2003 № 217 the Ministry has approved the Order of planning and organization of official and working visits to Ukraine. The Diplomatic academy of Ukraine of the Ministry of Foreign Affairs of Ukraine, on 15.04.2003 has approved the Plan of affairs on liquidation of defects, revealed by the examination.

While taking measures on the results of examination of expenditures of the National Bank of Ukraine, performed by the Accounting Chamber in 2002, the National Bank of Ukraine has developed measures, directed for improvement of the budget process in the system of NBU (making of alterations to the Provision about the order of planning of receipts and expenditures in the system of NBU in the part, having relation to improvement of budget planning; development of standard acts, which regulate the organization of control over fulfillment of capital building and repair works according to requirements of the current legislation) and optimization of the structure of assets and reinforcement of control over the reserve of stocks of materials and capital equipment at the depositary of NBU. In order to adjust the procedures of purchases by employment of tender procedures in accordance the current legislation of Ukraine, The Board of Directors of the National Bank of Ukraine has approved the Provision about tender procedures for the purchase of goods and services of the National Bank of Ukraine.

The monthly practice of submission of report to Verkhovna Rada of Ukraine and Cabinet of Ministers of Ukraine about employment of the funds of the surplus fund of the State budget of Ukraine by the Ministry of Economy and European Integration has become the consequence of systematic examinations, performed by the Accounting Chamber.

While taking measures on the conclusions of the Accountancy Chamber based on the results of examination of holding to the terms of the current legislation concerning concordance of other than advertised bidding procedures of purchase of goods and services at the state expense, the Ministry has issued the order as of 02.03.2003 № 141, approving the changes to the orders issued before as of 07.12.2000 № 268, as of 04.12.2000 № 264 as of 26.12.2000 № 280.

The Ministry of Justice of Ukraine, in order to liquidate the deficiencies, revealed by the Accountancy Chamber according to the results of examination of the state of legal regulation, relevancy of creation and employment of funds of the surplus fund of the State budget of Ukraine, correspondence to legislation on the state purchases, has taken a number of measures, directed on improvement of financial discipline as in the Ministry itself, so as in subordinated institutions. Thus, on 27.11.2003 the Board of the Ministry hold a meeting with heads of the financial services concerning fulfillment of requirements of legislation in the field of purchase of goods and services, renewed the staff of the tender committee of the central apparatus of the Ministry, within the current year it is planned to train specialists, who will be members of the tender committees, as in the central apparatus, so as in subordinated institutions.

The Board of the State committee on the land resources of Ukraine at its meeting as of 19.09.2003 has approved the measures concerning liquidation of deficiencies, revealed by the Accounting Chamber in the process of examination and analysis of legality and efficacy of employment of state budget funds, assigned for provision of the land reform, distribution of the state acts of the property right for land, protection and rational use of the land within 2000-2002 and 1st quarter of 2003.

The State committee of Ukraine on the water industry, on 23.12.2003 has considered the question of liquidation of deficiencies, revealed by the Accounting Chamber in the proves of examination and analysis of employment of state budget funds for exploitation of the state reclamation projects, for fulfillment of programs for protection of settlements from the harmful substance, contained in water and flood protection. By the order as of 26.12.2003 № 360 measures concerning liquidation of deficiencies in the management of state budget funds have also been approved.

On the Conclusion of the Board of the Accounting Chamber of Ukraine, based on the results of analysis and examination of employment of state budget funds, assigned in 2002 - 9 months of 2003 for fulfillment of measures (projects) of the National program on informatization, the State committee of communication and informatization of Ukraine by resolution of the Board of the Committee as of 03.02.2004 approved the Plan of measures concerning liquidation of deficiencies during fulfillment of measures (projects) of the National program on informatization, revealed by the Accounting Chamber.

On 06.05.2003, at the Board of the State committee of Ukraine of family and youth affairs there has been considered the Conclusion of the Board of the Accounting Chamber based on the results of examination of employment of state budget funds by the State committee of Ukraine of family and youth affairs, has been developed a plan of measures on liquidation of

deficiencies, revealed by examination, performed by the Accounting Chamber, an order as of 13.05.2003 № 84-к "About announcement of admonition" has been issued to three officials.

At the Board meeting of the State committee of energy saving of Ukraine (24.04.2003), according to results of examination of the Accounting Chamber, there has been approved a decision concerning warning of the head of department of accounting and control-revision work Vakulenko Z.H. and head of the general service department Dmitriev M.O.

The consequence of examination of employment of state budget funds, assigned to the State committee or protection of the state border in 2002 and 1st half of 2003 by the program "Protection of the state border", is development and submission to the Ministry of Finances of Ukraine, for approval by the general order, projects of budget programs. In this programs there have been taken into consideration the criteria of evaluation and analysis of effectiveness of the budget program concerning the amount of expenditures, final product, efficacy and quality, have been determined responsible executors of the budget programs. There has also been issued an order of the Committee as of 29.09.2003 № 131 "About bringing to material account of subjects, who committed budget violations".

By decision of the Board of the State Customs Service of Ukraine (SCSU) to execute the Conclusion of the Accounting Chamber made on the basis of results of examination of the State budget funds, assigned in 2002 and 1st half of 2003 for provision of activities of SCSU, the measures for elimination of defects, revealed by the Accounting Chamber during the examination have been approved; they include the information about the specific terms of fulfillment of these measures and their executors. Execution of the measures is under control of the Head of SCSU. By the order of the Head of SCSU as of 31.12.2003 № 851-к "About bringing to disciplinary liability" of guilty in infringements subjects.

The State Commission on Capital Issues and Stock Market of Ukraine for removal of infringements revealed by Accounting Chamber during performance of examination of legal and administrative provision of Stock Market functioning and examination of employment of State budget funds by the State Commission on Capital Issues and Stock Market of Ukraine, issued the orders № 75 04.02.2003 "About use of motor transport" and № 47 28.01.2003 "About the problems during intercity and international telephone calls". By the decision №106 26.03.2003 the plan of measures for creating of the full-service central depository of Ukraine has been approved.

The materials of analysis and examination of the budget of Fund of social insurance from the temporary loss of capacity to work have been considered at the meeting of Fund Administration (resolution of Administration as of 09.09.2003 № 66). It has been charged to the Executive Committee to take measures on elimination of defects and infringements revealed by the Accounting Chamber, and also to bring into accord with the base law all Fund's decrees.

Fund of social insurance from industrial accidents and professional diseases in the order of response on Conclusion of the Board of the Accounting Chamber according to results of analysis and examination of formation and execution of the budget of Fund of social insurance from industrial accidents and professional diseases in 2002, has elaborated the measures on correction of revealed by the Accounting Chamber infringements that have been approved at the meeting of Fund Administration.

Elaborated measures on removal of revealed defects and infringements have been approved by the order of the Fund as of 04.04.2003 №35.

Conclusions of the Board of the Accounting Chamber according to the results of examination of provision and employment of subvention from the State budget of Ukraine for social and economic development of Sevastopol city in 2001 and 2002 have been considered at the board meetings of City State Administration subdivisions.

Two materials have been sent for execution of the Article 26 of the Law of Ukraine "About the Accounting Chamber" and basing on decisions of the Board of the Accounting Chamber, according to the Order of submission by Main Inspection Commission of Ukraine, by State Tax Administration of Ukraine, and by the Accounting Chamber of inspection materials about the revealed violations to prosecutor bodies, internal affairs bodies, security service, and tax police, which has been approved by the heads of the mentioned departments within 2003 for making of decision in order of Article 97 of Punishment Juridical Code of Ukraine and taking of measures of prosecutor's response, to Public Prosecutor of Ukraine:

- by the facts of audit of employment of State budget funds, assigned to the Ministry of Health Protection of Ukraine for provision of diabetic patients with insulin. By results of inspection, performed by prosecutor bodies' there was refused to bring a criminal action;

- by the facts of examination of employment of State budget funds, assigned in 2002 for realization of national youth projects of National Youth Committee of Ukraine. According to this material the inspection of Main Inspection Commission of Ukraine has been set and is going on.

Besides, by inquiries of the Prosecutor of Ukraine there have been directed 11 materials:

- about examination of employment of State budget funds of Ukraine, assigned for purchase of domestically produced agricultural machinery under conditions of financial leasing and measures connected with clearance of debt for it for the state as of 01.10.2002 to NJSC "Ukragroleasing" and about examination of relevance of attributing of preliminary payment for equipment to reverse leasing payments;
- about examination of employment of State budget funds of Ukraine, assigned for maintenance of Ukrainian gymnasia of child center Moloda Gvardia;
- about examination of employment of funds of the surplus fund of the State budget of Ukraine in 2002;
- about examination of employment of funds of the target branch fund on creation of National Nuclear Fuel Cycle in Ukraine (Fund NNFC);
- about examination of Arming of Armed Forces of Ukraine in the field of employment of State budget funds, assigned in 2001 for reforming and development the Armed Forces of Ukraine;
- about examination of employment of State budget funds of Ukraine, assigned for protection and renewal the forest resources in Carpathian region;
- about analysis of the state of fulfillment of Complex measures on comprehensive development of Ukrainian language, planning and employment the State budget funds assigned for its implementation;
- about examination and analysis of the target employment of State budget funds, assigned in 2001 - 2002 to State Committee of Ukraine on Energy Saving for interdepartmental energy-saving measures;
- about examination of employment of State budget funds of Ukraine in 2002, assigned for support of the safe ecologic conditions at the zone of alienation and zone of unconditional (obligatory) resettlement;
- about examination of formation and execution in 2002 of the budget of the Fund of social insurance against industrial accidents and professional diseases;
- about examination of employment of State budget funds of Ukraine, assigned for foreign policy in 2002 by Ministry of Foreign Affairs of Ukraine.

By inquiries of the Ministry of Internal Affairs of Ukraine there have been sent 6 materials:

- about employment of budget funds by internal forces of Ministry of Internal Affairs of Ukraine;
- about examination of employment of State budget funds, assigned in 2000 for the State Program of Selection in Livestock-Breeding and Poultry Keeping;
- about inspection of legality of the company's "Fishing Company S.A." foundation and activity;
- about examination of employment of State budget funds by the State Motor Inspection of the Ministry of Internal Affairs of Ukraine of Ukraine in 2002 for ensuring of the traffic safety, registration and accounting of transport facilities;
- about inspection of legality of privatization special objects of the Road Administration in Odessa region and employment of budget funds, assigned for their construction;
- about examination of employment of State budget funds of Ukraine by the Ministry of Internal Affairs of Ukraine, assigned for ensuring of protection of rights and liberties of citizens, society and State from illegal encroachments, guarding of the public order.

By inquiries to Security Service of Ukraine there have been sent 2 materials:

- about some facts of activity of the industrial association "Ukrprotez";
- about breaking of the actual law by State Customs Service of Ukraine upon the purchase of computer equipment at the expense of budget funds.

The results of examination of the mentioned materials have not been reported by law enforcement authorities, because it is not provided by the current legislation.

As a whole, it is necessary to mention that the response of the Cabinet of Ministers of Ukraine on information from the Accounting Chamber on financial year has become more constructive and efficient. The appeal of Head of the Accounting Chamber to Prime Minister of Ukraine with the letter "About improvement of collaboration with the Cabinet of Ministers of Ukraine for elimination of violations in employment of state budget funds, revealed by the Accounting Chamber", which was perceived positively by administration of the Cabinet of Ministers of Ukraine, contributed to this point of view.

The Cabinet of Ministers of Ukraine has created the efficient system of consideration of conclusions and proposals of the Accounting Chamber: in certain questions, responses are sent to the Accounting Chamber directly by the Ministers, copies of letters of attorney, the practice of participation of main controllers at the meetings of governmental committees over the consequences of consideration of results of examinations of the Accounting Chamber in especially important questions is being implemented.

39 Conclusions of the Accounting Chamber have been sent within the accounting period for consideration of the central executive power authorities, enterprises and organizations.

Answers for 36 Conclusions have been received, for 2 - term of reaction has not expired.

As of the date of 11.02.2004 **reaction for the Conclusion** of the Board of the Accounting Chamber by the results of examination of employment of state budget funds, assigned **for partial compensation of the value** of heavy machinery of domestic production and development of machinery for agriculture (considered by the Board on 04.02.2003) - from the Ministry of Agrarian Policy of Ukraine has not been received.

Besides, from the received responses only 5, that comprise 13%, have been received in accordance with the determined by the Law of Ukraine "About the Accounting Chamber" terms, others - with violation of termsB (from 1 week to 5 months).

All the responses, received on the Conclusions of the Board of the Accounting Chamber, are described by the careful attitude to the revealed by the Accounting Chamber violations. The majority of them contain information about the developed measures of elimination of deficiencies, approved orders about the taken measures. Further directions of solving of problems, revealed by the Board of the Accounting Chamber are determined in all the responses.

Analysis of reaction on conclusions and proposals of the Accounting Chamber of the central executive power bodies, enterprises and organizations for the accounting period provide a possibility to make a decision, that presented by the Accounting Chamber facts, based on the results of control measures, performed in the accounting year are of more distinct, demonstrative character and are necessarily substantiated.

Activity of the Accounting Chamber in 2003 concerning control of the realization of proposals, made in Conclusions of the Accounting Chamber on the basis of the results of analytical and expert measures, was one of the priorities. From year to year, this kind of activity acquires more systematic and effective character.

3. Development and Specification of Legal Regulations of Functioning of The Accounting Chamber

In 2003 work concerning processing of law projects and preparation of legislative proposals dealing with improvement of law projects of Ukraine and other normative Acts on issues of state budget and finances of Ukraine and also of legal regulation of activity of the Accounting Chamber was carried out by the Accounting Chamber.

The Accounting Chamber paid great attention to the issue of legislative formation of the

system of state audit institutions. The law about the system of state audit institutions in Ukraine, which should ensure authority of the Accounting Chamber in full measure according to legislation, should become the basis for creation of the system of audit institutions.

During round-table discussion on the topic "Institutional Development of the Accounting Chamber in the System of Demands of International and European Standards" which took place at the Verkhovna Rada of Ukraine on June 4, of 2003, the Accounting Chamber laid stress on necessity of development of conception of the state financial control, passage on its basis of basic law about system of state financial control and specification of competence and regime of activity of audit institutions in sectoral laws basing only on its founding norms. Conception of the law of Ukraine about system of state financial control in Ukraine should consist in creating of integrated system of state audit institutions including determination of their juridical status, delimitation and prevention of duplication of functions and authorities, principles of co-operation between these institutions and also co-operation with other institutions of state power and local self-government, law machinery, status and guarantees of independence of its workers.

This issue was also touched by Accounting Chamber during the international conference "Role and Significance of Financial Control in the Improved System of Management of State Finances: Function of Parliament, Internal and External Audit" which took place on the 4th and 5th of April 2003 and during scientific and practical seminar "Problems of Practical Application and Improvement of Legislation of Ukraine with the Purpose of Prevention, Investigation and Legal Prosecution of Corruption Infringements of Law" from May 15, 2003.

Position concerning the necessity of working out of general conception of system of state financial control and to pass on its basis the founding legislative act and later on to work out other special laws with the purpose of development of its norms was stated by Accounting Chamber in its letter to Committee of the Verkhovna Rada on Issues of Finances and Bank Activity from June 12, 2003 №10-860.

Accounting Chamber also paid attention to necessity of legislative consolidation of system of internal and external control in Ukraine in the letter to the First Vice-Prime Minister of Ukraine and Minister of Finance of Ukraine M.Ya. Azarov from November 17, 2003. It concerned the Strategy of Development of System of State Financial Control.

On January 1, 2003 projects of laws concerning system of state financial control "About System of State Financial Control of Ukraine" (registration № 1131 from June 3, 2002) submitted by Peoples' Deputy of Ukraine Yu.A. Karmazin and "About Financial Control" (registration № 1131-1 from August 30, 2002) submitted by the Cabinet of Ministers of Ukraine were under consideration at the Verkhovna Rada of Ukraine. Bills studied by Accounting Chamber, *observations and proposals to them were sent to the Committee of the Verkhovna Rada of Ukraine on Issues of Finances and Bank Activity.*

On the whole Accounting Chamber supported the Bill of Ukraine "About System of State Financial Control in Ukraine" submitted by People's Deputy of Ukraine Yu.A. Karmazin and supposes that this bill can be taken as the background for working out of normative basis of system of state financial control in the country. This Bill determines system and structure of state audit institutions, competence and regime of their co-operation. Proposals as for some regulations of the Bill, sent to the Verkhovna Rada of Ukraine, deal with ensuring of authority for audit institutions, in particular for Accounting Chamber in full measure according to current legislation.

As the Bill of Ukraine "About Financial Control", submitted by the Cabinet of Ministers of Ukraine, includes number of regulation that contradict demands of the Constitution of Ukraine, first of all in the part dealing with role and position of Accounting Chamber in the system of financial control, Accounting Chamber voiced a proposal concerning rejection of the mentioned Bill by the Verkhovna Rada of Ukraine.

Mentioned law projects are included into the order of the day of the fifth session of the Verkhovna Rada of Ukraine of the fourth calling for consideration during full assemblies.

In 2003 Accounting Chamber continued work over legislative proposals to the Bill of Ukraine "About Introducing Changes to the Law of Ukraine "About State Control and Auditing Service in Ukraine" (registration № 0969 from May 14, 2002), passed on February 7, 2002 during the first reading by the Verkhovna Rada of Ukraine of the third calling.

Accounting Chamber insisted on necessity of working out of general conception of system of state financial control on the background of which basic law about system of financial control should be passed, and only after that to work out other special laws with the purpose of development of its norms.

The thought as for impossibility of introducing of the Bill concerning control and

auditing service for consideration by the Verkhovna Rada of Ukraine without working out conception and basic law, which should regulate creation in Ukraine of integrated system of state audit institutions including determination of their juridical status, delimitation and prevention of duplication of functions and authorities of existing audit institutions, co-operation between them and with bodies of state power and local self-government, law machinery and other issues concerning carrying out of such control, were expressed.

Accounting Chamber repeatedly sent to the Verkhovna Rada of Ukraine observations concerning disagreement as for granting of the status of central body of state executive power to State Committee on Issues of Government Financial Control. Accounting Chamber insists upon suggested by it earlier determination of the status of State Committee on Issues of Government Financial Control as a special body of government financial control, activity of which is directed at ensuring of internal financial control in the system of executive power.

Proposals of Accounting Chamber are under processing at the Committee of the Verkhovna Rada of Ukraine on Issues of Finances and Bank Activity.

Special attention was paid to law projects about introducing changes to **Budget Code of Ukraine**. Resumptive table of changes suggested by Peoples' Deputies of Ukraine as for current Budget Code of Ukraine was made in Accounting Chamber and work concerning their consideration and introducing corresponding proposals was begun.

Proposals to the bill of Ukraine "About Introducing Changes and Additions to Budget Code of Ukraine" (registration № 2368 from November 4, 2002) concerning consolidation of definitions of internal and external state financial control in the Law were sent to the Verkhovna Rada of Ukraine on February 12, 2003. In particular it is mentioned that external financial control over fulfillment of State Budget of Ukraine on the basis of and within the framework of authorities and in the way envisaged by the law, is carried out by Accounting Chamber. Central Control and Auditing Board of Ukraine carries out internal control.

Sending of generalized results of accounts about carried out inspections to Accounting Chamber by State Control and Auditing Service was also suggested.

Proposals are under processing at the Committee of the Verkhovna Rada of Ukraine on Issues of Budget.

In connection with the thought of Accounting Chamber that suggested by the **Bill of Ukraine "About Introducing Changes and Additions to Budget Code of Ukraine"** (registration № 2139 from September 6, 2002) amendment of article 2 with paragraph 4A about budget of local budgets development is unjustified as long as current Budget Code of Ukraine includes article 71 "Budget of Local Budgets Development". It is impossible to agree with the proposal concerning changing of part 1 of article 13 which envisages that "budget may consist of general, special and reserve funds" with simultaneous exclusion of article 24 "Reserve Fund of Budgets" from current version of Budget Code of Ukraine,

On March 20, of 2003 the Accounting Chamber sent a letter to the Committee of the Verkhovna Rada of Ukraine containing proposal about inexpediency of introducing of mentioned changes to Budget Code of Ukraine.

The Bill of Ukraine "About Introducing Changes and Additions to Budget Code of Ukraine" (registration № 1165 from November 21, 2002) concerning granting the status of head manager of funds to centers of retraining and professional development of workers of bodies of state power, bodies of self-government, heads of public enterprises, establishments and organizations also was not supported, *on March 20, 2003 the Accounting Chamber sent a letter to the Committee of the Verkhovna Rada of Ukraine on Issues of Budget containing proposal concerning rejection of the mentioned Bill by the Verkhovna Rada of Ukraine.*

Observations concerning the Bill of Ukraine "About State Debt" dealing with introducing of additions concerning listening of reports by the Verkhovna Rada, information of Accounting Chamber about condition of control over state debt, informing by Agency of Management of State Debt of Accounting Chamber about facts of excess of limits of borrowing by bodies of self-government, sending bulletins concerning list of state debt, information of Ministry of Finance addressed to Accounting Chamber concerning volume and structure of state debt and actions directed at its paying off and attendance were sent to the Verkhovna Rada of Ukraine by Accounting Chamber on June 17, 2003. It was also suggested to put definition of the term "state debt" according to Budget Code of Ukraine, to introduce new articles "Restructuring of the Debt" and "Program of State Borrowings", to put article "Authorities of Accounting Chamber" in a new version etc.

Proposals are under processing at the Committee of the Verkhovna Rada of Ukraine on Issues of Finances and Bank Activity.

Observations concerning project of decree of the Verkhovna Rada of Ukraine "About Passage of Regulation about the Committee of the Verkhovna Rada of Ukraine on Issues of Combating Organized Crime and Corruption" **concerning necessity of working out in detail of forms of carrying out by Committee of Control over Expenditure of Budget Funds including secret outgoings having envisaged its carrying out by corresponding state audit institutions were prepared and sent.**

On March 13, 2003 proposals were sent for processing to the Committee of the Verkhovna Rada of Ukraine on Issues of Combating Organized Crime and Corruption.

The process of legislative regulation of activity of Accounting Chamber is rather complicated and isn't accomplished at the moment. Impediment in passing of new version of article 98 of the Constitution of Ukraine according to which Accounting Chamber will carry out parliamentary control over forming and fulfillment of State Budget of Ukraine and local budgets in the part of financing of authorities of local state administrations and delegated to local self-government authorities of bodies of executive power regarding incomes and outgoings is to a considerable degree an obstacle to this.

The Verkhovna Rada of Ukraine passed the Law of Ukraine "About Introducing Changes to Article 98 of the Constitution of Ukraine" № 2983-III on January 17, 2002. **After signing of the document by Chairman of the Verkhovna Rada the law was sent to the President of Ukraine and sent back by him to the Verkhovna Rada on May 14, 2002 for reconsideration.**

On March 11, 2003 Constitutional Court of Ukraine made a decision in the case of 73 Peoples' Deputies appealing to the court concerning accordance of carried out by the President of Ukraine veto touching passed by the Verkhovna Rada Law of Ukraine "About Introducing Changes to Article 98 of the Constitution of Ukraine" and proposals to it (case concerning the veto to the law about introducing changes to the Constitution of Ukraine) to the Constitution of Ukraine.

Constitutional Court recognized that the veto interposed on the Law of Ukraine "About Introducing Changes to Article 98 of the Constitution of Ukraine" and sending it back for reconsideration to the Verkhovna Rada of Ukraine corresponds the Constitution of Ukraine.

The Mentioned Law wasn't reconsidered by the Verkhovna Rada of Ukraine.

For the present day the Bill of Ukraine "About introducing Changes and Additions to the Constitution of Ukraine" (registration № 4105 from September 4, 2003) which suggests to put article 98 of the Constitution of Ukraine in such a version: **"Control over intake and use of funds of State Budget of Ukraine is carried out by Accounting Chamber of Ukraine on behalf of the Verkhovna Rada of Ukraine"** was sent for consideration to the Verkhovna Rada of Ukraine.

The Bill was previously passed by the Verkhovna Rada of Ukraine on December 24, 2003.

Completed Bill "About Time-Limit of the Verkhovna rada of Ukraine" (registration № 1039-dp from July 10, 2003) to which Accounting Chamber submitted observation concerning simplification of the procedure of spreading of materials of Accounting Chamber in the session hall of the Verkhovna Rada of Ukraine, necessary consideration by profile committees of the Verkhovna Rada of Ukraine of legislative proposals concerning changes and additions to the law projects on issues of budget submitted by Accounting Chamber, sending of conclusions on law projects which envisage or cause new incomes and outgoings in state or local budgets if it is necessary, expert examination of law projects, participating of leadership of Accounting Chamber in sittings of committees of the Verkhovna Rada of Ukraine etc. was submitted by Peoples' Deputies of Ukraine - members of Committee on Issues of Time-Limit, Deputy Ethics and Organization of Work of the Verkhovna Rada of Ukraine for consideration by the Verkhovna Rada of Ukraine.

Observations were sent for processing to the Committee of the Verkhovna Rada of Ukraine on issues of Time-Limit, Deputy Ethics and Organization of Work of the Verkhovna Rada of Ukraine.

Observations and proposals to the Bill of Ukraine "About Main Regulations of Carrying out of Control over Activity of Subjects of Management in Ukraine" **concerning including of Accounting Chamber to the circle of subjects of control, ensuring authorities for Accounting Chamber as a parliamentary audit institution according to the Law of Ukraine "About Accounting Chamber" in full measure, and also putting the Bill in accordance with**

Budget Code of Ukraine were sent to the Verkhovna Rada of Ukraine on March 3, 2003.

Proposals are under processing at the Committee of the Verkhovna Rada on Issues of Finances and Bank Activity.

Proposals to the Bill of Ukraine "About Main Regulations of Parliamentary Control in Ukraine" deal with putting in order position and role of Accounting Chamber in the system of parliamentary control. In particular it is suggested to include Accounting Chamber in the circle of subjects of parliamentary control and also to add norms concerning juridical appealing of decisions of Accounting Chamber, co-operation between the Verkhovna Rada of Ukraine and the subject of special parliamentary control that is Accounting Chamber etc. to the Bill.

Proposals were sent for processing to the Committee of the Verkhovna Rada of Ukraine on Issues of Policy of Law on June 10, 2003.

Proposals to the Bill of Ukraine "About Carrying out of the Law of Legislative Initiative at the Verkhovna Rada of Ukraine" dealing with sending law projects to Accounting Chamber by Profile Committee of the Verkhovna Rada of Ukraine or by the Verkhovna Rada of Ukraine for carrying out of their expert examination from the point of view of their economic and financial foundation.

Proposals are under processing at the Committee of the Verkhovna Rada of Ukraine on Issues of Time-Limit, Deputy Ethics and Organization of Work of the Verkhovna Rada of Ukraine.

Proposals to the Bill of Ukraine "About Social Control over Use of Funds of State and Local Budgets" deal with exclusion of regulations concerning necessary carrying out of inspections using information of natural and juridical persons by Accounting Chamber from the Bill.

Proposals were sent for processing to the Committee of the Verkhovna Rada of Ukraine on Issues of Budget on November 6, 2003.

Proposals to the Verkhovna Rada of Ukraine about introducing changes to article 110 of the Budget Code of Ukraine concerning granting Accounting Chamber with the right to ensure assigned on it functions and authorities to form regional representative offices were initiated.

Proposals were sent for processing to the Committee of the Verkhovna Rada of Ukraine on Issues of Budget on August 20, 2003.

Totally the Accounting Chamber submitted 91 legislative proposals to projects of laws of Ukraine on issues of state budget and finances of Ukraine and legal regulation of activity of Accounting Chamber.

4. International Cooperation

Following norms of the Law of Ukraine "About the Accounting Chamber of Ukraine", in 2003 complex of actions directed to the development of international cooperation of Accounting Chamber was carried out with the purpose of studying and further application of world's experience in the field of state audit to the activity of the Accounting Chamber.

During accounting period actions, aimed at effectiveness increase in international cooperation of the Accounting Chamber, were fulfilled according to the determined priorities in the following main directions:

1. Development of bipartite cooperation with foreign Supreme Audit Institutions (hereafter - SAI).

2. Activity within the framework of working teams and committees of International Organization of Supreme Audit Institutions (INTOSAI) and European Organization of Supreme Audit Institutions (EUROSAI).

3. Actions within the framework of Council of Heads of Supreme Bodies of Financial Control of CIS countries.

4. Improvement of cooperation with international projects of technical assistance (The Project of the United Nations Development "Respectability in Practice", TACIS project "Audit of State Finances", project of Swedish Institute of Public Administration (SIPU) "Support of the Reform of Public Administration in Ukraine").

Within the framework of bipartite cooperation active development of cooperation with SAI of neighboring with Ukraine states took place namely with Hungary and Poland. Visits of official delegations of Supreme Control Bodies of these countries to Ukraine helped to begin bipartite relations between our institutions, and also to outline directions of future parallel actions in the field of audit, exchange of experience and information. Particularly the process of preparation for carrying out of parallel audits of Carpathian region environment was begun with mentioned SAI.

Consultations on issues of audit of environment were carried out during the meetings of auditors of the Accounting Chamber with Byelorussian and Russian colleagues. Particularly organization of carrying out of audit in the field of solving problems of liquidation of accident at Chernobyl Atom Electric Station consequences was discussed with the representatives of State Financial Control Committee of Byelorussia. Methodology of carrying out of parallel audit of the Azov and the Black Seas environment was co-ordinated with the Accounting Chamber of the Russian Federation.

During accounting period relations with State Control of the Lithuanian Republic became more substantial, especially regarding exchange of experience on issues of reforming of system of financial control of the countries of post-soviet territory in accordance with demands of EC. Mutual interest of institutions as for further development of bipartite relations resulted in Protocol of Intentions "About Cooperation between the Accounting Chamber of Ukraine and State Control of the Lithuanian Republic" signed by the parties.

The visit of National Audit Office of Bulgaria official delegation to Ukraine became logical continuation of development of partner relations between the institutions that had been formed during the last years.

Representatives of the Accounting Chamber took active part in actions, which were carried out within the framework of International Organization of Supreme Audit Institutions (INTOSAI) and European Organization of Supreme Audit Institutions (EUROSAI). Participation in conferences of working teams and committees of these authoritative international organizations gave specialists of the Accounting Chamber of Ukraine opportunity to become acquainted with the latest methods of state audit in the sphere of health protection, environment protection and system of internal control evaluation.

During the 4th Council Session of Heads of Supreme Bodies of Financial Control of CIS countries heads of SAI of CIS countries exchanged opinions while discussing the main theme of the session: "Necessity and problems of introduction of audit of effectiveness of usage of budget funds as a form of state financial control (its legislative ensuring and frame standards of accomplishment of audit of effectiveness fulfillment)".

During accounting period cooperation between the Accounting Chamber, the Project of the United Nations Development "Respectability in Practice: On the Way to Social Accountability and Security of People's Rights" (founded in April 2002) and TACIS Project "Audit of State Finances" (founded in July 2002) continued. According to the Agreement between the Accounting Chamber and Swedish Institute of Public Administration (SIPU), in 2003 long-term cooperation with the project "Public Administration of Ukraine Reform Support" was completed; according to the results of studying 35 members of the Accounting Chamber received corresponding certificates.

An important evidence of effectiveness of cooperation with mentioned projects became international conference "Role and Significance of Financial Control in the Improved System of State Finance Management: Function of the Parliament, Interior and Exterior Audit" (on the 4 - 5th of April 2003, supported by TACIS); international seminar of Swedish Institute of State Administration "Administration Oriented towards Results" (May 22, 2003); round-table discussion "Institutional Development of the Accounting Chamber in the System of Demands of International and European Standards" (June 4, 2003, supported by UNDP) with People's Deputies of Ukraine, officials of the central bodies of executive power, representatives of diplomatic corps and scientific institutions taking part.

Now one of the main tasks standing before the Accounting Chamber in the field of cooperation with foreign Supreme Control Bodies is working out of (in the process of bipartite consultations) constructive mechanism of realization of determined complex of parallel and joint control and analysis actions.

Direction of international cooperation of the Accounting Chamber and study of world's experience in control and analysis work, introduction of modern audit technologies into action, information product exchange and professional relations sphere expansion is staying priority.

5. Publicity in the Work of the Accounting Chamber

One of the priority directions of activity of the Accounting Chamber of Ukraine is organization of system-defined, timely and objective informing of general public about the state of budgetary discipline in Ukraine.

Striving for clarity of control in the system of purposeful, effective and legal usage of taxpayers' funds was first of all put into the basis of this principle. Each citizen of the state should know how and where funds paid by him in the form of tall age are directed and used, in which direction and in what way the process of ensuring of financial control in the field of budget is carried out.

Following article 98 of the Constitution of Ukraine and article 40 of the Law of Ukraine "About the Accounting Chamber", reasoning from the position of clarity, openness and publicity, during 2003 the Accounting Chamber constantly provided promulgation of materials about carried out control-analytical and expert actions. Considered by the Board issues found reflection *in more than seven hundred publications* on newspaper pages, in fascicles of news agencies and broadcasts on radio and television channels.

These publications appeared on the pages of such newspapers: "Урядовий кур'єр"(Uriadovy Kuryer), "Голос України" (Golos Ukrayiny), "Бизнес"(Biznes), "Україна-BUSINESS" (Ukrayina-BIZNES), "Деловая Украина" (Delovaya Ukraina), "Аргументы и факты" (Argumenty i Fakty), "Кієвський телеграфъ" (Kiyevskiy Telegraf), "Дзеркало тижня" (Dzerkalo Tyzhnia), "День" (Den), "Хрещатик" (Khreshchatyk), "Вечірній Київ" (Vechirniy Kyiv), "Киевские ведомости" (Kiyevskiyе Vedomosti), "Столичные новости" (Stolichnyye Novosti) and a lot of others. Materials about the results of activity of the Accounting Chamber were broadcasted by such channels: УТ-1 (UT-1), УТ-2 (UT-2), "Інтер" ("Inter"), ICTV, КДТРК (KDTRK), by the National Radio, were placed on the Committee on the Issues of Budget of the Verkhovna Rada web-site, were published by lots of internet editions.

Use of technical opportunities of the project UNDP especially promoted delivering of the information about the results of control and analysis activity of the Accounting Chamber. Within the framework of this project a separate program "За великим рахунком" (Za Velykym Rakhunkom) was created by "Студія Плюс" (Studiya Plus) jointly with the Accounting Chamber. It began to come out first on the channel UT-1 and later, after broadcasting on the channel UT-2, was recorded on the cassettes and broadcasted by 25 regional TV studios. At the turn of the year channel UT-1 began to broadcast the program "За великим рахунком". Owing to promotion of the project UNDP in coming out of this broadcast the Accounting Chamber got permanent TV rostrum for promulgation of results of carried out inspections and analysis for general viewer public.

General public practically for the first time was in so much detail informed from the TV screen about the effectiveness of the use of funds on financing national defense, custom house, work in alienation zone of Chornobyl Nuclear Power Station, national preserves, health protection and about other issues, on which the Accounting Chamber carried out control and analysis actions. This telecast became permanent rostrum for leadership of the Accounting Chamber and its departments and gave the opportunity to deliver information about the institution's activity to general public.

Peoples' Deputies of Ukraine took part almost in every telecast "За великим рахунком". In their interviews they referred to results of inspections of the Accounting Chamber, informing in such a way their electors about use of budget funds in our country.

TV-versions of the broadcast "За великим рахунком" about activity of the Accounting Chamber promoted stirring up of work of journalists of printing mass media. Each telecast increased the number of their references to the materials of inspections of the Accounting Chamber with the purpose of developing themes in further publications. Even such sectoral editions as "Ваше здоров'я" (Vashe Zdorovya), "Ветеринарна газета" (Veterynarna Gazeta) and others placed publications about the results of carried out by the Accounting Chamber Inspections on their pages.

The visit of the Chairman of the Verkhovna Rada to the Accounting Chamber promoted delivering of information about the activity of the Accounting Chamber to general public. Ukrainian leading TV channels, news agencies and printing agencies responded to this event.

Publications that appeared in such newspapers: "Голос України", "Демократична Україна"(Demokratychna Ukrayina), "Столичные новости", "День", "Сьогодні"(Segodnia), "Україна BUSINESS", "Киевские ведомости" and in fascicles of news agencies "Інтерфакс-Україна" (Interfax-Ukrayina), УНІАН (UNIAN), "Українські новини" (Ukrayinski Novyny) were devoted to this theme.

Active participating of representatives of mass media in press conferences and briefings carried out by the Accounting Chamber of Ukraine became the evidence of growing interest in

results of control and analysis activity. After the intercourse between auditors and journalists scores of urgent materials appeared in the press: "Illegal Felling of Trees in Carpathians Cost the State Almost 16 mln UAH" ("Хрещатик"), "Counted and Became Confused. Concrete Facts of Abuse of Use of Funds assigned for Health Protection Were Promulgated by AC" ("Голос України"), "Sensitive Point of Budget" ("Аргументы и факты"), "Diabetes for the Ministry of Health" ("Столичные новости"), "Bitter Pill" ("Українська інвестиційна газета") (Ukrainskaya Investitsionnaya Gazeta), "Where do Assignments Get to" ("Урядовий кур'єр"), "Reserve Fund as a Soaker" ("Україна-Business"), "Million UAH Every Day For Maintenance of Ministry of Internal Affairs" ("Закон і бізнес") (Zakon i Biznes), "The Accounting Chamber is Standing Guard Over Budget Funds" ("Євробюлетень") (Yevrobuleten), "State's Chief Auditor" ("Деловая Одесса") (Delovaya Odessa) etc.

Publications by the Chairman of the Accounting Chamber Valentyn Symonenko "Pain" ("Зеркало недели") (Zerkalo Niedieli), "My Party Is My Dignity" ("Столичные новости"), "Constitutional Auditor" ("Київський телеграф") had great response in general public. They gave taxpayers the opportunity to get objective information about budget process in Ukraine and its peculiarities.

Mass media paid considerable attention to the Constitutional Court of Ukraine making Decision in the matter of seventy-three deputies appealing to the court regarding constitutionality of the veto performed by the President of Ukraine concerning adopted by the Verkhovna Rada of Ukraine the Law "About Introduction of Amendments to the Article 98 of the Constitution of Ukraine". A number of publications, particularly "The First Amendment to the Constitution is Not Adopted" ("День"), "The Veto is Recognized to Be Constitutional" ("Голос України"), "Calculator is Changed For Abacus" ("Деловая Украина"), "Nobody in the State Controls Profitable Part of Budget" ("Демократична Україна"), "The Parliament Postponed Consideration of the Law About Introduction of Amendments to the Constitution About Widening of Authorities of the Accounting Chamber" (Інтерфакс-Україна), appeared in periodicals. They once again attracted Ukrainian taxpayers' attention to the urgent issue - carrying out of control over profitable part of state budget.

During the year the Accounting Chamber continued to use opportunities of cooperation with different projects acting in Ukraine (UNDP, TACIS) for wider promulgation of its activity results.

Appropriate attitude to cooperation with representatives of international institutions in Ukraine is based first of all on striving to consolidate system of financial control in Ukraine taking into account international experience and introduction of the principles of confirmation of independent public and transparent control.

So with the help of Project UNDP round-table discussion "Institutional Development of the Accounting Chamber in the System of Demands of International and European Standards" was conducted by the Accounting Chamber. This round-table discussion with People's Deputies, Biard of the Accounting Chamber members, representatives of the projects UNDP and TACIS taking part was directed to comparative analysis of our and world practice in control over state finances.

It caused a lot of publications in mass media, leitmotif of which was the theme of widening of authority of the Accounting Chamber and creation of the mechanism of achievements of decisions of the Board of the Accounting Chamber taking into account carried out inspections. Almost each edition cited expressed by the Chairman of the Accounting Chamber thought: "Without having authority to carry out control over forming of profitable part of budget, off-budget funds, use of state property, one cannot have pretensions of thorough control over state funds.

Another round-table discussion on the subject "System of Parliamentary Financial Control" which had great response from the direction of general public was conducted by the Accounting chamber jointly with the Committee of the Verkhovna Rada on issues of finances and banking activity and TACIS Project "Audit of State Finances". Such forms of work promoted delivering of information about the activity of the Accounting Chamber to taxpayers of our state.

Preparation and spreading of control actions results among People's Deputies of Ukraine in the form of information bulletins is of extraordinary importance in organization of publicity in the work of the Accounting Chamber.

When People's Deputies had learned these documents, they were used by journalists of lots of editions. They based their publications on the basis of the results of carried out control and analysis actions.

Informational reason for the announcements of the Accounting Chamber which saw the light of the day on newspaper pages and on web pages of news agencies, were and are still staying materials of inspections and analysis carried out by specialists of the Accounting Chamber. In other words there is one subject and there are a lot of approaches of its results' promulgation,

and the Accounting Chamber strives to use this diversity.

During the year of 2003 it continued to improve mechanism of publicity expansion. Besides conducting press conferences and briefings based on results of control and analysis activity and visits of foreign auditors, organization of meetings between the Chairman of the Accounting Chamber and "The Guild of Editors-In-Chief" was also practiced. During them open dialogue with chiefs of leading editions and TV-companies concerning results of control and analysis activity of the Accounting Chamber was carried on.

Information about the activity of the Accounting Chamber was systematically and promptly placed on the Accounting Chamber web site on which web page "News" was founded. Announcements concerning the activity of the Accounting Chamber and photo-reports about the events were placed on this page. It gave the opportunity to spread on-line information about the activity of the Accounting Chamber in the Internet.

Nowadays the Accounting Chamber continues system-defined introduction of the complex of modern forms and methods of work directed at prompt and objective promulgation of auditor activity among wide range of general public of Ukraine.

6. Provision of performance of the Accounting Chamber

6.1. Human Resources

Work in the sphere of Human Resources of the Accounting Chamber in 2003 was carried out sticking to demands of the Laws of Ukraine "About Public Service" and "About Combating the Corruption". Its priority direction was organization of vacant seats sticking to the competition procedure by highly skilled experienced officials having economic and legal education with great experience of organizational, control-inspectional and analytic work. Selection of candidates for participating in the competition was carried out according to the typical professional and qualification characteristics of State employee seats. As a result of competition selection 29 persons were appointed. 26 persons were appointed from the employment reserve.

On December 31, 2003 actual number of workers of the Accounting Chamber was 316 persons; out of them 298 were State employees. It is 46 persons more than it was last year (55 persons were appointed and 13 left the service). Employee turnover during the year came to 4,1 per cent, that is 7 per cent lower than in 2002 and that is no doubt a positive tendency.

Step-up is one of the main stimulatory reasons and it has positive impact on decline of employee turnover. So 43 officials (14,4 per cent of the general number of State employees) as those who were in employment reserve and passed probation period were appointed to the higher posts. Work on involving of talented youth (graduates from higher educational establishments) in public service was carried out. On this purpose posts "specialist of the second category" were provided in the list of members of staff.

In 2003 high ranks of State employee were conferred to 125 officials (41,9 per cent), higher additions to salaries for fulfillment of especially important work were instituted to 63 officials (21 per cent) and official salaries of 36 officials were reconsidered and increased.

Qualitative staff of heads and specialists is characterized by such indicators:

- 98,7 per cent of State employees have complete higher education; 8 persons are studying at higher educational establishments and getting higher education;
- According to the qualification level 220 officials (73,8 per cent) have economic education, 33 officials (11,1 per cent) have legal education and education of 45 officials (15,1 per cent) is technical;
- 1 Doctor of Science and 11 candidates of science are involved in the work (4 per cent);
- 3 officials have honorary title "Honored Economist of Ukraine".

These facts are evidence that the Accounting Chamber has capable of functioning professional staff, which has high science and educational level.

Stable employment core has been formed during 7 years of existence of the Accounting Chamber. They are: 67 officials that are being working for six and more years (21 per cent of State employees' actual number), 94 officials having record of service in the Accounting Chamber from three to five years (30 per cent) and 96 officials having record of service of more than a year.

Organization of officials' qualification improvement still stayed one of the main tasks of employee service. 85 State employees studied at short-time seminars which were conducted in the Accounting Chamber; 12 State employees improved their qualification at seminars which were conducted at other organizations on the territory of Ukraine; 44 officials were on official journeys abroad with the purpose of improving qualification and learning advanced experience of the work of Supreme Audit Institutions (SAI) of the European countries. 29 out of them visited courses on the topic "Audit of State Finances" which was organized by TACIS project.

6.2. Condition of Information-Analytical System and Dataware of the Accounting Chamber

In 2003 works concerning creation of analytical constituent of Information-Analytical System of the Accounting Chamber (IAS AC) that is subsystems of on-line analysis and control over financial and economic rates of state budget of Ukraine (FER) and monitoring of macroeconomic rates (MER) were continued, improvement and further development of informational and reference constituent of (IAS AC) was carried out and preparation works concerning carrying out of modernization of local network of the Accounting Chamber were fulfilled.

IAS AC as a modern automated informational-analytical system gives officials of the Accounting Chamber the opportunity to receive in on-line mode information about execution stage of State Budget of Ukraine, materials of news and information-analytical agencies, to carry out monitoring of current legislation in a legal field of Ukraine, receive messages about earnings to information corpuses or to electronic informational resources and others in real time.

During 2003 development of information-analytical and informational and reference constituent of IAS AC went on. Complex of actions concerning modernization of the firmware complex of data warehouse servers was carried out. It allowed to increase operating speed of server devices (subsystems FER and MER, system of automation of office work and documents circulation (SAOWDC) "Дело-96" ("Dielo-96"), systems of Internet access to informational resources.

Scientific and research works on development of subsystems of monitoring of financial and economic and macroeconomic rates were carried out within the framework of the National Program of Information at the expense of costs, allotted from the State Budget of Ukraine for 2003 for its realization. **According to the direction of the Cabinet of Ministers from July 17, 2003 "About Approval of the List of Tasks (Projects) of the National Program of Information for 2003, their State Customers and the Amount of Financing" 150.000 UAH were allotted to the Accounting Chamber for fulfillment of the National Program of Information task. But the main burden of introduction and application of the informational technologies lies on account evaluation of the Accounting Chamber.**

During 2003 research exploitation of the system "Кадри" ("Kadry") was completed. **It allows to get different reference information concerning State employees in the electronic form or on paper carriers, form the majority of statistic forms, carry out inquiries following free parameters, form information in the electronic form.**

Condition of the operating local network of the Accounting Chamber (LN AC) was analyzed. Preparation and carrying out of auction aimed at purchase of modernization of LN AC was carried out on the basing of its results.

System of receiving of great amount of financial accounting, economic information, statistic information, corpuses and bulletins and also periodicals was put in order. Besides that information resources of the Accounting Chamber **also include** books, magazines, reference books and standard-legal acts. **So** on January 1, 2004 the **amount of** information resources **ran up almost** to 700.000 electronic documents, daily intake of which constitutes 5-7 MB or 480-520 documents. General number of titles of financial accounting, economic information, statistic information, corpuses and bulletins constitutes almost 600 titles. Periodicity of their receiving is from daily express bulletins to monthly, quarterly and annual corpuses. During 1997-2003 in the library of the Accounting Chamber **over 31.700** units of financial and economic, statistic, bank and standard-legal materials were amounted. **At the beginning of 2004 almost 140.000 units of materials of news and analytical agencies and periodicals, informational compilations of international centers of analysis of economy, finances and financial problems, Ukraine development assistance programs, compilations of materials of control bodies of the world's countries and also materials and documents of the Accounting Chamber were gathered in the library. It is reached in particular due to organization of informational cooperation and receiving of materials of financial, bookkeeping, statistic and bank accounting from the State Committee of Statistics, National Bank of Ukraine, State Fiscal**

Administration, the Treasury, Ministry of Finance, accounts of head managers of budget funds and other information of government bodies.

Number of visits to Web-server of the Accounting Chamber in the Internet, in which information about its activity is regularly placed, noticeably increased. The evidence of this is number of visits to it which at the end of December exceeded 550.000 (in other words it was 300.000 increase during a year).

Increasing number of placed materials concerning activity of the Accounting Chamber especially bulletins which are published on the basis of results of consideration of the materials concerning control and control-analytical actions by Board of the Accounting Chamber was conducive to this.

Bulk purchase of services concerning working out and introduction of Web-portal of the Accounting Chamber was carried out with financial support of TACIS program and participation of UNDP program. This working out should combine four-year experience of exploitation of Web-server by the Accounting Chamber, experience of other state institutions of Ukraine and foreign Supreme Control Bodies, demands of current legislation concerning presentation of activity of state institutions in the Internet, modern approaches to designing of Web-portals, total combination of new functional opportunities including interactive communication with users.

6.3. Financial Provision and Development of Material and Technical Resources

According to the Law of Ukraine "About State Budget of Ukraine for 2003" expenditures on maintenance of the Accounting Chamber were approved in the amount of 20.427.500 UAH.

Besides that according to the letter of the Verkhovna Rada of Ukraine from November 24, 2003 № 06-9/9-977 volumes of financing within the framework of the National Program of Information in the amount of 150.000 hryvnas for working out of information-analytical system of the Accounting Chamber were approved for the Accounting Chamber.

Outlays on maintenance of the Accounting Chamber of Ukraine were carried out following budget program 6511010 "Leadership and Management in the Field of Control over Fulfillment of State Budget".

Within the framework of fulfillment of the program outlays were carried out for such purposes:

1. Remuneration of labor for officials of the Accounting Chamber.
2. Outlays on business trips of officials of the Accounting Chamber.
3. Maintenance in a proper condition and expansion of material and technical resources of the Accounting Chamber.
4. Bulk purchase of material values and services for the needs of the Accounting Chamber was carried out according to the Law of Ukraine "About Bulk Purchase of Goods, Works and Services at the State Costs", applying proper tender procedures.
4. Completion of reconstruction of office block of the Accounting Chamber on 7a, M.Kotsiubynsky Street.
5. Carrying out of the Accounting Chamber international activity (dues payment to international Supreme Audit Institutions INTOSAI and EUROSAI, business trips abroad in the network of agreements about cooperation and for participation in seminars, outlays on financing of translation of corresponding materials etc.)
6. Information-analytical ensuring of the Accounting Chamber (purchase of literature, subscription for periodicals, electronic editions etc.), functioning of IAS AC (purchase of expenditure materials, repair work, setting up of active systems, installation of active software, payment for the Internet services, e-mail etc.)

Outlays on realization of the national Program of Information were carried out following budget program PDA 6511900 "Working out of Information-Analytical System of the Accounting Chamber".

Outlays on usage of research engineering and development effort on creating of the Accounting Chamber information-analytical system were carried out within the framework of program fulfillment.

Fulfillment of Account Evaluation of the Accounting Chamber for 2003

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№	Names of Outlays	CECO*	Amount (thousand UAH)
PDA 6511010 "Leadership and Management in the Field of Control over Fulfillment of State Budget"			
1	Remuneration of labor for workers of budget institutions (wage base according to fixed rate of salary)	1111	4679,1
2	Payments for temporary disabled	1113	68,5
3	Salary accounting	1120	1640,9
4	Goods, materials, equipment and inventory	1131	402,1
5	Upholstered furniture	1134	45,0
6	Payments for freight services and maintenance of means of transport	1135	617,1
7	Current equipment, inventory and buildings repair and equipment servicing	1137	932,8
8	Communication service	1138	228,9
9	Payments for other services and other outlays	1139	528,5
10	Outlays for business trips	1140	534,3
11	Payments for heat supply	1161	63,8
12	Payments for water supply and drainage system	1162	3,1
13	Payments for electric power	1163	60,2
14	Payments for other public utilities	1165	507,1
15	Researches and workings-out, state programs	1170	100,0
16	Other current transfers to inhabitants	1343	15,8
17	Current transfers abroad	1350	12,5
18	Purchase of equipment and goods of long-term usage	2110	1892,0
19	House-building (dwelling purchase)	2121	973,6
20	Thorough repair and reconstruction of administrative establishments	2132	4556,6
21	Purchase of land and intangible assets	2300	397,0
	Sum total		18256,1

*- code of economic classification of outlays

Nevertheless monthly boundary amounts of assignments of state budget pool for 2003 sanctioned by the Ministry of Finance of Ukraine were scheduled by it with the "inclination" in allotment of assignments for the second half of the year. It noticeably complicated financial and economic activity of the Accounting Chamber at the beginning of the year. So for the first quarter only 13 per cent of annual assignments amount were provided whereas for the fourth quarter this figure constituted 32 per cent.

Such order of financing resulted in carrying out of the main part of purchases of material values for the needs of the Accounting Chamber in October - December 2003 which, according to the Law of Ukraine "About Bulk Purchase of Goods, Works and Services at the State Costs", were carried out with application to tender procedures which takes a lot of time.

Reinforcement of material and technical resources of the Accounting Chamber and improvement of working conditions of its specialists went on during financial year.

According to directions of the Cabinet of Ministers of Ukraine from October 20, 2000 № 414-r two-storied building on 7a, M. Kotsiubynsky Street was handed over to the day-to-day management of the Accounting Chamber. According to the Act from December 30, 2003 № 445 of the State Entrance Examination mentioned office block with its widening including two stories, underground car park and elevated pedestrian crossing between the buildings on 7a, M. Kotsiubynsky Street, storage and auxiliary facilities was placed in operation, which gave the opportunity to arrange 82 work places additionally.

Taking into account arduous duty of work of the Accounting Chamber attention was paid to the issues of medical care and sanitation of workers of the Accounting Chamber in health centers and preventive establishments.

In December 2003 health protection station which is providing urgent medical care now was inaugurated in the building of the Accounting Chamber.

Seven-year activity of the Accounting Chamber is evidence of great interest to it from the direction of all branches of power and society and increase of its authority in Ukraine and abroad.

Effective organization of state financial control is a multipronged task and a lot of departments are enlisted to its practical solution. Each of them has its powers and standards of responsibility. But altogether they should constitute an integral system of state financial control in our country.

Situation in management of budget funds compels to draw a conclusion that not only the law "About the Accounting Chamber" but also the law "About System of State Financial Control" is in need. It is necessary to subdue lawful nihilism in the field of budget and to create an integral system of financial control in our state.

Unfortunately it is a fact that a great amount of violations of law in the field of budget is of system character and it is recurring constantly. There has been no permanent legislation in modern Ukraine for decades. And under such conditions assessment of legality, expediency and effectiveness of state funds usage is a priority in the work of the Accounting Chamber.

Increase of activity effectiveness of the Accounting Chamber is impossible without improvement of legal field of its functioning, absolute solution of problems concerning obligatory response from the direction of leadership of objects of inspections as for its official documents concerning usage of budget funds and means of State off-budget funds.

Choice of the mode of development of the Accounting Chamber today to a considerable degree depends on the Peoples' Deputies of Ukraine. Pace of creation of a sole integral system of state financial control and control over forming of profitable part of State Budget of Ukraine depends on legislature.

Report of the Accounting Chamber for 2003 is approved by decree of the Board of the Accounting Chamber from May 6, 2004 № 9-4.

**CHAIRMAN OF THE ACCOUNTING CHAMBER
SYMONENKO V.K.**

Appendix

**List of Information Bulletins Prepared by
the Accounting Chamber on the Basis of the Results of Actions Carried out in 2003 and
Sent to the Verkhovna Rada of Ukraine**

Issue 1	About the results of inspection of use of budget funds by inner forces of the Ministry of Home Affairs of Ukraine
Issue 2	About use of funds of State Budget of Ukraine by educational establishments for training specialists according to government work
Issue 3	About the results of inspection of use of funds of State Budget of Ukraine allocated to the Ministry of Health Protection for providing diabetes mellitus patients with insulin
Випуск 4	Information about the process of state programs of privatization fulfillment on the basis of analysis of accounts of State Property Fund of Ukraine
Issue 5	About the results of inspection of use of funds of State Budget of Ukraine connected with construction and reconstruction of highways of State use for 2002
Issue 6	About the results of inspection of use of budget funds provided in 2001-2002 for fulfillment of government work concerning increase of mineral resources
Issue 7	About the results of analysis of forming, re-calculation and use of subvention from state budget by local budget provided by points 4 & 5 of the Law of Ukraine "About State Budget of Ukraine for 2002"
Issue 8	About the results of analysis of condition of normative and lawful adjustment of relations which result from demands of Budget Code of Ukraine and arise in the process of fulfillment of State Budget of Ukraine by the Cabinet of Ministers of Ukraine, Ministry of Finance, the Treasury of Ukraine and other

	bodies of executive power.
Issue 9	<p>About the results of inspection of expediency and effectiveness of expenditures of budget funds for actions connected with cultural heritage preservation by Ministry of Culture and Arts in 2002</p> <p>About the results of inspection and analysis of usage of budget funds allocated in 2002 to the State Committee on issues of Construction and Architecture for objects of historical-architectural and architectural-historical heritage and preserves</p> <p>About the results of inspection of usage of funds of State Budget of Ukraine by establishments of natural and preserve fund in 2002</p>
Issue 10	About the results of analysis of reasons and financial consequences of restructuring of External Debt Instruments of Ukraine concerning management bodies of foreign states-members of Paris Creditors Club
Issue 11	Conclusions concerning fulfillment of State Budget of Ukraine for 2002
Issue 12	About the results of inspection of use of reserve fund resources of State Budget of Ukraine in 2002
Issue 13	About the results of inspection of use of state budget funds in 2002 appointed for providing invalids with cars and prosthetic and orthopedic devices
Issue 14	About the results of analysis of lawful and organizational ensuring of fund market functioning and inspection of use of funds of State Budget of Ukraine in 2002 by State Commission on issues of securities and fund market of Ukraine
Issue 15	About the results of inspection of expenditures of State Budget of Ukraine for attendance and paying off of the state debt and for its control.
Issue 16	About the results of inspection of use of funds of State Budget of Ukraine, allocated to the State Committee of Ukraine on issues of Family and Youth in 2002
Issue 17	About the results of inspection of use of budget funds in 2001-2002 for carrying out of State Program actions concerning the Azov and the Black Seas environment protection and revival
Issue 18	Conclusions and propositions on the basis of results and expert examination of the project of the Law of Ukraine "About State Budget of Ukraine for 2004"
Issue 19	About the results of analysis of use of state budget funds by bodies of executive power in 2002
Issue 20	About the results of inspection of use of reserve fund resources of State Budget of Ukraine allocated in 2002-2003 for compensation of damages to workers of agriculture who suffered in consequence of natural disasters in 2002.
Issue 21	About the results of inspections of use of funds of State Budget of Ukraine directed at financing of actions connected with compensation of debts for domestically produced agricultural machinery, partial compensation of costs of working out and creating of domestically produced machinery and support of domestic machine building for the agro industrial complex
Issue 22	About the results of inspection of use of funds of State Budget of Ukraine allotted for foreign policy activity in 2002 by Ministry of Foreign Affairs
Issue 23	About the results of analysis of condition of fulfillment of Complex measures directed at all-round development of the Ukrainian language, planning and use of funds of State Budget of Ukraine for its introduction.

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Report of the Accounting Chamber for 2004

Kyiv 2005



"Control over the use of the funds of the State Budget of Ukraine on behalf of Verkhovna Rada of Ukraine shall be carried out by the Accounting Chamber".
Article 98 of the Constitution of Ukraine

Dear People's Deputies of Ukraine,

Last year the Accounting Chamber started new milestone of its activity based upon the building of integral system of state financial control, extension and improvement of the legal framework and institutional capability, upgrading of control and analytical and expert measures.

Actually, the approach to the organization of preparation and holding of audits and adoption of the follow-up Conclusions and resolutions by the Board of the Accounting Chamber was altered.

The most characteristic peculiarities of the Accounting Chamber activity in the reporting period, along with introduction and shift of the Accounting Chamber to the priority of effectiveness audit together with financial audit, is the applying of conformity audit in the current activity.

It is for this very purpose that the cutting-edge standards and methods providing organizational and legal basis for the alteration of approach to organization of audit and expertise of budget process in general were implemented within the powers and standards stipulated by the standing legislation.

Application of the new control methods, extension of its scope for the spending of the State Budget funds triggered the necessity to change the structure and areas of activity of the Accounting Chamber, to transfer control functions to the regions of Ukraine including establishment of its territorial representative offices.

Today, due to the support of Verkhovna Rada of Ukraine offices of the Accounting Chamber operate for Dnipropetrovsk and Zaporizhzhia Regions (in Dnipropetrovsk); for Odesa, Mykolayiv and Kherson Regions (in Odesa); for Lviv, Volyn, Rivne and Ternopil Regions (in Lviv). They are involved in the complex control and analytical measures on the use of the state budget funds in the regions of Ukraine.

Active cooperation with the supreme control institutions of a number of countries resulted in parallel and joint audits carried out by the Accounting Chamber of Ukraine for the first time. Common problems with neighboring countries were identified needing examination, primarily in social and economic sphere, natural resources management, state border crossing etc.

The Accounting Chamber analyzes and controls budget process via system of control and control and analytical measures connected with appraisal and analysis of the most important macroeconomic and budget forming indices of budget revenues and expenditures.

To prevent ineffective use of the budget funds the Accounting Chamber tries to apply systematic approach to organization and holding of all control measures and results of their consideration. Conclusions and proposals of the Accounting Chamber are aimed mainly at elimination of violations and drawbacks in budget process causing ineffective use of the budget funds.



Спеціальна група EUROSAI
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Results of control measures carried out by the Accounting Chamber prove the frequent substitution of laws on state budget for legal acts, inclination of executive authorities to manual management of financial resources, many system violations in budget sphere. Particular examples of illegitimate actions by the budget funds administrators are contained in the materials of nearly each audit of the Accounting Chamber. They are reflected in the information bulletins issued by the Chamber, in regular mass media announcements.

Observing openness and publicity in its activity the Accounting Chamber contributes to increasing of transparency of the budget process in Ukraine bringing objective assessment of the budget funds use to society. It is that approach which provides the opportunity not only to inform the society in due time about violations and their reasons but also to identify the ways of their elimination and prevention in the future.

The Accounting Chamber introduces cutting-edge methods of effectiveness audit in the current control and expert activity. Practically all audits were followed by specific, substantial, generalized conclusions on effectiveness, expediency, legitimacy and economical efficiency of managerial decisions, use of the budget funds, system and mechanism of budget programs financing.

The hallmark of the reporting period, which should have essential impact upon the future activity of the Accounting Chamber, was the amendments to Article 98 of the Constitution of Ukraine.

According to the Law of Ukraine #2222-IV from 08.12.2004 "On Amendments to the Constitution of Ukraine" article 98 defines "Control on behalf of Verkhovna Rada of Ukraine over the funds of the state budget of Ukraine and their use shall be carried out by the Accounting Chamber." It puts the Accounting Chamber in one row practically with all supreme control institutions - members of International Organization of Supreme Audit Institutions (INTOSAI).

Mentioned powers can come into force from September 1, 2005, already according to the final provisions of the basic Law of Ukraine.

Regular rotation among headships of the Accounting Chamber of Ukraine in 2004 was a guarantee of human resources stability of the state institution ensuring its independence and objectiveness in the fulfillment of main functions. Part of the Board members appointed by the Parliament were reelected which proves high and principled evaluation of control and analytical and expert activities of the Accounting Chamber.

Today the Accounting Chamber continues to realize complex measures aimed at strengthening of budget discipline, timely investigation and prevention of reasons of financial violations and abuses.

According to article 35 of the Law of Ukraine "On the Accounting Chamber" I submit the Report of the Accounting Chamber for 2004 approved by the Board to Verkhovna Rada of Ukraine.

Presented Report contains basic performance results of the Accounting Chamber for 2004, examples of system violations detected during control measures.

We hope that these materials will be useful in your activity as People's Deputies.

Valentyn Symonenko
The Chairman of the Accounting Chamber

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1. Results of control, control and analytical and expert measures

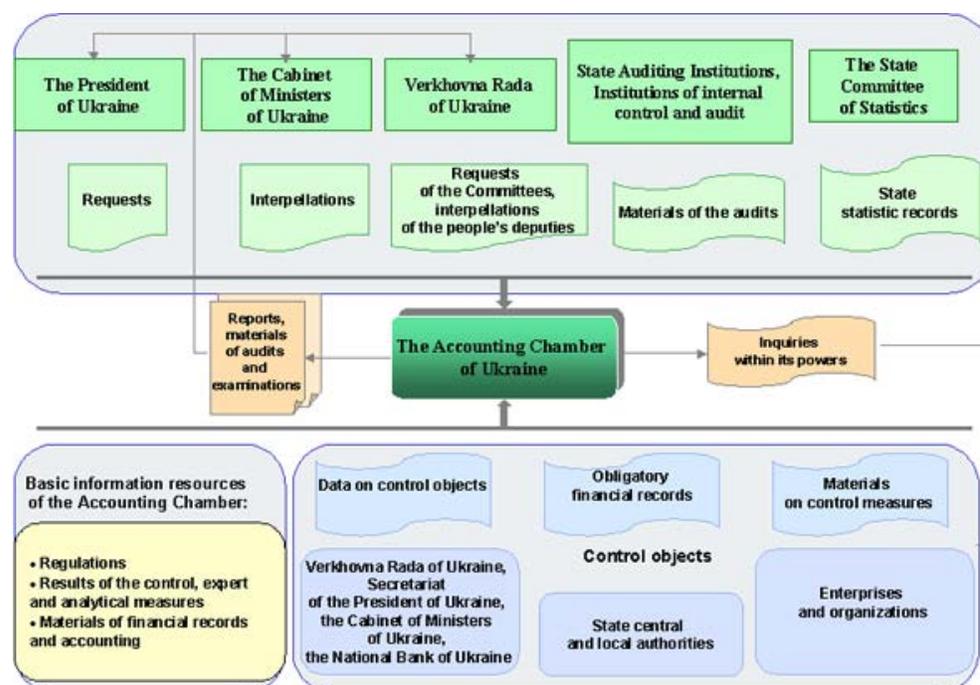
1.1 Peculiarities and areas of control and control and analytical activity

The Accounting Chamber being an independent institution of financial control in the country shall perform its activity on behalf of Verkhovna Rada of Ukraine on the basis of legitimacy, planning, objectiveness and publicity.

All control, control and analytical and expert measures shall be carried out on the basis of annual and current working plans of the Accounting Chamber grounded on existing, urgent problems of the budget process, financial problems in economy, social sphere, culture etc upon the substantiated proposals of chief controllers, Deputy Chairmen and Chairman of the Accounting Chamber taking into account all types and areas of the Accounting Chamber activity stipulated in article 23 of the Law of Ukraine "On the Accounting Chamber" and orders of Verkhovna Rada and its committees.

While fulfilling the tasks, functions and powers imposed by the standing legislation upon the Accounting Chamber, it shall interact with state bodies, institutions and control objects.

General chart of the information cooperation of the Accounting Chamber and state bodies and institutions



Choice of the subjects of control and analytical and expert measures conducted by the Accounting Chamber shall be based upon the all-round and detailed monitoring and analysis of the budget process in the specific areas, namely, social and economic processes; use of the budget funds; alterations of the legislative and normative framework of the budget execution, social significance of the subject etc.

Working plan of the Accounting Chamber shall also take into consideration requests of not less than one third of the constitutional membership of Verkhovna Rada of Ukraine submitted according to the Standing Orders of Verkhovna Rada of Ukraine as well as requests and proposals of the President of Ukraine.

The plan approved by the Board of the Accounting Chamber provides systematic, permanent and effective control over the use of the funds of the state budget of Ukraine and state earmarked funds, state debt servicing and settlement as well as legitimacy and expediency of expenditures, substantiation and compliance with the standing legislation of legal acts and orders of state executive authorities making direct or indirect impact upon the state budget execution .

To increase effectiveness and efficiency of the Accounting Chamber performance, to optimize and actualize the areas of its control and analytical and expert measures, **areas of the Accounting Chamber activity and its new structure were adopted in 2004**. The following departments of the Accounting Chamber provided fulfillment of its tasks in the reporting year:

- On Control, Analysis and Expertise of State Budget (Chief Controller-Director of Department - M.Holovan);
- On Financial and Budget Legislation (Chief Controller-Director of Department - V.Pylypenko);
- On State Security and Law Enforcement Activity (Chief Controller-Director of Department - Mr. V. Nevidomyi);
- On Agricultural Sector, Natural Resources and Environment Protection (Chief Controller-Director of Department - M. Shulezhko);
- On State Debt, International Activity and Financial Institutions (Chief Controller-Director of Department - Y.Ivanenko);
- On Science and Humanitarian Sphere (Chief Controller-Director of Department - Y.Flissak);
- On Industry and Production Infrastructure (Chief Controller-Director of Department - A. Zipir);
- On Social Policy and State Administration (Chief Controller-Director of Department - L.Vitkovska);
- On State Budget Funds Use in the Regions (Chief Controller-Director of Department - G.Samus).

Important was the adoption of **Decree of the President of Ukraine #400 from 08.04.2004 "On Amendments to the Decree of the President #1074 from September 19, 2000, and Resolution of Verkhovna Rada of Ukraine #1784-IV from 15.06.2004 "On Establishment of Territorial Representative Offices of the Accounting Chamber"**. In accordance with them, the Board of the Accounting Chamber passed the resolution #15-3 from 19.07.2004 upon the establishment of 10 territorial offices of the Accounting Chamber as its structural divisions by regional principle:

- for Donetsk and Luhansk Regions (in Donetsk);
- for Dnepropetrovsk and Zaporizhzhia Regions (in Dnipropetrovsk);
- for Kharkiv, Sumy and Poltava Regions (in Kharkiv);
- for Odesa, Mykolayiv and Kherson Regions (in Odesa);
- for Autonomous Republic of Crimea and Sevastopol (in Simferopol);
- for Cherkasy, Chernigiv and Kyrovograd Regions (in Cherkasy);

- for Vinnytsia, Zhytomyr and Khmelnytsk Regions (in Vinnytsia);
- for Lviv, Volyn, Rivne and Ternopil Regions (in Lviv);
- for Ivano-Frankivsk, Transcarpathian and Chernivtsi Regions (in Ivano-Frankivsk);
- for Kyiv and Kyiv Region (in Kyiv).

To develop the mechanism of functioning and interaction of territorial offices with the departments and other structural divisions of the Accounting Chamber **tree territorial offices** were established in 2004:

- for Dnipropetrovsk and Zaporizhzhia Regions (in Dnipropetrovsk);
- for Odesa, Mykolayiv and Kherson Regions (in Odesa);
- for Lviv, Volyn, Rivne and Ternopil Regions (in Lviv).

Mentioned territorial offices have already launched coordinated activity with the Departments of the Accounting Chamber on the measures of control over legitimacy, effectiveness and expediency of spending the funds of the state budget of Ukraine, earmarked budgetary and state non-budgetary funds by state authorities, institutions, organizations disregarding of the form of ownership which are situated on the respective territory.

Main areas of control and analytical measures were the following in 2004:

- Analysis of the governmental report on the execution of the state budget of Ukraine for 2003, for the first quarter, first six months and nine months of 2004 and expertise of the Draft Law of Ukraine "On the State Budget of Ukraine for 2005";
- Control over the use of budgetary funds for social and science spheres;
- Control over the use of budgetary funds for industry and energy sectors;
- Control over the use of budgetary funds to support agricultural producers;
- Control over the expenditures for defense, law enforcement activity and state security;
- Analysis and control of the use of the state budgetary funds by the state authorities for management and administration;
- Control over the use of budgetary funds meant for environment protection;
- Control over the reserve fund of the state budget of Ukraine used, namely, to eliminate aftermath of natural calamities and disasters.
- Analysis of legitimacy and effectiveness of allocation and use of subventions and interbudgetary settlements;
- Control over the use of the funds for national and state programs;
- Control over the use of the budget funds by state joint stock companies, corporations, enterprises;
- **Analysis of reports of the State Property Fund of Ukraine and the Antimonopoly Committee of Ukraine;**
- Control over the state budget spendings for state debt servicing and settlement;
- Control over the comprehensiveness, timing and effectiveness of the disbursement of International Bank for Reconstruction and Development credits;
- **Control over the execution of the budget of the National Bank of Ukraine;**

- Control over the use of the state budgetary funds allocated for accumulation (growth) of material values of the state material reserve of Ukraine;
- Control over effectiveness of the use of the state centralized capital investments;
- Control over the compliance with the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds".

The most characteristic peculiarity of the Accounting Chamber activity in the reporting year, along with **introduction and shift of the Accounting Chamber to the priority of effectiveness audit together with financial audit is the application of conformity audit in the routine activity**. Applying of the mentioned up-to-date types and methods of the audit provided an opportunity to **conduct parallel audits with supreme control institutions of Hungary and Poland on the appropriate level**. It proves that the Accounting Chamber starts to integrate into international audit cooperation not only on the level of congresses, symposia, meetings, various training activities but on the level of partnership in joint control measures i.e. starts to "talk the same language" with European supreme control institutions.

More substantial and thorough was the monitoring of the feedback of central and local executive authorities, objects of control and analytical measures to the Conclusions of the Accounting Chamber Board, especially for the complete realization of the proposals and recommendations in the follow-up to the control measures.

Significant step was made in 2004 in the relations with international organizations of the supreme financial control institutions INTOSAI and EUROSAI. Experts of the Accounting Chamber became members and now participate actively in the work of committees and working groups of INTOSAI and EUROSAI, participated in the Long Term Program of Regional Development of INTOSAI (IDI) Development Program.

1.2. Performance results of the Board

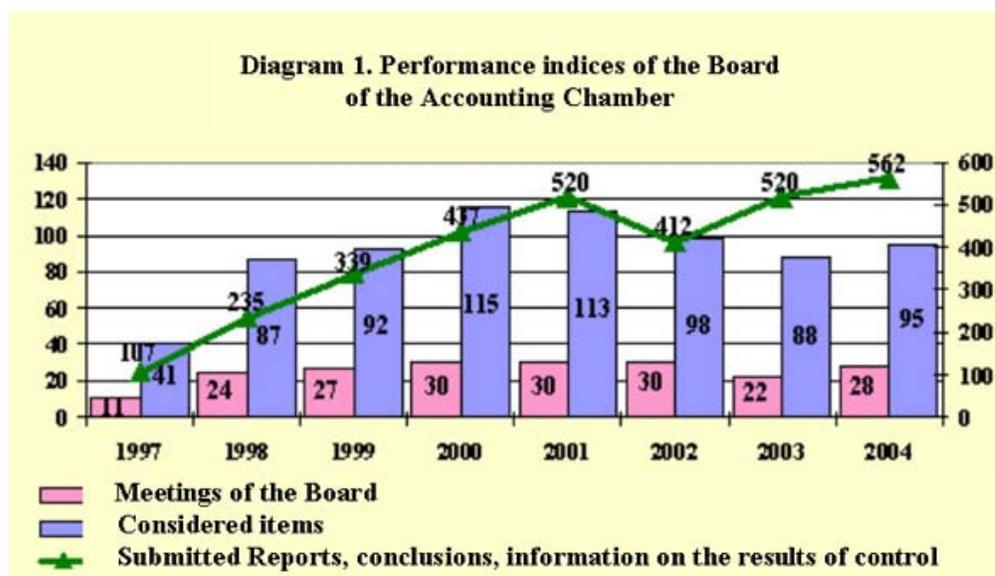
The underlying principle of the Accounting Chamber activity is collegiality.

According to article 9 of the Law of Ukraine "On the Accounting Chamber" all the issues of the work organization, planning, methodology and control of control and analytical and expert measures were considered at the meetings of the Accounting Chamber Board established on May 23, 1997, and enlarged till 2000. Mandates of the First Deputy Chairman of the Accounting Chamber and three chief controllers expired in April of 2004 and these positions were rotated. Mandate of Deputy Chairman of the Accounting Chamber, Secretary of the Accounting Chamber and three chief controllers expired.

The Board includes the Chairman of the Accounting Chamber, two his deputies, Secretary of the Accounting Chamber and nine chief controllers-directors of departments appointed by Verkhovna Rada of Ukraine through secret balloting.

Activity of the Board of the Accounting Chamber was conducted in accordance with the Law of Ukraine "On the Accounting Chamber", Budget code of Ukraine, Standing Orders of the Accounting Chamber.

Twenty eight meetings of the Board of the Accounting Chamber were conducted in 2004 where 95 items were considered (diagram 1). Control and analytical, expert, legal and methods items constituted 76% of the total number of items.



The Board of the Accounting Chamber guiding by the necessity to increase effectiveness and efficiency of the performance of the Accounting Chamber focused its work in 2004 on the following:

- Increasing of scope of control measures on as much as possible specific weight of financial resources subjected to control by the Accounting Chamber;
- Enhancing of analytical component in the basic activity, promotion of effectiveness audit (administration) as the form of control and establishment of cause-and-effect relations of the detected violations;
- Actualization of issues included to the working plan;
- Control over implementation of national, state and complex programs;
- Compliance with the standing legislation on budget;
- Summarizing of the best practices in the detection of system violations by the main administrators of the budget funds;
- Feedback of state authorities and control objects to the conclusions and proposals of the Accounting Chamber in the follow-up to control and analytical measures, legislative proposals of the Accounting Chamber on state budget and finances of Ukraine considered by Verkhovna Rada of Ukraine;
- Building and institutional development of the Accounting Chamber.

According to the powers defined by the Law of Ukraine "On the Accounting Chamber" and Budget Code of Ukraine, the Accounting Chamber conducted **analysis of the budget process**, systematic **control over the execution of the state budget** ensured via quarterly, semi-annual and annual analyses of the execution of the state budget of Ukraine, reporting on the execution of the revenues of the state budget of Ukraine for three quarters as well as during the expertise of draft state budget of Ukraine for 2005 and analysis and assessment of macroeconomic indices execution included in the Law of Ukraine "On the State Budget of Ukraine for 2003", their impact on the execution of the state budget.

Control measures included 3 audits of the budget funds use for the national programs, 14 - for state programs and 6 - for complex programs or their specific areas. Totally, **33 %** of the total number of items prepared by the departments concerned audits of these programs.

Particularly, it concerns National Energy Program of Ukraine till 2010, National Program of Small Enterprise Promotion in Ukraine, National Program of Informatization and a number of state programs, namely:

- On the support of state border regime and frontier regime, development of Border Troops of

Ukraine and customs bodies of Ukraine till 2005 and the program of establishment and functioning of the national network of international transport corridors in Ukraine adopted by the Resolution of the Cabinet of Ministers of Ukraine #346 from 20.03.98;

- Programs "Grain of Ukraine", "Privatization for 2000-2002", "Employment of Population", "Ukrainian Coal", "Construction of Military Transport Airplane AN-70 and its Procurement by State Order";
- Programs "Selection in Animal Breeding", "Flood Measures in Transcarpathian Region for 1999-2000", "Complex Flood Protection in the Basin of Tisza in Transcarpathian Region for 2002-2005 and the Forecast till 2015";
- "Oncology"

One of the main areas constantly being in the focus of attention of the Board of the Accounting Chamber is control over the use of the budget funds to tackle **social issues**.

Particularly, the Board paid special attention to control over the use of the budget funds for:

- Complex medical and sanitary support of the people suffering from Chornobyl disaster;
- Creation of new jobs in coal industry for the people made redundant after mines are closed;
- Long-term credits on easy terms and partial reimbursement of interest rate of commercial banks to young families and single young people for construction (reconstruction) of housing;
- Medical support of internal affairs bodies officers and servicemen of internal troops;
- Pension support of military men;
- Construction (purchase) of housing for military men;
- Compensation payments for petrol, repair, technical maintenance of auto vehicles and transportation services and installation of telephones to disabled people of the first and second groups;
- Repayment of guaranteed sum to the bank depositors by the Fund of Physical Entities Deposits Guaranteeing;
- Repayment of debts on devaluated insurance contributions of the citizens of Ukraine placed in the institutions of the former Ukrderzhstrakh before January 2 of 1992;
- Use of the funds from the Fund of Compulsory State Social Unemployment Insurance of Ukraine for granting of subsidies to the employers for them to create new jobs.

State support and preserving of **industrial potential of the county** were discussed when the Board considered the Reports on the audit and analysis of the state budget funds use for:

- Restructuring of coal and peat industries;
- Technical refitting of coal, lignite and peat enterprises;
- Building of nuclear power plant units in Ukraine;
- Operations support of Ukrainian State Association "Radon" and construction of the launch facility "Vector";
- Creation of the serial production of the airplane AN-70;
- Building of wind power plants.

Financing of the **agrarian sector and domestic agriculture producers support** were discussed when the Board considered the results of analyses and audits of the budget funds use for:

- Implementation of the state program "Grain of Ukraine";
- Support and development of selection in Ukraine;
- Administration and management in veterinary medicine and organization of the operations of the sectoral institutions.

State **defensibility** and material support of **the Armed Forces of Ukraine** were discussed by the Board in the follow-up to the audits of the state budget funds use meant for:

- Reforming of the Armed Forces of Ukraine;
- Participation in the international peace-making operations;
- Use of the funds of the specialized fund of the state budget of Ukraine obtained from realization of immovable military property by the Ministry of Defense of Ukraine from 2001 to 01.04.2004.

Constant attention was paid to the **state debt**, use and repayment of state-secured loans, implementation of projects international financial organizations. It concerns the Reports considered and approved by the Board:

- On the audit of the state funds use meant for implementation of the project of International Bank for Reconstruction and Development "Fund of Social Investments";
- On the state budget funds spending for the servicing and repayment of the state debt to Turkmenistan;
- On the results of effectiveness analysis of the measures stipulated in the Law of Ukraine "On the State Budget for 2003" regarding the state debt management;
- On the disbursement of the credit of International Bank for Reconstruction and Development for the realization of the Project of rehabilitation and extension of district heating in Kyiv.

The Board considered a number of issues concerning the budget funds use for science and education, namely on

- Training and capacity building of the human resources for medicine in the higher education institutions of III-IV accreditation levels;
- Training of the human resources for internal affairs bodies in the higher education institutions of the Ministry of Internal Affairs of Ukraine;
- Informatization of the general educational institutions, computerization of village schools;
- Training of the human resources in the higher education institutions of I-IV accreditation levels of the Ministry of Transport and Communication of Ukraine;
- Training of the specialists by the qualification "State administration";
- Planning of the state budget funds by the National Academy of Science of Ukraine for fundamental and applied science in 2002 and 2003;
- Planning and use of the state budget funds allocated to Ukrainian Academy of Agrarian Sciences for science development.

Environment protection was discussed when the Board considered Reports on:

- The use of the state budget funds to maintain the safety of the object "Shelter" in 2003;
- Implementation of the State Program of Complex Flood Protection in the basin of Tisza in Transcarpathian Region for 2002-2006 and Forecast till 2015 and international agreements on this issue;
- The use of the state budget funds meant to the Ministry of Industrial Policy of Ukraine for

restructuring and liquidation of the mining chemistry enterprise objects and nature protection measures in the zone of their operations.

Along with it, last year witnessed boosting of international cooperation in this sphere: the Accounting Chamber representatives participated in the international conferences, joint audits, namely with the State Audit Office of Hungary as well as in the environment protection working group.

Specific area of the Board activity concerned analysis and control over the **economic security of the state**, particularly, considering of Reports on:

- Accumulation (growth) of material values of the State Material Reserve, refunding of the expenses to the responsible depositaries and the state material reserve servicing;
- Functioning of Ukrainian-Polish checkpoints (border passages) at the state border;
- Results of the analysis of compliance with the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds" while using the state budget funds in 2002-2003.

Among essential control and analytical measures on state problems are the audit of the budget funds use by the State Court Administration of Ukraine to support operations of the courts of law, other court bodies and institutions.

The Board paid special attention to compliance **with the budget legislation and regulatory framework of the budget process**. The following reports were made up:

- On the results of the audit of legitimacy of the actions of the National Bank of Ukraine on the indisputable write-off of the funds from the general fund of the state budget of Ukraine;
- On the results of the analysis of the regulatory framework of the state budget funds use for education.

The Board considered a number of issues connected with the relations between **state budget of Ukraine and local budgets**. In particular, the following reports were made up:

- On the results of the analysis and audit of the use effectiveness of the state budget subvention transferred to local budgets to implement investment projects in 2003;
- On the audit of the use effectiveness of the state centralized capital investments;
- On the results of the effectiveness audit of grant disbursement to elaborate the projects "Program of Social Development (Fund of Municipal Development);
- On the results of the analysis of formation and use of subvention transferred in 2003 from the state budget to local budgets for the welfare assistance to families with children, low income families and disabled people since childhood and disabled children;
- On the results of analysis of formation and allocation of transfers from the state budget of Ukraine to local budgets and status of interbudget settlements in 2003-2004.

The Board also considered analysis of formation and execution of the budgets of the Pension Fund of Ukraine, the Fund of Disabled People Protection, and the Fund of Compulsory State Social Unemployment Insurance.

The Accounting Chamber audited for the first time the use of the state budget funds by State Affairs Department.

To perform the functions and powers in line with the Law of Ukraine "On the Accounting Chamber", annual control was conducted over the use of reserve fund of the state budget of Ukraine, budget execution of the National Bank of Ukraine and reports of the Antimonopoly Committee of Ukraine and the State Property Fund of Ukraine were analyzed.

The Board paid much attention to the institutional development of the Accounting Chamber in the reporting period, which led to the revision and approval of the new areas of activity for departments, structure and manning table.

The Board of the Accounting Chamber focused primarily on the planning of activity in line with prospect and current plans elaborated taking into account all types and areas of the Accounting Chamber activity and specific orders of Verkhovna Rada of Ukraine and its committees.

Extra-curricular control measures was conducted exclusively upon the resolutions of the Board of the Accounting Chamber based on the resolutions or protocol orders of Verkhovna Rada of Ukraine, requests of its committees and interpellations of the people's deputies of Ukraine guided by which Verkhovna Rada of Ukraine passed relevant resolutions.

Thus, 10 or 14% of items of the total scope of items considered by the Board were prepared according to:

- **Resolution of Verkhovna Rada of Ukraine #1939-IV** from 30.06.2004 - "Report on audit and analysis of the financial performance of state (national) joint stock and holding companies for 2001-2003";
- **Order of the Chairman of Verkhovna Rada of Ukraine #01-4/227** from 20.02.2004 on the resolution of Ad Hoc Control Commission of Verkhovna Rada of Ukraine on privatization - "Interim analysis of the areas of use of the specialized fund of the state budget of Ukraine obtained from realization of immovable military property by the Ministry of Defense of Ukraine from 2001 to 01.04.2004";
- **Request of the President of Ukraine** on bringing the subsidies in coal industry under control - "Report on the results of the audit and analysis of the use of the state budget funds in 2003 and in nine months of 2004 meant for restructuring of coal and peat industry"
- "Report on the results of the audit and analysis of the use of the state budget of Ukraine in 2003 and in first 6 months of 2004 meant for technical refitting of coal, lignite and peat enterprises;
- **request of the Committee of Verkhovna Rada of Ukraine on Agrarian Policy and Land Relations #06-13/15-198** from 01.12.2003 on the audit of effectiveness of the state programs in agrarian sector, namely regarding selection - "Report on the results of the audit of the funds use of state budget of Ukraine allocated for the support and development of selection in Ukraine in 2003 and in first 6 month of 2004";
- **request by the Prosecutor's General Office of Ukraine #07/2/1-201** from 30.06.2004 on the audit of legitimacy of the actions of the National Bank of Ukraine - "Report on the results of the audit of legitimacy of the actions of the National Bank of Ukraine on the indisputable write-off of the funds from the general fund of the state budget of Ukraine";
- **Interpellation by Mr. M.Tomenko, People's Deputy of Ukraine** (letter by Mr. V.Lytvyn, the Chairman of Verkhovna Rada of Ukraine, #11/10-1034 from 03.06.2003) - "Report on the results of the audit of the budget funds use allocated to the National TV Company of Ukraine in 2002-2003";
- **request by Mr. O.Masenko, Mr. O.Tiagnybok, Mr. M.Polishchuk and Mr. M.Rudkovskiy, People Deputies of Ukraine**, from 16.10.2003 on the audit of the use of funds of the state budget of Ukraine by Ukrainian Academy of Agrarian Sciences for science development - "Report on the results of the audit of planning and use of the funds of the state budget of Ukraine allocated to Ukrainian Academy of Agrarian Sciences for science development in 2002 and 9 months of 2003";
- **request by Mr. Y. Marchuk, Minister of Defense of Ukraine, #205/1299/D** from 20.10.2003 - "Report on the analysis of the results of control over elimination of the budget violations by the Ministry of Defense of Ukraine detected by the Accounting Chamber during the audit of the state budget funds use allocated for reforming of Armed Forces of Ukraine."

During elaboration of "Report on the results of the analysis and audit of the use effectiveness of the state budget subvention transferred to local budgets to implement investment projects in 2003" audit was conducted **upon the request of Mr. M.Noshchenko, People's Deputy of Ukraine, #1-606/4** from 24.10.2003;

To provide the People's Deputies of Ukraine with information about the results of control and analytical activity of the Accounting Chamber based upon the Reports, 21 bulletins were produced (appendix 1 - list of information bulletins).

1.3. Results of fulfillment of functions and powers

1.3.1. General performance indices

The Accounting Chamber conducted totally 563 control, control and analytical and expert measures in 2004.

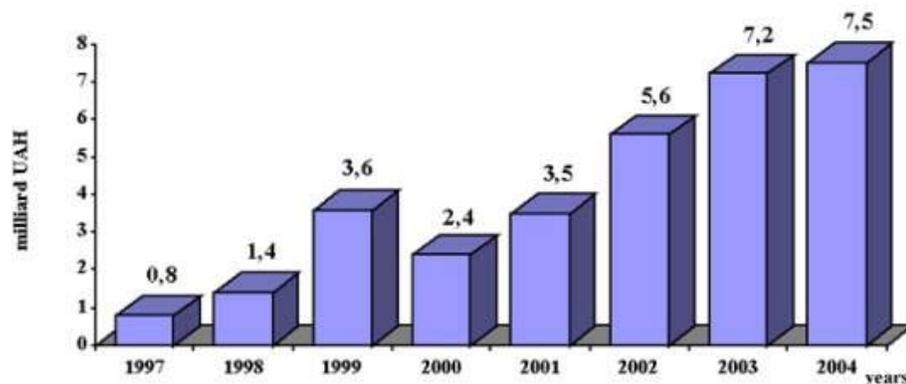
The Accounting Chamber carried out control over the use of the state funds in 14 regions of Ukraine. About 618 deeds and certificates were made up on the results of the audits. 622 objects were audited including 555 (89%) - central executive authorities, state institutions, organizations etc, among which 301 objects (54%) were audited for the first time. Control groups of the Accounting Chamber made 109 visits to the regions (appendix 2 - main objects of control and analytical measures of the Accounting Chamber in 2004).

In the follow-up to the mentioned control, control and analytical and expert measures 562 reports, conclusions, information, deeds and letters for relevant feedback, elimination of violations and drawbacks, reimbursement of losses and expenses caused to the state budget of Ukraine were made up and submitted to supreme legislative and executive authorities, institutions, organizations, enterprises. Among them, 151 documents were submitted to Verkhovna Rada of Ukraine, 18 - to Administration of the President of Ukraine, 46 - to People's Deputies of Ukraine, 69 - to the Cabinet of Ministers of Ukraine, 12 - to the Ministry of Finance of Ukraine, 31 - to the Prosecutor's Office and other law enforcement bodies, 158 - to the ministries, other central executive authorities, 77 - to institutions, organizations, enterprises (diagram 2).

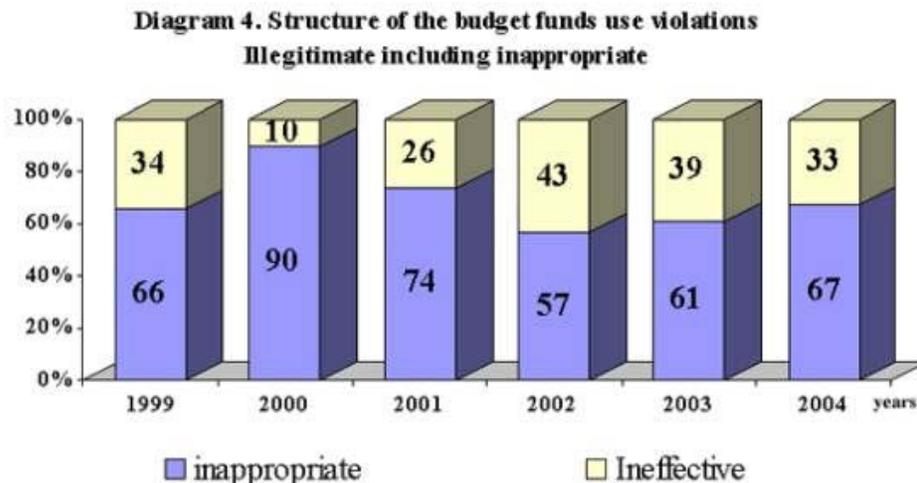


Control and analytical and expert measures conducted by the auditors of the Accounting Chamber detected budget violations according to the articles 116 and 119 of the Budget Code of Ukraine (of illegitimate including inappropriate) and ineffective use of the funds of the state budget of Ukraine and extra-budgetary funds amounting totally to **7 billion 540.5 mln UHA**. Among it **illegitimate including inappropriate use of the funds amounts to 5 billion 33.5 mln UHA, ineffective --2 billion 507 mln UHA** (diagram 3).

Diagram 3. Budget violations and ineffective budget funds use detected by the Accounting Chamber



Structure of violations in the budget funds use (diagram 4) proves that analytical component in control measures, i.e. introduction of effectiveness audit elements of the state budget funds and state extra-budgetary funds use, appraisal of effectiveness of the managerial decisions of the Government, ministries, other central executive authorities, organizations and enterprises being audited has become stable in the recent years.



Analysis of the results of control and analytical measures conducted in 2004 proves that the majority of budget violations became systematic. They are widely committed and repeated from year to year. They can be classified in the following types:

use of the funds of the state budget of Ukraine breaching the Law of Ukraine "On Procurement of goods, works and services for state funds";

overstated allocations and extra funds obtained because of undue budget assignments;

redeployment of the state budget funds to long term receivables and payment for not performed services, works, non-obtained inventories by the state-financed organizations;

planning of the state budget expenditures without legal grounds;

non-compliance with the principle of proportion of financing (allocation) of the budget funds;

understatement of revenues and expenditures of the budget;

violations connected with the use of the state budget funds meant for capital investments;

reallocation of funds among budget programs and codes of economic classification;

inappropriate use of the state budget funds meant for state programs;

illegitimate resolutions of the Cabinet of Ministers of Ukraine on allocations from the reserve fund of the state budget;

Underpayments to the budget by the results of financial performance of the business entities;

Inappropriate accounting; non bringing of the material values and funds to account; understatement of cost of fixed assets and other inventories;

use of the funds breaching state construction norms;

budget violations connected with placing and execution of the state order;

sustaining of non state-financed institutions and organizations by means of the state budget;

violations connected with debts of local budgets to the state budget;

Illegitimate increase of subsidies and subventions;

ill-use of interbudgetary transfers.

It should be stressed that guiding by the experience of control and analytical and expert

measures, particular system types of ineffective budget funds use emerged. The most typical violations of 2004 was the following:

ineffective use of the state budget funds because of unjustified managerial decisions;

ineffective management of the budget funds because of their long keeping on the registration accounts of the budget funds administrators without use and on the current accounts of the lower organizations and long non-use of the state budget financing;

ineffective disbursement of foreign earmarked loans;

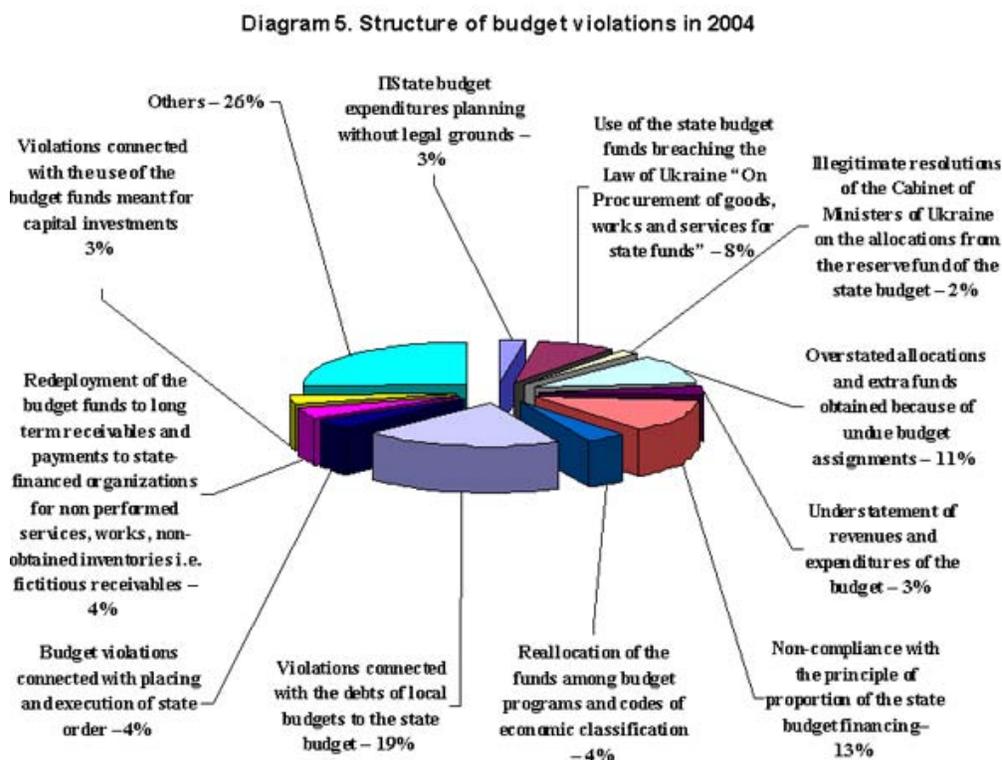
ineffective use of the funds to purchase fixed assets (equipment);

ineffective use of the budget funds meant to establish intervention fund;

ineffective use of the budget funds for training.

1.3.2. Analysis of detected budget violations

Totally, budget violations i.e. illegitimate, including inappropriate use of the budget funds detected in the control measures of the Accounting Chamber in 2004 amounted to more than 5 billion UHA. Structure of such violations has become stable and with some fluctuations depending upon the list of the audited objects repeats itself from year to year (diagram 5).



The most widely spread type of budget violation detected nearly in half of all control measures conducted by the Accounting Chamber in the reporting period was **the use of the state budget funds breaching the Law of Ukraine "On the procurement of goods, works and services for state funds"**. Totally, these violations amounted to 387.3 mln. UHA in 2004 (7.7 % of the total amount of illegitimate use of the budget funds).

Analysis of compliance with the Law of Ukraine "On the procurement of goods, works and services for state funds" while using the funds of the state budget of Ukraine in 2002-2003 conducted by the Accounting Chamber in the reporting year showed that the most typical violations of legislation on the procurement were the violations connected directly with the competitiveness and transparency of state procurement, namely, correct choice of the procurement procedures; benefits of open bidding if compared with other procedures; choice of criteria to announce the winner taking into account legitimacy and effectiveness of the budget funds use i.e. legal norms, which correct and unconditioned compliance with, can prevent corruption in this sphere. Analysis of the activity of the Ministry of Economy and on European

Integration of Ukraine as an authorized body on state procurements showed that this work was conducted non-systematically and ineffectively.

Audit and analysis of the use of funds of the state budget of Ukraine meant for technical refitting of coal, lignite and peat enterprises in 2003 and first six months of 2004 showed that the Ministry of Fuel and Energy of Ukraine had applied procedure of one bidder procurement without proper marketing research of producers which had made procurement procedure nontransparent. Along with it, audited coal enterprises concluded agreements after one contractor procurement carried out by the Ministry amounting totally to 149.1 mln UHA financed in the amount of 134.8 mln UHA which breached the articles 8,17,19,21, part 7 of article 26 and 29 of the Law of Ukraine "On procurement of goods, works and services for state funds".

Violations of the legislation on state funds procurement were also detected in the *audit of the use of the funds of the Fund of Compulsory State Unemployment Social Insurance of Ukraine meant for the creation of new jobs in coal industry for the employees released after mines closing by the regional state administrations*. The enterprises-beneficiaries of the funds from Donetsk and Luhansk Regions conducted procurements breaching the legislation at the total amount of 38.6 mln UHA. In particular, Donetsk Regional State Administration did not follow the procedure of tender committees establishment for state funds procurements to create new jobs, in particular cases the choice of one bidder procurement procedure was unjustified as well as procurement in line with the mentioned procedure without agreeing with the Ministry of Economy. Luhansk Regional State Administration breaching article 1 of the Law of Ukraine "On the procurement of goods, works and services for state funds" and clarification of the Ministry of Economy, awarded contract on creation of new jobs for procurements to State Company "Luhanskleginvest" although it had to perform these functions itself being main funds administrator. It also caused violations similar to the violations committed by Donetsk Regional State Administration.

Audit and analysis of the use of the state budget funds in 2003 and 9 months of 2004 meant for restructuring of coal and peat industries detected wide scope of violations, namely, of articles 2,14,17,19,26,27,29,33 of the Law of Ukraine "On the procurement of goods, works and services for state funds" amounting totally to 21.6 mln. UHA. These violations were committed while informing the bidders and tender documents elaborating, bidders identifying who could participate, bids appraising, choice of the winner and agreements concluding in the follow-up to the bidding and bids denying.

Besides, products amounting to 74.3 mln UHA were included to the state material reserve in 2002-2003 breaching the Law of Ukraine "On the procurement of goods, works and services for the state funds".

In particular, *audit of the state budget funds use allocated to accumulation (growth) of the material values of the state material reserve, reimbursement of expences to the responsible depositaries and the state material reserve servicing in the second 6 months of 2002 and in 2003*, detected that 16 enterprises were announced winners by the results of tenders which were not agriculture producers and had already supplied agricultural products to the state reserve at the amount of 20.1 mln UHA which breached item 4 of article 6 of the mentioned Law.

Besides, audit of State JSC "Ukrresursy" detected that out of 27 bidders of the food grain procurement tender only two submitted full set of documents stipulated in the legislation. Products amounting to 24.3 mln UHA were included to the state reserve through Ukrresursy which breached the standing legislation on state funds procurement. Respectively, such inclusion through State JSC Ukrreserve amounted to 29 mln UHA in the process of grain and meat procurement .

The State Committee of Ukraine for State Material Reserve returned illegally 1 mln. UHA of tender support to the enterprises, which bids were accepted but they were absent at contract signing.

The Council of Ministers of Autonomous Republic of Crimea while using 30 mln UHA of budget funds allocated from reserve fund of the state budget to reimburse losses of agriculture producers suffering from spring frosts and draught in 2002 breached the Law of Ukraine "On the procurement of goods, works and services for state funds". Biddings were carried out according to item 5.1.1. of the Resolution of the Council of Ministers of Autonomous Republic of Crimea #254 from 09.07.2002 which stipulates that the Single Tender Committee by the Council of Ministers of Autonomous Republic of Crimea could approve recommendations on the winners awarding to conclude contracts with agriculture producers for procurement of diesel, mineral fertilizers, seed treaters, winter crops seeds not subjected to the mentioned law of Ukraine. Thus, funds allocated from reserve fund were used illegitimately. These facts were detected in the *audit and analysis of the state budget funds use allocated to the program "Grain of Ukraine - 2001-2004"*.

Violations of the standing legislation on the state funds procurement of goods, works and services were detected *in the audit of the use of reserve fund of the state budget of Ukraine in 2003*. As a result, instead of legally defined competitive procedures of procurement, prejudiced selection of the procurement participants was conducted which led to the significant price overstatement and unjustified losses of the state budget. Audit of three resolutions and orders of the Cabinet of Ministers of Ukraine alone proved that such losses amounted to 16.7 mln UHA. Namely, adoption of the resolution of the Cabinet of Ministers of Ukraine #669-p from 06.11.2003 "On the organization of the procurement of phytohormone with cryoprotective properties" resulted into prejudiced choice of the supplier of chemical "Mars-1" and illegitimate use of 10.7 mln. UHA of the state budget funds.

Large number of budget violations connected with procurement was detected in the *audit of the use of funds of the state budget of Ukraine by State Affairs Department*. Total amount of such violations is nearly 14.2 mln UHA.

Within the budget program "Organizational, information and analytical, material and technical support of the operations of the Administration of the President of Ukraine State Affairs Department conducted procurements at the total amount of nearly 3 mln. UHA or 21 % of the expenditures envisaged in the budget breaching the Law of Ukraine "On the procurement of goods, works and services for the state funds".

Within the budget program "Support of the operations of the President of Ukraine" institutions and organizations accountable to State Affairs Department conducted bidding totally at 11.2 mln. UHA, breaching the standing procurement legislation. State Enterprise "Ukrzhytloservice" did not establish tender committee at all and, consequently, 0.8 mln. UHA allocated for contracting repair works of housing stock was used with budget violation.

Control measures in 2004 detected budget requests exceeding significantly actual needs and further approval of the overstated budgets like in the previous years. As a result, such budget violation as **overstated allocations and obtained extra-funds because of undue budget assignments** becomes regular. These facts detected by the Accounting Chamber amounted to 529.2 mln UHA (almost 10.5 % of the total amount of detected budget violations).

Audit of the use of the funds of the State Budget of Ukraine by the Central Election Commission detected that Central Election Commission overstated the need for the funds for the elections of people deputies of Ukraine by about 100 mln. UHA during formation of the state budget for 2002 which allowed to create the reserve and avoid budget allocations totally at 23.3 mln UHA, reallocate 15.6 mln. UHA among budget programs and create surplus of 77.4 mln UHA which was returned to the state budget.

Envisaging of allocations to the Ukrainian Academy of Agrarian Sciences for 2002-2003 for fundamental research and applied developments totally at 153.6 mln. UHA, for scientific and technical programs of the Academy which were not based upon regulations and not approved by the Cabinet of Ministers of Ukraine in the set order could also be considered as budget violation.

The above mentioned became possible as the orderer of scientific and technical programs of the Academy was not the Ministry of Agrarian Policy of Ukraine but the Academy itself which allowed to avoid external control over planning and use of the state budget funds. Such situation was detected in the *audit of planning and use of the funds of the state budget of Ukraine allocated to the Ukrainian Academy of Agrarian Sciences for science development in 2002 and nine months of 2003*.

Budget violations were detected in *the audit of planning and use of the funds of the state budget of Ukraine by the Ministry of Education and Science of Ukraine for informatization of general educational institutions and computerization of village schools*. Particularly, the Ministry of Education did not initiate and the Cabinet of Ministers did not prolong for 2004 Program of Informatization of General Educational Institutions, Computerization of Village Schools for 2001-2003. Nevertheless, the state budget of Ukraine for 2004 envisaged 90 mln. UHA for this program, out of which only 23.5 mln. UHA had been used to the moment of the audit (as for 01.10.2004), that breached part 2 of article 35 and part 1 of article 36 of the Budget Code of Ukraine.

On the other hand, parallel existence of the tasks of National Program of Informatization for 2000-2002, list of state orderers and scope of financing of the tasks (programs) of National Program of Informatization for 2001-2004 and Program of Informatization of General Educational Institutions, Computerization of Village Schools for 2001-2003 led to planning and use of the funds allocated for computerization of village schools outside National Program of Informatization which breached articles 2 and 24 of the Law of Ukraine "On national program of informatization".

Audit of the use of the funds of the state budget of Ukraine by the Ministry of Health Care of

Ukraine in 2002-2003 for State Program "Oncology" detected that the Ministry of Health Care of Ukraine did not develop effective mechanism of its realization for more than two years since it had come into force; as a result, people suffering from oncopathology were not provided in due time with qualitative free medical assistance guaranteed by the state.

Any of nine chapters of State Program "Oncology" was not realized in full scope and specific chapters to be completed in 2003 were started only at the beginning of 2004. Actually, realization of the program in 2002-2003 was limited to the purchase of oncology medicines and expensive medical equipment and people suffering from oncopathology were provided with medicines at less than one third of the need and had to buy major part of necessary medicines at their own expense.

Adoption of cost estimates by respective budget programs (purchase of oncology medicines) was made by the Ministry of Health Care of Ukraine without economically substantiated calculations; that breached Procedures of Development, Consideration, Adoption and basic requirements to the execution of the budgets of the state-financed institutions adopted by the Resolution of the Cabinet of Ministers of Ukraine #228 from 28.02.2002.

Consequently, oncology medicines were purchased for state funds not envisaged by the Interim Sectoral Unified Standards at the total amount of 86.1 mln. UHA which made up 65% of the total financing for 2002-2003. Besides, surplus non used oncology medicines in the medical institutions cost 65.2 mln. UHA as for 01.04.2004.

Audit of planning and use of the funds of the state budget of Ukraine for training and capacity building of human resources in medicine in the higher education institutions of III-IV accreditation levels detected that the Ministry of Health Care of Ukraine did not introduce normative of material and technical and financial support of the higher education institutions accountable to it; it breached article 63 of the Law of Ukraine "On Education" and Regulations on State Higher Education Institution. Thus, the Ministry of Health Care of Ukraine not controlled by the Ministry of Finance of Ukraine did not provide clear and real planning of the budget funds use which led to arbitrary, not economically substantiated, use of the state budget funds to purchase equipment totally at 59.2 mln. UHA.

From year to year the Accounting Chamber experts detect through control measures facts of such faulty practice as redeployment of the state budget funds to long term receivables and payment for unperformed services, works and non obtained inventories to state-financed organizations. Totally, these budget violations detected in the audits made up almost 217.7 mln UHA.

Audit of the use of the funds of the reserve fund of the state budget of Ukraine in 2003 showed that the negative practice of funds allocation from the reserve fund at the end of the year caused redeployment of the significant funds to receivables and, actually, to reserving aimed at the future budget period expenditures. In December of 2003 the Cabinet of Ministers of Ukraine adopted 19 resolutions and orders totally at 96 mln. UHA, out of which 8 at 71.9 mln. UHA - for the second half of December. Result of such regulation-making was the receivables by the allocations from reserve fund of the state budget amounting to 36 mln. UHA as for 01.01.2004.

Local audits within the *audit of the use of the funds of the state budget of Ukraine allocated for the program "Grain of Ukraine - 2001-2004"* detected breaches of article 3 of Budget Code of Ukraine by the State Treasury of Ukraine. The latter made advance payments for 2004 in 2003 through transferring of the state budget funds to the banks for agriculture producers to reimburse cost of credits obtained in 2003 at 108.3 mln. UHA. Consequently, funds allocated this way from the budget were transferred not to the beneficiaries (agriculture producers) but for the investments in commercial banks. Particularly, such transfers made up 17.4 mln. UHA in Odesa Region, 15.5 mln. UHA in Vinnitsa Region, 14.6 mln. UHA - in Dnipropetrovsk Region and 11 mln. UHA - in Kharkiv Region.

Facts of interest free credits to enterprises of various forms of ownership, i.e. redeployment of the budget funds to long term receivables, were detected in *the audit of use of the funds of the state budget of Ukraine allocated to the Ministry of Health Care of Ukraine for the State Program "Oncology"*. Unjustified prolongation of the terms of the advance payment for the purchased medicines and medical equipment up to five months by the Ministry, totally at 15.4 mln UHA, had all features of interest free credit y means of the state budget.

Similar budget violations were detected in the *audit and analysis of the use of the funds of the state budget of Ukraine in 2003 and first six months of 2004 meant for technical refitting of the coal, lignite and peat enterprises*. Coal enterprises by means of the state budget made advance payments for the material values for the period more than one month totally at 5.8 mln. UHA. Particularly, LLC "TD " "Druzhkivka Machine Building Plant" delivered conveyor SPC-26 to the mine "Ternavska" which cost almost 2 mln. UHA three months, and conveyors 1LT-800D, 1L800D which cost 1.6 mln. UHA 4.5 months after advance payment had been made. JSC

"NKMZ" delivered stationary equipment at 1 mln. UHA to the mine "Blagodatna" six months after advance payment had been made. Besides, equipment that cost almost 1 mln. UHA and had been paid in December of 2003 by means of the budget funds, was not supplied as for 01.07.2004 (as for the moment of the audit) or after seven months and mentioned amount was considered as receivables.

Analysis of the formation and allocation of transfers from the state budget of Ukraine to local budgets and interbudget settlements in 2003-2004 showed that settlements with service providers in Ivano-Frankivsk Region by means of subventions for the privileges to the veterans of war and labour, veterans of military service, veterans of internal affairs bodies, rehabilitated people who became disabled because of repression or pensioners, and subsidies to the people for electricity, natural gas, heat and water supply and waste water treatment, housing rent, removal of household wastes and sewage disposal exceeded actual services consumption by 6.1 mln UHA in 2003. As a result, receivables amounted to 8.5 mln UHA at the end of 2003.

Facts of **state budget expenditures planning at 132 mln UHA without legal basis** were also detected in 2004.

Audit of the project "Program of the Social Development of Ukraine (Fund of Municipal Development)" and effectiveness of the disbursement of the grant for its development detected that implementation of the project was planned for 2000-2003 but the process of its development was delayed and signing of the agreement between Ukraine and World Bank was postponed from 2001 to 2005.

Actually, state budget financing of the project implementation was not made but at the same time, the Ministry of Finance of Ukraine disbursed the international technical assistance grant of 412.9 thous. USD for its development in 2003 alone.

Generally, the Ministry of Finance of Ukraine being main funds administrator planned expenditures of the state budget of Ukraine for municipal credit market development totally at 132 mln. UHA in 2001-2004 despite the fact that draft Program of Social Development had not been designed as for the moment of the audit.

Cases of non-compliance with the proportion principle of budget funds financing (allocation) were not occasional in the reporting year.

Audit and analysis of the use of budget funds use allocated for the Program "Grain of Ukraine - 2001-2004" prove that the Program financing system introduced by the Government by means of the budget funds resulted in their illegitimate use.

Existing state support system of agriculture producers through privileges has many gaps and is not transparent which breached principles of fair and impartial state budget funds allocation among agricultural enterprises. As a result, the Ministry of Agrarian Policy of Ukraine used 671.4 mln. UHA of the state budget funds allocated for elimination of the disaster aftermath breaching article 7 of Budget Code of Ukraine. Their allocations was mostly selective and prejudiced and therefore state support for the majority of agricultural enterprises was unavailable.

Such budget violation as **reallocation of funds among budget programs and codes of economic classification** was also detected in the reporting year. Thus, *audit of the use of the funds of the state budget of Ukraine allocated to the Ministry of Defense in 2001-2003 to ensure participation in international peace-making operations* proved that the Cabinet of Ministers of Ukraine did not ensure development and introduction of effective system of formation, training and financing of peace-making forces and current procedures caused numerous budget violations. Particularly, 29.7 mln. UHA meant for financing of other budget programs was spent for training of peacemaking contingent and 170.8 mln UHA meant for peacemaking operations, was used inappropriately.

Actions of the management of the *Ukrainian Academy of Agrarian Sciences* should be also deemed budget violation when it used totally almost 2 mln. UHA for software while the funds were meant for fundamental and applied research in 2002-2003.

Facts of losses of the state budget of Ukraine because of *understatement of revenues and expenditures of the budget* were also detected in control measures by the experts of the Accounting Chamber of Ukraine.

Budget violation at more than 159 mln. UHA was detected by the auditors of the Accounting Chamber in the *audit of the use of investments attracted by means of income tax privileges for housing construction by force structures*.

The facts that Security Service of Ukraine lacks system of proper internal financial control and allocation administrator did not follow balance principle according to which powers for budget expenditures should correspond to budget revenues for the respective budget period led to investments of totally 159.1 mln UHA (2001 - 127.1 mln UHA, 2002 - 31.8 mln UHA) not included

both in revenues and expenditures of the state budget of Ukraine of the respective years.

Violations connected with the use of funds meant for capital investments by the state budget were detected in the reporting period totally at 152 mln. UHA.

Analysis of the use of the state centralized capital investments in 2001-2003 conducted by the experts of the Accounting Chamber detected that although state centralized capital investments were adopted by the laws of Ukraine on State Budget of Ukraine for 2001 and 2002 as capital expenditures, the Ministry of Finance of Ukraine assigned 27.3 mln. UHA to the Ministry of Defense and Main Department of Investigation of the Ministry of Defense for routine expenses out of which 24.5 mln. UHA was financed.

The Cabinet of Ministers of Ukraine allocated and adopted by the respective resolutions funds for production at 29.8 mln UHA and purchase of industrial products at 2.4 mln. UHA which breached item 5 of the Procedures of State Financing of Capital Construction (adopted by the resolution of the Cabinet of Ministers of Ukraine #1764 from 27.12.2001).

Non state owned entities were allocated budget funds of totally 2.4 mln. UHA by means of the state centralized capital investments without credit agreements, actually on irreversible basis, in 2001-2002 breaching mentioned resolution of the Cabinet of Ministers of Ukraine.

Similar violations were detected in the *audit and analysis of the use of the funds of the state budget of Ukraine in 2003 and first 6 months of 2004 meant for technical refitting of coal, lignite and peat enterprises*.

So, budget funds beneficiaries breaching budget legislation transferred funds of the state budget meant for capital investments (refitting of coal enterprises) for financing of works on examination and repair of equipment and for the purchase of computers for computer center "Pavlogradvugillia" totally at 48.4 mln UHA. Besides, 2.8 mln UHA was allocated for salaries.

Audit of the use of the state budget funds in 2002-2004 for the manufacturing of aircraft An-70 also prove that the budget funds meant for central capital investments were used inappropriately.

By means of the state budget funds meant for capital investments (manufacturing of aircraft An-70), the Ministry of Industrial Policy of Ukraine financed routine expenses, namely, aircraft tests, designing and introduction of engineering documents for serial manufacturing of aircraft An-70, salaries and payables repayment of the previous years totally at 24.9 mln. UHA, which breached budget legislation.

Faulty practice of **sustaining of non state-financed institutions and organizations by means of the state budget still exists**. These expenditures amounted to more than 65 mln. UHA in 2004.

Audit of appropriate and effective use of the funds of the state budget of Ukraine by the Ministry of Transport and Communication of Ukraine for training of human resources in higher education institutions of I-IV accreditation levels in 2003 - first 6 months of 2004 detected that institution-monopoly system existing in the Ministry concerning planning and use of the state budget funds for training of human resources with higher education breached procedure and mechanism of formation and execution of state order envisaged by the Laws of Ukraine "On Higher Education" and "On Supply of Products for State Needs". Mentioned system also hindered development of competition among higher education institutions, excluded possibility to determine real number of the specialists needed to the state, did not create legal conditions for the state customers and higher education institutions to be responsible for the quality of training and did not guarantee their employment by the obtained qualification.

Along with it, the Ministry of Transport and Communication of Ukraine used 37.3 mln. UHA of the funds of the general fund of the state budget in 2003 and first 6 months of 2004 not for training of the specialists for railway and auto transport but for sustaining of lower educational institutions as state-financed institutions by their budgets at free basis which is budget violation according to article 116 of Budget Code of Ukraine.

Audit of the use of funds of State Budget of Ukraine by the State Affairs Department in 2003 detected that contrary to the Law of Ukraine "On the supply of products for state needs" which envisages financing of the state authorities and sets obligatoriness of state order for the state enterprises, State Affairs Department provided financial support of the lower self-sustained enterprises by means of the budget funds in 2003. As a result, instead of respective services provided by state order, withdrawal of the funds from the budget of commercial institutions was made in fact.

Thus, 14.4 mln. UHA allocated in 2003 by the budget program "Transportation of State High Ranking Officials by Air Transport" was transferred as subsidies to sustain State Aviation Enterprise "Ukraine" and did not envisage services of transportation which led to the change of

the purpose of budget program defined by the Law of Ukraine "On the State Budget for 2003" and raised the necessity for additional expenditures for the air flights to be made directly by means of other budget programs.

By means of the funds allocated by the budget program "Support of the Operations of the President of Ukraine", almost 3.7 mln. UHA was refunded as the expenditures of the state enterprises "Garant Service" and "Ukrzhytloservice", which had to be made at their own expense.

Control measures detected the facts of inappropriate use of the state budget funds meant for the state programs. Namely, adoption of the mine liquidation projects by the Ministry of Fuel and Energy of Ukraine which included expenditures for telephone installation objects construction in miner towns which were not connected with restructuring led to the inappropriate use of 2.3 mln. UHA from the state budget, including 0.9 mln. UHA in 2003 and in 9 months of 2004.

In the third quarter of 2004 State Enterprise "CZK" "Vugletorfrekonstruktsiya" allocated 0.6 mln UHA from the state budget to build city infrastructure (water pipeline and drainage, drainage reconstruction) of Ilnytsia (Transcarpathian Region), Novovolynsk (Volyn Region), Sosnivka and Chervonograd (Lviv Region), and besides, more than 1.2 mln UHA was used to pay for boiler building for heat supply of Zamglay village.

By the permit of the Ministry in 2003 and in 9 months of 2004, without amending the mine liquidation projects, State Enterprise "Donvuglerestrukturizatsiya" used 1.8 mln UHA of budget funds to finance expenditures not envisaged by the adopted projects.

All these facts were detected in the *audit and analysis of the use of state budget funds in 2003 and in 9 months of 2004 meant for restructuring of coal and peat industries*.

Implementing the program "Grain of Ukraine - 2001-2004" the Ministry of Agrarian Policy of Ukraine used 2.5 mln UHA from the state budget meant for budget program "Selection in Plant Breeding" inappropriately but to repay the debt to American company "Pioneer-Hi-Bred International, inc" breaching item 8 of article 7 of the Budget Code of Ukraine.

Facts of **illegitimate resolutions by the Cabinet of Ministers of Ukraine on the funds allocation from the reserve fund of the state budget of Ukraine** were detected totally almost at 82 mln. UHA in 2004, which made 32.3% of the total financial resources allocated from this fund.

The Cabinet of Ministers of Ukraine, contrary to article 24 of the Budget Code of Ukraine and Procedure of the Use of the Budget Reserve Fund adopted by the Cabinet of Ministers of Ukraine by the Resolution #415 from 29.03.2002, ignoring remarks and warnings of the Ministry of Economy, the Ministry of Finance and the Ministry of Justice, made allocations in 2003 for the measures which could not be classified as force majeure and they could have been taken into account while budget formation.

The following Resolutions of the Government on the budget funds allocations can serve as examples:

- To regional state administrations for reimbursement of losses to agriculture producers that suffered from natural disasters in March - July of 2002 - 28.1 mln. UHA;
- To State Aviation Enterprise "Ukraine" of the State Affairs Department for repairs and refitting of the aircraft TU 134 used for transportation of the state high-ranking officials - 5.9 mln. UHA;
- To the Council of Ministers of Autonomous Republic of Crimea for the reconstruction of water pipeline in Kerch - 5.5 mln UHA and restoration of Bakhchisaray history and culture conservancy area - 1.5 mln UHA etc.

Control measures carried out by the Accounting Chamber in 2004 detected facts of **underpayments to the budget by the results of financial performance** of the business entities totally at 61.1 mln. UHA.

Audit and analysis of the use of state budget funds allocated for the program "Grain of Ukraine - 2001-2004" detected that State Joint Stock company "Khlib of Ukraine" identified as state agent on mortgage grain procurement and intervention operations with grain by the Cabinet of Ministers of Ukraine did not account separately and did not return funds from the sales of conversion products. It breached article 66 of the Law of Ukraine "On Grain and Grain Market in Ukraine" and item 7 of article 50 of the Law of Ukraine "On the State Budget of Ukraine for 2004" which envisaged return of funds to the special fund of the state budget allocated to the Ministry of Agrarian Policy in 2003 for the grain intervention operations in the amount of 55 mln. UHA. (KEKB 4122 "Return of the Credits by the Enterprises").

Thus, lack of the mechanism of the funds return from the conversion products realization to the state budget and control over the spending of the budget funds allocated to the Ministry of Agrarian Policy for grain intervention operations led to budget losses of 55 mln. UHA.

Audit of the funds use allocated from the state budget of Ukraine in 2003 for the training of human resources for internal affairs bodies in the higher education institutions of the Ministry of Internal Affairs of Ukraine detected that non-complying by the Ministry with the main budget system principles stipulated in article 7 of the Budget Code of Ukraine concerning budget programs formation and implementation led to the numerous violations of the standing legislation including misbalance of the budget funds use.

As a result of unjustified exemption from training fees of the students of certain higher education institutions which train specialists specifically for the internal affairs bodies of Ukraine (National University of Internal Affairs of the Ministry of Internal Affairs, Lviv Law Institute of the Ministry of Internal Affairs, Odesa Law Institute of National University of Internal Affairs, Donetsk Institute of Internal Affairs of the Ministry of Internal Affairs, Luhansk Academy of Internal Affairs named after 10-years anniversary of Independence of Ukraine of the Ministry of Internal Affairs), special fund of the state budget did not obtain almost 6 mln. UHA and the state budget and the state funds did not obtain 0.1 mln. UHA as taxes.

Besides, in the follow-up to the *audit and analysis of the financial performance of the state (national) joint stock and holding companies in 2001-2003*, the Board of the Accounting Chamber made conclusion that the executive bodies of the companies and their supervision boards did not ensure appropriate level of management of state corporate rights and appropriate realization of state interests, namely, filling of the state budget. As a result, taking into account percentage of net income for the part of the state defined by the resolution of the Cabinet of Ministers of Ukraine #557 from 22.04.2003 "On the normative and procedure of the allocation of the part of profit (income) to the general fund of the state budget of Ukraine by state non corporate and corporate enterprises and their associations", state budget did not obtain 390 mln. UHA in 2003.

Control measures carried out by the experts of the Accounting Chamber in 2004 proved that **inappropriate accounting, non bringing of the material values** and available funds to account, understatement of fixed assets and other inventories cost became widely used by the budget funds administrators. Mentioned budget violations revealed in the reporting period amounted nearly to 80 mln. UHA.

Audit of the analysis results of formation and use of the subvention allocated in 2003 from the state budget to local budgets for welfare assistance to families and people disabled from childhood and disabled children detected that because of the fact that the Ministry of Finance of Ukraine did not give clear instructions on the recording of arrears and the standing legislation violations by the budget funds administrators (main financial departments, departments of labour and social protection of population) regarding accounting of subvention use, records keeping and adjustment of its indices, information on the payment arrears were unauthentic.

Statistic records as for 01.01.2003 showed that payables of social welfare assistance accrued but unpaid in the amount of 33.9 mln. UHA throughout Ukraine exceeded respective accounting indices.

Audit of the use of the funds of the state budget of Ukraine allocated in 2003 to the State Court Administration of Ukraine to support operations of courts of law, other bodies and institutions of court system detected that the State Court Administration lacked system of effective internal financial control which led to the inappropriate management of financial and material assets. Thus, as a result of non-complying with the orders of the Ministry of Justice of Ukraine and its own orders, 218 buildings and constructions, vehicles that supported operations of local courts of law were not recorded to balance. Along with it, the State Court Administration borne the expenses to sustain fixed assets, including utility fees, routine and capital repairs and arrears of these payments breaching article 1 of the Law of Ukraine "On accounting and financial reporting in Ukraine", Order of the Main Department of the State Treasury of Ukraine and the State Committee of Statistics of Ukraine #125/70 from 02.12.97, paragraphs 4 and 9 of item 1.9 of Instruction On Accounting of Fixed Assets, Intangible Assets, Inventories, Cash and Documents, Settlements and Other Balance Items, adopted by the Order of the State Treasury of Ukraine #90 from 30.10.98.

Thus, the State Court Administration used budget allocations meant for management and administration of the institution in the state budget to sustain available fixed assets not brought to account amounting to 13.6 mln. UHA, breaching the standing legislation.

Audit of planning and use of funds from the state budget of Ukraine allocated to the Ukrainian Academy of Agrarian Sciences to develop science in 2002 and in 9 months of 2003 detected that practice introduced by the Academy when only part of economic operations is recorded by

state-financed scientific institutions in the reports to be submitted to the State Treasury of Ukraine caused violations connected with inappropriate accounting which led to mutilation and unauthentic reporting and created conditions for uncontrolled and, actually, illegitimate use of the budget funds and state property.

Thus, audit detected that 12 scientific institutions had unsubstantiated understatements of receivables totally at 11 mln. UHA, and balance submitted to the State Treasury bodies did not include fixed assets of the primary cost almost 12.4 mln. UHA (the were recorded only in self-sustaining balance submitted to the Ukrainian Academy of Agrarian Sciences).

*Audit of planning and use of the funds of the state budget of Ukraine for training and capacity-building of human resources for medicine in the higher education institutions of III-IV accreditation levels detected **budget violations while using foreign currency by state-financed institutions.***

As the measures were not taken by the Ministry of Finance, the Ministry of Education and Science, the Ministry of Health Care and the State Treasury on approximation of the Law of Ukraine "On Higher Education" with the Budget Code of Ukraine regarding procedure of the use of own funds and cash operations by the state education institutions, currency obtained as training fees from foreign students and for scientific and research works totally amounting to 184.3 thous. USD was brought out of control of the State Treasury of Ukraine.

Facts of the **funds use totally at more than 48 mln. UHA with breached state construction norms** were also detected in the reporting year.

Thus, *audit of investments for housing construction attracted as income tax privileges used by force structures* detected that cost of housing constructed (obtained) by these structures by means of investments exceeded cost of housing determined by the State Construction Committee.

Audits of enterprises-contractors and enterprises which acted as mediators in investment using detected cases of investments providing for housing construction exceeding actual expenses of these enterprises by the Ministry of Defense of Ukraine and the Security Service of Ukraine (through the construction orderers).

These audits detected facts of transfer of investments to mediators and contractors exceeding their actual expenses totally at 3.3 mln. UHA, including:

- By the Security Service of Ukraine - 2.2. mln. UHA;
- By the Ministry of Defense of Ukraine - 1.1 mln. UHA

The Security Service of Ukraine alone allocated investments for housing construction (constructed and transferred to the Security Service of Ukraine as for the audit moment), which cost exceeded cost set by the State Construction Committee of Ukraine, totally almost at 24 mln. UHA.

Similar violations were detected in the *audit of the use of the state budget funds meant to the Ministry of Fuel and Energy of Ukraine for the construction of power plant units of Ukraine*, carried out by the Accounting Chamber.

As a result of lack of the proper control over the budget funds spending by territorial bodies of the State Treasury and the Ministry of Fuel and Energy of Ukraine, State Enterprise National Joint Stock Energy Company "Energoatom" spent more while constructing particular objects than construction itemized listing of constructions envisaged.

Construction works at open shared installation of 330 kV were performed at power plant unit #2 of Khmelnytsk Nuclear Power Plant and 3.5 mln. UHA was paid although construction itemized listing envisaged only 1.6 mln. UHA for the works on this object. Similar situation could be observed while power plant unit #2 of Rivne Nuclear Power Plant was constructed.

While financing the capital construction of the social infrastructure objects of Energodar (City Executive Committee premises, construction of engineering networks out of microdistricts, highways, provision of urban amenities and city landscaping) which were not directly connected with manufacturing activity of Zaporizhzhia Nuclear Power Plant and which had to be constructed by means of subsidies to the local self-government bodies, construction itemized listing for 2003 envisaged works at more than 11.7 mln. UHA, while, in fact, 13.3 mln. UHA was financed from the budget.

Random audit of construction items, construction plans, contracts, cost estimates and deeds of acceptance during *analysis of the use of the state centralized capital investments for 2001-2003* detected that the state centralized capital investments were used breaching the State

Construction Norms regarding approval of construction items, construction documents, positive opinion of complex State Investment Expertise and permit of the state architecture and construction control inspection. It proves low level of the orderers' responsibility, improper control over construction projects realization which attracted state budget funds in construction from the side of central and local executive authorities.

Thus, audits in four regions only (Kirovograd, Mykolayiv, Cherkasy and Chernivtsi regions) detected that the state centralized capital investments totally at 4 mln. UHA were used breaching the State Construction Norms.

Similar violations amounting to 3.7 mln. UHA were detected in the *audit of the use of the funds of the state budget of Ukraine in 2003 to support operations of Ukrainian State Association "Radon" and construction of launch facility "Vector"*.

It was detected that State Specialized Enterprise "Center for Recycling and Disposal of Technogenic Wastes "Tekhnotsentr" and territorial bodies of the State Treasury of Ukraine violated systematically regulations of the Cabinet of Ministers of Ukraine which defined mechanism of involvement of budget funds or funds of state-owned enterprises and financing of capital construction by means of the state funds.

Contrary to the procedure of Adoption of Construction Items (objects) which are constructed attracting budget funds or funds of state-owned enterprise adopted by Cabinet of Ministers of Ukraine #995 from 08.09.97, State Specialized Enterprise "Tekhnotsentr" financed expenditures in 2003 not envisaged by construction itemized listing for respective year.

Territorial office of the State Treasury of Ukraine in Ivankiv District of Kyiv Region, breaching the Procedure of State Financing of Capital Construction adopted by Resolution of the Cabinet of Ministers of Ukraine #1764 from 27.12.2001, allowed Tekhnotsentr to make expenditures without item of transferable building and financed contracting works of Pivdentploenergmontazh in 2003 without supplementary contract for that year.

Audit of the use of funds of the Fund of Compulsory State Social Unemployment Insurance of Ukraine for subsidies to employers to create new jobs, fees for information and consulting services, material and information facilities development detected that construction, capital repair and building of a number of regional and district employment centers was performed with the breach of Procedure of State Financing of Capital Construction which led to illegitimate use of the funds from the Fund of 3.2. mln. UHA.

Audit of the use of the state budget funds meant to the Ministry of Industrial Policy of Ukraine for construction of wind power plants proves that similar violations were made by the budget funds beneficiaries that used budget allocations for specific directions (construction works, purchase of equipment) exceeding the scope stipulated in construction itemized listing totally at 2 mln. UHA which breached State Construction Norms.

Experts of the Accounting Chamber also detected other budget violations connected with placing and execution of the state order at 224.9 mln. UHA.

Audit of planning and use of the funds of the state budget of Ukraine for training and capacity building of human resources in medicine in higher education institutions of III-IV accreditation levels detected that the Ministry of Health Care of Ukraine did not observe Procedure of Placing of the State Order for Training and Capacity building of Human Resources in Medicine set by the Law of Ukraine "On Products Supply for State Needs" in 2002-2003, and, consequently, general fund of the state budget amounting to 214.5 mln. UHA was used not in line with the procedure of state order (state contracts with executors were not concluded but the funds were used according to the budgets for human resources training adopted by the Ministry).

Audit of the use of funds of the state budget of Ukraine allocated to the Ministry of Health Care of Ukraine for the state program "Oncology" detected that funds meant for the state order of 9.3 mln. UHA in 2003 were used by the Ministry of Health Care of Ukraine to purchase medicines in commercial structures and mainly imported medicines. At the same time, domestic oncology medicines included into state order amounting totally to 1.1 mln. UHA were not purchased. Thus, state budget funds of 10.4 mln. UHA were used with budget violations.

The most significant violations by scope in 2004 were connected with arrears of local budgets to the state budget.

The Accounting Chamber's *analysis of formation and allocation of transfers from the state budget of Ukraine to local budgets and status of interbudget settlements in 2003-2004* detected that the Ministry of Finance of Ukraine and the State Treasury of Ukraine did not regulate the arrears settlement of local budgets to the state budget by mutual settlements totally at 976 mln. UHA accumulated in the previous years because of bill of exchange and protocol settlements.

Facts of **illegitimate increase of subsidies and subventions** totally at 50.3 mln. UHA were

also detected in the reporting year.

Audit of the use of the funds of the state budget of Ukraine allocated to complex medical and sanitary support of people suffering from Chornobyl disaster by the Ministry of Ukraine on Emergencies and on Population Protection against the Aftermath of Chornobyl Disaster detected that without National Program of Minimization of Chornobyl Disaster Aftermath adopted in set order and economically substantiated calculations to the budgets adopted by the Ministry of Emergencies, the state budget allocations were made according to the statistic data on the number of victims in the regions which breaches article 87 of the Budget Code of Ukraine and Procedure of Development, Consideration, Adoption and basic requirements to the use of state-financed institutions budgets adopted by the resolution of the Cabinet of Ministers of Ukraine #228 from 28.02.2002.

Thus, the Ministry of Emergencies financed health care institutions sustained by local and state budgets and All-Ukrainian Public Organization "Union Chornobyl Ukraine" totally at 26.6 mln. UHA by means of the state budget meant for budget program "Complex Medical and Sanitary Support of People Suffering from Chornobyl Disaster". Actually, it is subsidy to local budgets and supplementary financing of the central executive authorities and state support not included in the laws about the state budget.

Budget violations were detected in the *analysis of formation and allocation of transfers to local budgets from the state budget of Ukraine and status of interbudget settlements in 2003-2004*.

The analysis of calculation indices of local budgets for 2003 showed non conformity between total expenditures included to the interbudget transfers for a number of regions and their components - expenditures on specific functions (education, health care, culture etc.), calculated by the formula. Total supplementary expenditures that are added mechanically to the sum amounted to 22.2 mln. UHA, which led respectively to the increase of the leveling subsidy.

In the analysis of transfers and status of interbudget settlements, cases were also detected of the Ministry of Finance of Ukraine planning subventions exceeding calculations. Thus, subvention from the state budget was increased by 1.5 mln. UHA (if compared with submitted calculations), to Poltava Region budget, to local budgets (of Autonomous Republic of Crimea, regions, Kyiv and Sevastopol) for construction and purchase of housing for military men, partakers of hostilities in Afghanistan and war conflicts in other countries, family members of military men who perished while fulfilling their service, demobilized military men or those resigning for health reasons, age, working record and stuff redundancy, those who are in housing obtaining records by the place of their residence.

Control and analytical measures carried out by the Accounting Chamber in 2004 detected the facts of **violations in the use of interbudget transfer funds** totally at almost 80 mln. UHA.

Thus, *analysis of formation and use of subvention allocated from the state budget to local budgets in 2003 for welfare assistance for families with children, low income families and people disabled from childhood and disabled children* detected that the Ministry of Finance of Ukraine permitted payments from the surplus of subvention of 2003 which emerged because of the overstatement of calculated need for the assistance accrued at the beginning of 2004. As a result, by means of allocations for 2003, 76 mln. UHA was used for payments that had to be made in January-February of 2004 from subvention envisaged in the state budget for 2004 according to the standing legislation.

Besides, contrary to item 5 of the Procedure of Material Assistance payment upon the consent of pensioners and beneficiaries through their current bank accounts (adopted by the resolution of the Cabinet of Ministers of Ukraine #1596 from 30.08.99) on the banks' free servicing the current accounts opening, placement and payment of assistance were made by means of subvention. The audit detected that 1.2 mln. UHA from subvention was used to pay for bank services.

The Accounting Chamber notified the Parliament, the Government and the President of Ukraine about mentioned and other budget violations and drew attention of the law enforcement bodies and public.

1.3.3. Analysis of detected cases of ineffective use of the state budget funds

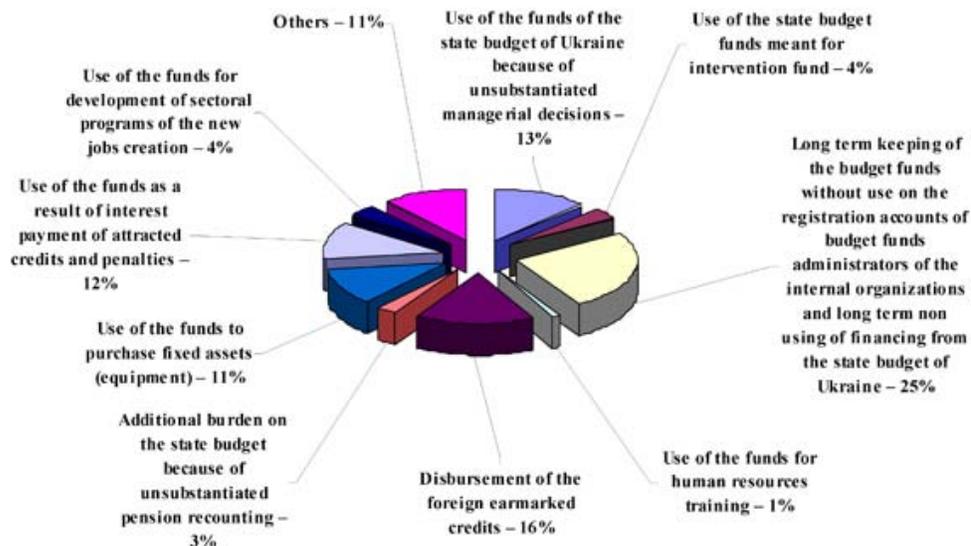
In the follow-up to control and analytical measures, the Accounting Chamber constantly focuses attention of society and executive authorities to the necessity to increase effectiveness of the use of the state budget of Ukraine aimed to solve social, cultural, environment and other burning problems of the expected results achievement.

However, **ineffective use of the funds of the state budget and funds of earmarked budget and state extrabudgetary funds**, remains one of key system drawbacks characteristic

to budget funds use.

Total scope of ineffective use of the state budget funds detected in control and analytical measures carried out by the Accounting Chamber in 2004, amounted to more than 2.5 billion UHA (diagram 6).

Diagram 6. Structure of ineffective use of budget funds in 2004



The most characteristic and numerous were the cases of **ineffective use of the state budget funds after unjustified managerial solutions**. Total amount of ineffective use of the funds resulted from the mentioned violations made up 319.4 mln. UHA that makes nearly 13% of all budget funds used ineffectively in 2004.

Analysis of the use of the state centralized capital investments for 2001-2003 detected that totally 764.2 mln. UHA of the capital investments was allocated from the state budget of Ukraine in this period. Only 272 out of 1.7 thous. of objects planned to be completed were brought into operation which made up only 15%. One of the main reasons except for unsatisfactory management that caused such situation in 2001-2002 was non complete financing amounting to 82.4 and 59.6 % respectively. In 2003 construction of 31 buildings out of planned 37 was not completed and they were not brought into operation despite the fact that expenditures on these objects were financed in full scope, totally at 92.1 mln. UHA. Thus, specified expenditures turned out to be ineffective.

Therefore, because of the number of nonqualified managerial actions, from planning, financing to the lack of control, item 6 of article 7 of the Budget Code of Ukraine on the effectiveness principle which implies achievement of set goals and maximum result was breached in the process of the use of the state centralized capital investments in 2001-2003.

Analysis of formation and allocation of transfers from the state budget of Ukraine to local budgets and status of interbudget settlements in 2003-2004 also proved that errors and lack of control from the Ministry of Finance of Ukraine and the State Treasury of Ukraine in subvention financing created conditions for ineffective state budget funds management and exacerbation of social tension in particular regions. Allocation of subventions in 2003 by the Ministry of Finance and the State Treasury of Ukraine without consideration of performed works or provided services scope financed by their means led to return of unused 47.4 mln. UHA to the account of the State Treasury of Ukraine, which is ineffective use of state budget funds.

Unjustified managerial decisions of both the Cabinet of Ministers and the State Committee of Material Reserve led to issuing of material values from the state reserve as temporary loans without proper guarantees of their timely repayment which breached the Law of Ukraine "On State Material Reserve". Consequently, material values at 68.2 mln. UHA were not returned to the state budget for the last three years. It was detected in the *audit of the use of the state budget funds allocated for accumulation (growth) of material values of the state material reserve, reimbursement of losses to the respective depositaries and for servicing of the state material reserve in second six months of 2002 and in 2003*.

Audit of the use of funds of the state budget of Ukraine by the State Department for

Veterinary Medicine shows that because of inappropriate management and control of the Department over reorganization of veterinary medicine system as an element of administrative reform aimed to harmonize the standards of this sphere in Ukraine with those of WTO and EU, actual reforming of the management system in this sphere did not take place. Despite establishment of district (city) offices for veterinary medicine, district (city) hospitals continued to coordinate activity of veterinary medicine institutions, being direct beneficiaries of the funds for fulfillment of functions of the sphere and logistical support of the state institutions for veterinary medicine of district (city).

Result of this was ineffective use of 33.6 mln. UHA of the general fund of the state budget allocated in 2003 to "Management and Administration of Veterinary Medicine" to sustain mentioned offices.

As a result of the number of unjustified managerial decisions by the chairmanship of the State Fund of Youth Housing Construction Support detected in the *audit of the use of the state budget funds meant for long term credits on easy terms for partial compensation of interest rate of commercial banks to young families and single young people for housing construction (reconstruction)*, ineffective use of the budget funds amounted to 23.2 mln. UHA. Namely, it concerned choice of investment objects, construction orderers and contractors, non conducted analysis and appraisal of the completeness of financing of the object construction, which the creditors' budget funds are invested to, non imposed penalties on the violators of investment agreements, contractually non regulated mechanism and terms of return of extra invested credit resources by contractors, violations of the credit granting procedure.

Audit of the use of the funds of reserve fund of the state budget of Ukraine in 2003 detected violations which could be classified as the mentioned type of ineffective use of the budget funds.

Reserve fund management by the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine, bodies of the State Treasury of Ukraine and main funds administrators was ineffective.

Free funds balance allocated from reserve fund on the accounts of funds administrators opened in institutions of the State Treasury of Ukraine amounted to 20.7 mln. UHA as for March 1 up to 56.5 mln. UHA as for November 1 of 2003, which proved their ineffective use. Since the budget year expired, 13.6 mln. UHA of unused funds of reserve fund was withdrawn to the state budget.

As a rule, logic consequence of unjustified managerial decisions is **ineffective management of the budget funds through their long-term keeping without use on the registration accounts of the budget funds administrators and on the current accounts of the lower organizations as well as long term non use of financing from the state budget.**

Audit of the use of the state budget funds allocated for accumulation (growth) of material values of the material reserve, reimbursement of losses to respective depositaries and for servicing of the state material reserve in the second six months of 2002 and in 2003 detected that out of almost 292 mln. UHA of the general fund allocated to the State Committee of Material Reserve for the purchase of grain crops in September-October of 2003, only 37.9 mln. UHA was used in due time.

Rest of the state budget funds of 254.1 mln. UHA had been kept at the disposal of the State Committee of Material Reserve for several months and was not allocated appropriately. These funds were used only after sharp increase of grain prices and, therefore, ineffectively.

Unsatisfactory level of management of the available funds by the subvention administrators detected in the *audit of status of allocation, legitimacy and effectiveness of the state budget subvention use for the realization of investment projects aimed at development of social infrastructure of Autonomous Republic of Crimea for 2003* led to their untimely and ineffective use. Funds permanently remaining on their accounts during the year amounted totally to more than 3 mln. UHA.

Similar facts of the funds management were detected in the Ministry of Defense of Ukraine during the *audit of the use of funds of the state budget of Ukraine allocated in 2001-2003 to the Ministry of Defense of Ukraine to ensure participation in international peacekeeping operations.*

So, according to the data of the State Treasury of Ukraine, the Ministry of Defense by the code 420100 "Revenues from UNO Secretariat for the Participation of Ukrainian Contingent in Peacekeeping Operations" was matched with the balance funds of 26.1 mln. UHA as for 01.01.2004, out of which: 24.6 mln. UHA - unallocated funds of 2003; 0.2 mln. UHA - unused remaining funds of 2001-2002.; 1.3 mln. UHA - unused financing of 2003. Along with it, the Ministry had payables of 11.3 mln. UHA as for 01.01.2004, out of which 10 mln. UHA was defaulted. Thus, the Ministry of Defense of Ukraine did not ensure effective management of the funds obtained in 2001-2003 which led to unused funds, on the one hand, and to payables accrual, on the other hand.

Audit of the state budget funds use for the project of International Bank for Reconstruction and Development "Fund of Social Investments" also detected system drawbacks of their management. Organizational structure of the project realization is awkward, envisages state budget funds use to fulfill the tasks belonging to the local self-government authorities, outside the local budgets, and includes specific bodies which are not authorized to manage budget funds according to the budget legislation of Ukraine and does not ensure their timely and effective use.

Mechanism of the state funds management aimed to the project has many drawbacks, some of its units do not comply with the legislation of Ukraine and do not create conditions for proper state control over their use.

Lack of systematic approach in the activity of the Ukrainian Fund of Social Investments to organization of project realization and works planning and determination of the scope of expenditures, delay in the adoption of regulations, slow selection and implementation of microprojects hindered the Project realization.

Budget assignments envisaged obtaining and deploying of 34.8 % of the loan for two years but in fact, the Fund used only 2.1%, majority of which for the project administration. Totally 106.6 mln. UHA of the budget funds and 1.6 mln. UHA of community funds were not deployed in 2002-2003.

Ineffective management was detected in the *audit of the state budget funds use by the Ministry of Industrial Policy of Ukraine for wind power plants construction*.

Financing of wind power plants construction was carried out by means of the state budget specialized fund (revenues from earmarked 0.75% extra charge to the existing electricity tariff sold by electricity producers at wholesale electricity market of Ukraine). Chief funds administrator was identified by the Law of Ukraine "On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2003" in May (22.05.2003) and actual financing started only from 22.07.2003. That is, as a result of ineffective management (untimely allocation, assignment and use of the budget funds) 45.4 mln. UHA of unused funds had accumulated on the accounts of the specialized fund of the state budget for 7 month and 10.4 mln. UHA was returned as unused to the budget at the end of 2003.

Headship of the State Department for Veterinary Medicine because of the errors in planning and allocation of the budget funds and attraction of financing in the specialized fund for the measures which were supposed to be financed from the general fund led to the general fund balance of 25.6 mln. UHA and its return to the state budget as unused at the end of the year. These facts were detected in the audit of the use of the funds of the state budget of Ukraine by the State Department for Veterinary Medicine.

Analysis of the use of the state budget funds allocated for the program "Grain of Ukraine - 2001-2004", namely to eliminate the aftermath of disaster, amounting to 671.4 Mln. UHA, prove that support was selective and it caused the situation when the Ministry of Agrarian and Industrial Sector of Autonomous Republic of Crimea and Main Department for Agriculture and Food returned unused 5.2 mln. UHA to the state budget at the end of 2003; 3.1 mln. UHA remained unused on the treasury account of the Ministry of Agrarian Policy.

The State Treasury bodies withdrew 3.4 mln. UHA of unused budget funds meant for salary and temporary unemployment allowance in 149 institutions of the National Academy of Science because of unfeasible planning and improper management. The National Academy of Science of Ukraine detected these facts in the *audit of planning and use of the funds of the state budget of Ukraine for fundamental and applied science in 2002 and 2003*.

Facts of ineffective management and budget funds use which should be qualified as budget violation were detected in the *audit of the use of the state budget funds allocated for accumulation (growth) of material values of the state material reserve in the second 6 months of 2002 and in 2003*. Thus, State Committee of Material Reserve, breaching article 8 of the Law of Ukraine "On the State Material Reserve" and Order of the Ministry of Finance of Ukraine #83 from 06.04.98, made large advance payments to the lower organizations for inclusion of material values to the state reserve, which were not spent afterwards and remained on the accounts of these organizations during two or more months. Only in 2003 the State Committee of Material Reserve transferred 113.5 mln. and 79.1 mln. UHA respectively to State Enterprise "Ukrreserve" and State Joint Stock Company "Ukrresursy" for the purchase of grain and 79.1 mln. UHA of the budget funds remained unused on the accounts of these organizations for long period.

Extremely **ineffective was the disbursement of the foreign earmarked loans**. Scope of such funds disbursement detected by the Accounting Chamber amounted to 403.4 mln. UHA.

Thus, *audit of the disbursement of loan of International Bank for Reconstruction and Development aimed to implement project of rehabilitation and extension of district heating of Kyiv* proves that IBRR loan secured by the state was disbursed ineffectively and not in full scope

by Joint Stock Energy Supply Company "Kyivenergo" and the Ministry of Finance of Ukraine.

During five years only 34.4 mln. USD (17%) of credit resources of the loan was deployed out of 200 mln. USD.

Disbursement of the loan was very slow and did not conform to the agreed project terms and budget calculations of the Ministry of Finance in the draft programs of state loaning. Consequently, commission fees for funds reservation twice exceeded planned amount, which led to additional expenditures for "Kyivenergo" at 1.2 mln. USD or more than 6 mln. UHA.

More than a half of equipment and material values (17.4 mln. USD) were not brought into operation and has been kept at the storage houses of "Kyivenergo" for quite long.

Project, which implementation was the responsibility of "Kyivenergo", was not implemented in due time. Any project task was not completed, any industrial object was not brought to the complete readiness for the five years of the project durability.

Out of 37 contracts concluded at 78.4 mln. USD, 22 contracts at 67.3 mln. USD are not finalized and 7 of them were not even started.

Kyivenergo Company concluded contracts with significant delays - from one to 23 months. Realization of particular supply contracts lasted for more than 2-4 years.

As a result, specified goals of the project were not achieved. It should be also stressed that control by the Ministry of Finance of Ukraine over completeness and timing of Kyivenergo repaying the IBRR loan to the state budget of Ukraine was inappropriate.

Experts of the Accounting Chamber detected cases of **ineffective use of funds for purchase of fixed assets (equipment)** in the control measures for the reporting year. *Audit of the use and planning of the funds of the state budget of Ukraine by the Ministry of Education and Science of Ukraine for informatization of general education institutions, computerization of village schools* prove that lack of internal control in the Ministry of Education over appropriate use of the funds, ignoring of the Program of Informatization of General Educational Institutions, Computerization of Village Schools in 2001-2003 led to the ineffective use of totally 34.7 mln. UHA for computer units supply (each fourth unit) to 676 educational institutions not belonging to village schools from 2001 to October of 2004, and 0.5 mln. UHA - for the supply of computer equipment exceeding necessity.

Audit of the use of the state budget funds meant for construction of the units of nuclear power plants of Ukraine by the Ministry of Fuel and Energy of Ukraine showed that the Ministry, State Enterprise National Joint Stock Energy Company "Energoatom" and Khmelnytsk Nuclear Power Plant did not take proper measures to protect state property (equipment) and its accounting. Purchase and assembly of equipment in the previous years, which was not used and kept properly for the long period (1988-90 - 2003) led to ineffective use of 60.8 mln. UHA for power plant units construction.

Ineffective use of the funds to purchase equipment was detected in the *audit and analysis of the use of the funds of the state budget of Ukraine meant for technical refitting of coal, lignite and peat enterprises in 2003 and first six months of 2004*. As preliminary mining works were not completed, 6 mining faces were not brought into operation despite the fact that in January-November of 2003, 21.4 mln. UHA was allocated to purchase equipment.

Pavlogradska mine obtained technical refitting equipment in January of 2004 by means of the budget funds of 0.5 mln. UHA. The equipment was kept in storage house and not used in first six months of 2004.

Similarly, Vakhrushev Mine acquired mechanical fixings at 0.6 mln. UHA in April of 2004 by means of the budget funds, which were not brought into operation as for 01.07.2004.

One of varieties of ineffective budget funds use connected with resource investment was their allocation to purchase uncompleted construction objects. *Audit of the use of investments for housing construction attracted as privileges on income tax by force structures* confirmed that cost of uncompleted construction objects in the system of the Security Service of Ukraine financed from investments, amounted to 166.9 mln. UHA as for 01.10.2003. Lack of single head for objects construction was one of the reasons for the construction not to be completed. 23 divisions of the Security Service of Ukraine were defined as orderers which attracted and used investments at their own discretion.

Selective analysis detected that total investment resources allocated for the uncompleted housing purchase amounted to 76.8 mln. UHA and 35.5 mln. UHA out of which was non deployed uncompleted construction.

Audit and analysis of the use of the state budget funds allocated to the Program "Grain of Ukraine - 2001-2004" detected ineffective use of the budget funds meant for intervention fund.

Gaps of the procedure of the state budget funds use allocated for intervention operations adopted by the Resolution of the Cabinet of Ministers of Ukraine #975 from 27.06.2003, led to State Joint Stock Company "Khlіb of Ukraine" using state budget funds of 88.6 mln. UHA as its own turnover funds and their further transfer to the settlement accounts of "Khlіb of Ukraine".

Due to the insignificant scope of intervention operations on the market, they did not make any particular impact both on stabilization of domestic market and financial improvements of agriculture producers, and grain of intervention fund was used by State Joint Stock Company "Khlіb of Ukraine" as bank mortgage to support its own commercial performance.

Thus, intervention fund of 88.6 mln. UHA established by the state in 2003, because of the gaps of the standing legislation, lack of control from the Ministry of Agrarian Policy as main funds administrator and non fulfillment of undertaken obligations by State Joint Stock Company "Khlіb of Ukraine" as State agent on intervention operations, was used to improve the financial situation in the company and spent budget funds did not bring expected result, i.e. were used ineffectively.

The Accounting Chamber detected also facts of **ineffective budget funds use for human resources training**. Thus, *audit of the use of funds allocated in 2003 from the state budget of Ukraine for human resources training for internal affairs bodies in higher education institutions of the Ministry of Internal Affairs of Ukraine* detected that 8.5 mln. UHA of budget funds was used ineffectively because of the non qualitative selection of entrants for state-financed training and pre-term demobilization of young specialists from internal affairs bodies. Twelve mln. UHA more was lost for the budget because of pre term (less than three years) termination of labour contracts in internal affairs bodies by the graduates of the higher education institutions of the system of the Ministry of Internal Affairs.

Audit of planning and use of the funds of the state budget of Ukraine for training and capacity building of human resources for medicine in the higher education institutions of III-IV accreditation levels detected that five medical (pharmaceutical) higher education institutions of the Ministry of Health Care of Ukraine retrained 2549 doctors-specialists by the qualifications without internship by means of the general fund of the state budget.

Actual expenditures for the mentioned specialists training amounted to 2.3 mln. UHA. It means that specified funds of the state budget were used ineffectively.

Lack of coordination and proper control from Main Department for State Service of Ukraine over organization of professional training and employment of the masters by the qualification "State Administration", low level of responsibility of the state authorities and local self-government authorities for employment of graduates led to ineffective use of the budget funds. So, more that 2 mln. UHA of the general fund of the state budget was spent for the training of masters by the qualification "State Administration" graduated in 2001-2003 who did not get jobs in the state or local self-government authorities. It was detected in the *audit of the state budget funds use for specialists training by the qualification "State Administration"*.

Audit of the state budget funds meant for pensions for military men and headships and ordinary staff of the internal affairs bodies detected that organization of allocation and transfer of pensions to military men by force structures, control over correctness of their payment were made with drawbacks and violations which delayed practicing of the right for pension and caused ineffective use of the budget funds.

The Ministry of Defense did not ensure litigation against rulings of local and appeal courts on the pension transfer to the former military men adopted with breaches of legislation, which caused **additional burden of 65.8 mln. UHA on the state budget**.

The Accounting Chamber according to the Law of Ukraine "On the Accounting Chamber" makes annual audits of the **cost estimate execution by the National Bank of Ukraine and analysis of reports of the State Property Fund of Ukraine and the Antimonopoly Committee of Ukraine**.

Thus, *audit of the cost estimate execution of National Bank of Ukraine for 2003* showed that basic plan indices of the cost estimate for 2003 were executed. Surplus income amounted to 48 mln. UHA, 65 mln. UHA were economized and surplus amounted to 522 mln. UHA, which is by 61.9 mln. more than it was planned.

Despite it, the National Bank of Ukraine did not secured financial liabilities to the state set by the Law of Ukraine "On the State Budget of Ukraine for 2003" at more than 660 mln. UHA (planned 1255.0mln. UHA, actually paid 590.7 mln. UHA including 88.5 mln. UHA as financial performance result for 2002 and 502.2 mln. obtained after property of Joint Stock Agricultural Bank "Ukraine" was sold).

Main reason of it is legally unregulated procedure of reconciliation of the cost estimate indices

of the National Bank of Ukraine and indices of the state budget of Ukraine, unfeasible planning calculations and ineffective and irrational spending of the funds causing income reduction of the state budget of Ukraine.

Financial performance result of the National Bank of Ukraine for 2003 in the amount of 19.8 mln. UHA was transferred to the state budget of Ukraine in 2004.

The Board of the National Bank of Ukraine despite not having permit documents for amending cost estimate after the reporting fiscal year expiration decided in February of 2004 on additional forming of reserve for 2003 and in May - adopted it in the amount of 51.1 mln. UHA. As a result, expenditures of the National Bank of Ukraine in 2003 were increased and transfers to the state budget of Ukraine reduced respectively.

Operations of some functional and social objects of the National Bank of Ukraine was ineffective and brought significant losses which reduced substantially opportunities for the transfers to the state budget of Ukraine.

So, losses from guest house, sport and recreational and rest facilities reached more than 1.3 mln. UHA financed from the cost estimate of the National Bank of Ukraine.

Effective use of the capacities of Banknote and Coin Yard was not ensured as they were loaded only 40-60 % in 2003, first of all, because money production was contracted three times during the year.

Financial indices of Banknote and Coin Yard were influenced negatively by irrational spending to sustain constructions not used in production and to sustain loss-making social objects.

As a result, financial losses of Banknote and Coin Yard in 2003 amounted to 29.8 mln. UHA, which is 2.5 times more than in 2002.

Analysis of the report of the State Property Fund on the status of "State Program of Privatization for 2000-2002" in 2003 showed that although in the follow-up to the analysis of the previous years the Accounting Chamber stressed repeatedly the necessity to amend Program of Privatization regarding inclusion of specific chapters on regulation of the state property and state corporate rights management but this issue remained unsolved.

Since the new privatization program was not adopted, State Privatization Program for 2000-2002 adopted by Verkhovna Rada of Ukraine was valid in 2003. Lack of legal regulation of the activity and reporting of the State Property Fund of Ukraine led to the report for 2003 not containing results of state property and state corporate rights management which prevented Verkhovna Rada from appraising Fund's activity in this sphere. So, the report did not highlight state property management issues and focused mainly on alienation and preparation to alienation of state propriety objects. The Fund did not provide proper control over enterprises transferred to its management and did not monitor their financial and economical performance.

According to the Report of the State Property Fund for 2003 it was the first time that the Fund fulfilled planned indices of revenues from the state property privatization: planned revenues amounted to 2 billion 152.8 mln. UHA while actual revenues amounted to 2 billion. 175 mln. UHA or 101%.

However, analysis of the State Property Fund reports for 2002 and 2003 showed that 33.5% of revenues in 2003 from the state property privatization was obtained from the sale of 51% of shares of JV "UMC" which was characterized as Ukrtelecom revenue from alienation of its assets sold in 2002 according to the Order of the Cabinet of Ministers of Ukraine #171-p from 28.05.2001 "On Measures on Improvement of Investment Development of Communications Sphere" and amendments to it. Thus, the Fund included 729.2 mln. UHA (33.5%) of revenues into its executive sum without substantiation, which was provided by Ukrtelecom from its assets sale without actual participation of the State Property Fund. At the same time, funds of the state budget specialized fund allocated by the State Property Fund to privatization related measures were overstated unreasonably by 21.9 mln. UHA by means of the general fund revenues and namely, allocation normative for state property privatization related measures, 21.9 mln. UHA from Ukrtelecom assets sale was included in the special fund.

In fact, the State Property Fund did not ensure privatization program implementation in 2003 regarding privatization revenues in the state budget of Ukraine because of ineffective control over state property transformations, understatement of fixed assets cost of enterprises in the expert appraisal, ineffective enterprise property alienation being privatized with the application of restructuring procedure which presupposes establishment of other economic entities on the base of open joint stock companies and additional issuing of bonds and securities of open joint stock companies.

Besides, the State Property Fund had expenditures for routine needs by means of the funds

meant for privatization measures and did not ensure appropriate use of the funds. Unregulated procedure of the funds use for state property privatization related measures contributed to it because their use is regulated by the State Privatization Program for 2000-2003, on the one hand, and by Procedure of Development, Consideration, Adoption and basic requirements to the budget execution in state-financed institutions adopted by resolution of the Cabinet of Ministers of Ukraine #228 from 28.02.2002, on the other hand.

The State Property Fund did not fulfill the task on state property renting revenues set by the Law of Ukraine "On the State Budget of Ukraine for 2003". Thus, actual state budget revenues amounted to 174.9 mln. UHA which is 65.9 % of planned 265.5 mln. UHA (lack of revenues amounted to 90.6 mln. UHA).

In 2003 dividends accrued to the state shares of business companies constituted only 43.6 % of the planned sum in the budget. Plan envisaged 515 mln. UAH, out of which 205 mln. UHA was obtained from Ukrtelecom settling the indebtedness of dividends of this company shares, 105 mln. UHA had to be provided by the State Property Fund and 205 mln. UHA - by the Ministry of Fuel and Energy. Actual revenues to the state budget amounted to 224.4 mln. UHA, i.e. 290.6 mln. UHA made up the deficit. Majority of revenues were Ukrtelecom's funds (205 mln. UHA). Fuel and energy sector provided only 6.4 mln. UHA. Unfulfilled plan of dividends for the state corporate rights is connected with the position of National JSC "Naftogaz of Ukraine" which ignored order of the Government and resolution of the supervisory board on the dividends transfer to the state budget.

In 2004 analysis of the *report of the Antimonopoly Committee of Ukraine for 2003* was also conducted. It was detected that the Report did not contain comprehensive data on the status of fulfillment of powers by the Committee on the detection and prevention of the antimonopoly legislation violation and economic competition protection according to the Laws of Ukraine "On Protection of Fair Competition", "On Protection of Economic Competition" and "On Antimonopoly Committee of Ukraine". The report contained only specific general indices of the Antimonopoly Committee bodies performance.

Particularly, according to the data, non complete imposing of sanctions by the Antimonopoly Committee on the antimonopoly committee violators leads to the part of antimonopoly legislation violations remaining out of view of the Antimonopoly Committee bodies, number and size of sanctions do not correspond to the general scope of violations and in some cases Committee's activity does not facilitate elimination of antimonopoly legislation violations.

Lowering profile of the Antimonopoly Committee in 2003 is proved by the fact that along with growing number of antimonopoly legislation violations indicated in the Report, number of activity areas remained out of attention of the Committee. Antimonopoly legislation violations were not considered by the structure envisaged by the laws regulating the Antimonopoly Committee activity.

Thus, situation was not analyzed concerning violations as consented actions and abuse of monopoly position according to the list of such violations according to articles 6, 13 of the Law of Ukraine "On Protection of Economic Competition, monopoly actions of the state and local self-government authorities, administrative and economic management and control agencies in line with articles 15-17 of the Law of Ukraine "On Protection of Economic Competition", limitation activity of business entities, associations (article 18 of the Law), illegitimate use of market position by the business entity (article 19), discrimination of competitors-business entities (article 20), limitation activity of associations (article 21), concentration of business entities (article 22) and violations specified in articles 1, 4-19 of the Law of Ukraine "On the Protection against Unfair Competition".

Committee performance indices dropped if compared with the previous year. Due funds based on the Committee resolutions amounted to 145.4 mln. UHA but almost 98.8 mln. UHA including penalties litigated in the court and can not be considered as due until court ruling is passed, financial sanctions of the Committee amounting only to 46.6 mln. UHA.

1.3.4. Control, analysis and expertise of formation and execution of the state budget of Ukraine

According to article 98 of the Constitution of Ukraine, articles 2,6,7,22 and 30 of the Law of Ukraine "On the Accounting Chamber" analysis was made of the execution of the Law of Ukraine "On State Budget of Ukraine for 2003" and use of the state budget funds in 2004.

According to the materials of control and analytical measures on the state budget execution for 2003 and in 2004, Conclusions on the Execution of the State Budget of Ukraine and use of the state budget funds in 2003 were made up as well as Conclusions of the analysis of the execution of the state budget of Ukraine for the first quarter, first six months of the year, for nine months of 2004 and Conclusions of the execution of the revenues of the state budget of Ukraine

in three quarters of 2004.

According to the results of the **execution of the state budget of Ukraine and use of the budget funds for 2003**, the Board of the Accounting Chamber made conclusion that errors in the forecasts of real macroeconomic and other indices during budget formation caused lack of transparency of the execution of the state budget of Ukraine and preconditioned its manual execution which breached budget legislation.

The state budget of Ukraine in 2003 was executed regarding general indices of revenues and expenditures. Execution of the budget took place in the conditions of fast growing economy but achieved economic growth did not made positive impact on the increase of the state resources. Real GDP grew by 9.4% but real revenues of the budget brought in comparative conditions only by 2.9 %. First of all, achieved growth can be explained by basis effect, country achieved only 54.3 % of GDP of 1991 in 2003. Revenues execution was influenced negatively by losses of business entities, functioning of special economic zones and priority development and system of privileged taxation.

General indices of economic development were ensured mainly by the enterprises of only several industries that occupied beneficial position: metallurgy, food, chemistry and petrochemical industry, machine building, specific weight of products of these industries amounting to 62% of total industrial production. Agricultural production contrary to the forecast contracted by 10.2 %, including 25.5% at the agricultural enterprises. GDP growth, like in previous years, was accompanied by the debt growth for the consumed raw materials. Payables in previous year grew by almost 35 billion UHA, obtained income is by 9billion UHA less than it was planned and each second enterprise was loss-making.

Inflation in 2003 amounted to 108.2% (till December of 2002) while planned inflation was 106%, food prices grew by 10.9%. Living standard in Ukraine remained one of the lowest in Europe. Minimal salary in 2003 amounted only to 51.2 % of subsistence level (365 UHA). Arrears of salary and social payments remained sizable. Official unemployment rate in Ukraine was 3.6 %. At the same time, according to methods of International Labour Office unemployment rate in 2003 made up 9.8% of employable population or each tenth citizen did not have earnings, from 5 to 7 mln. citizens seek the job abroad.

GDP grew by 9.4% but economic performance did not improve. In the compared conditions, revenues of the country budgets grew only by 2.9% in the previous year and the state budget revenues even dropped by 3.2 %. Number of system problems made it impossible to use the state finances effectively, namely:

- Loss-making performance of industrial enterprises (47% of total number) led to budget revenue losses of 2.7 billion UHA;
- business entities use of give-and-take schemes in international economic activity led to the state budget loss of almost 2.4 billion UHA;
- value added tax was no more budget creating not corresponding to the current economic reality of the country and created conditions for numerous abuses. The Ministry of Finance and the State Tax Administration did not ensure full and timely compensations to the VAT payers. Balance of uncompensated VAT as for January 1 of 2004 amounted to 7.4 billion UHA including defaulted - 1.7 billion UHA. If VAT had been fully compensated, the state budget revenues would have amounted to 47.7 billion UHA which was by 10.5 % less than in adopted plan.
- The Government and the State Tax Administration carried out unsatisfactory tax policy. Tax debt for 2003 grew by 3.5 billion UHA and nominal decrease of total debt can be explained only through its regular write-off in the amount of 2 billion 834.5 mln. UHA that is 3.4 times more than 842 mln. UHA in 2002;
- State financial resources growth was restrained significantly by functioning system of privileged taxation. Total scope of taxation privileges in 2003 reached 71 billion 302.7 mln. UHA, which is 94.7 % of Ukraine budgets revenues. Functioning taxation conditions because of the different approaches of taxation with privileges discriminated majority of economic activity participants.

The Cabinet of Ministers of Ukraine, the Ministry of Finance and the State Treasury, like in previous years, executed state budget expenditures through manual management. Despite sufficient funds, allocations to a number of budget programs were limited unreasonably during January-September of 2003, which led to the state budget surplus for this period and made it difficult for particular main funds administrators to execute budget allocations in due time.

Budget discipline did not improve. Allocation of the funds at the end of the budget year in

many cases made it impossible to acquire necessary goods, materials and services and led to payables growth by 432.3 mln. UHA for the whole year that amounted to 1 billion 102 mln. UHA as for 01.01.2004. Audits detected regular cases of illegitimate and ineffective use of the budget funds, payables and receivables of the state-financed institutions remained large. In 2003, like in the previous years, force structures formed special funds of grants and donations from legal and physical entities and funds for to fulfill the specific orders.

State debt management was conducted with significant drawbacks. Despite the attraction of more funds than it was really necessary at more than 1 billion UHA and real opportunity to reduce debt through its preterm repayment, the Ministry of Finance did not use its right to operate state debt to economize budget funds. The tendency has not been overcome of the growth of defaulted debts of the enterprises to the state budget for the use of securities on foreign credits. In 2003 defaulted debts grew by 235 mln. USD and reached 1.75 billion USD or 9.3 billion USD.

Substantial lack of internal loaning and orientation of the Ministry of Finance to the external markets of commercial loans led to the growth of external state debt and outflow of state finances through export of external debt interest.

While execution of the budget of 2003, the Accounting Chamber informed the Cabinet of Ministers on a quarterly basis about existing drawbacks and problems. However, proposals of the Accounting Chamber were not taken into account and consequently, majority of system violations taking place in execution of the budget of 2003 repeated in execution of the Law on the State Budget of Ukraine for 2004.

In the follow-up to the **execution of the state budget of Ukraine in the first quarter of 2004**, the Board of the Accounting Chamber noted that the Government having executed the state budget with surplus and having free balance of the budget funds at the beginning of the year did not ensure entire expenditures envisaged by the budget.

Despite the fact that along with economic growth financial status of the business entities improved a little but debt liabilities of enterprises grew, payables and receivables increased. Arrears of salaries were not repaid and unemployment rate grew.

Actual state budget revenue (excluding revenues of the state -financed institutions) amounted to 11 billion 438.5 mln. UHA or 96.2 % of the first quarter plan. As a consequence of unsatisfactory execution of the law on the state budget by the central executive authorities regarding control over creation of charge of payments to the budget by the specific revenue sources, more than 1.3 billion UHA was not obtained including more than 500 mln. UHA by the general fund and 798 2 mln. UHA by the specialized fund.

General fund expenditures of the state budget were not executed - 89.7 % of the quarterly indices including amendments. Expenditures were not fulfilled by the budget programs totally at 1 billion 137.7 mln. UHA (excluding expenditures for the state debt servicing, elections and reserve fund).

Social expenditures were not fulfilled in the total amount of 345.6 mln. UHA including 149.7 mln. UHA in education; 77 mln. UHA in health care; 67.7 mln. UHA in social protection and social security.

Economic activity expenditures of 310.5 mln. UHA were not fulfilled including 110.5 mln. UHA for the state support of construction and technical refitting of coal, lignite and peat enterprises; 23.8 mln. UHA - for restructuring of coal and peat industry; 12.9 mln. UHA for plant selection; 12.8 mln. UHA - for exploitation of state and interfarm melioration systems.

Expenditures were not fulfilled by planned assignments totally at 160.6 mln. UHA including centralized tuberculosis measures (35.4 mln. UHA), creation of capacities of production and consumption wastes recycling (20 mln. UHA), Complex program "Sugar Diabetes" (17.4 mln. UHA), centralized measures on immunology prophylaxis (13.3 mln. UHA), manufacturing of rocket station "Tsyklon-4" (10 mln. UHA), creation of unified telecommunication supervision system and automated control of mining machines and technological units at coal enterprises to augment safety measures (8.3 mln. UHA) etc.

The State Treasury and main budget funds administrators did not ensure accrued salaries. Expenditures on the accrued salaries of the state-financed institutions employees were fulfilled by 87.4%, which led to payables growth by 284.6 mln. UHA. Expenditures on food were fulfilled by 86.2%, medicines and bandages - by 23%. As a consequence, payables by these articles amounted to 109.7 mln. UHA and 11.2 mln. UHA respectively, as for 01.04.2004. Expenditures for orthopedic goods for disabled people, bandages and emergency care goods were fulfilled for 15.2 mln. UHA, which made up 61.7% of planned assignments for the first quarter.

In the follow-up to the **execution of the state budget of Ukraine for the first six months of**

2004, the board of the Accounting Chamber made conclusions that despite the state budget was executed in the conditions of fast growing economy preconditioned by active international trade of business entities, economic activity was accompanied by rocketing prices for products especially in the mining and oil-processing enterprises.

Revenues of the state budget general fund were fulfilled by 102 % but central executive authorities did not ensure realization of article 93 of the Law of Ukraine "On the State Budget of Ukraine for 2004" regarding control over planned charges. As a consequence, budget shortage by some revenue sources amounted to 667 mln. UHA, including general fund shortage - more than 420 mln. UHA and specialized fund shortage - 246 mln. UHA. By several payments administered by the State Tax Administration, 201.9 mln. UHA of revenue was not obtained; by the State Customs Service - 142.3 mln. UHA; by the Ministry of Ecology and Natural Resources - 66 mln. UHA; by National JSC "Naftogaz of Ukraine" - 25.4 mln. UHA; by the Ministry of Defense - 81.6 mln. UHA.

Gaps in the standing value added tax legislation, unjustified narrowing of taxation framework due to the numerous privileges, payment by drafts and administration drawbacks were the prerequisites of the tax ineffectiveness, loss of its budget-framing character which complicated seriously the state budget execution. Mechanism of value added tax charging and its administration procedure allows using of various schemes of the state budget funds redeployment to the enterprise accounts which made this tax the most criminal. Value added tax revenue grew by 21.7 % for the last two years while the tax scope compensated to the payers by the State Treasury bodies increased only 1.9 times.

Tax debt to the state as for 01.07.2004 amounted to 9 billion 358.4 mln. UHA and remained almost on the level of 01.04.2004 (9 billion 875.2 mln. UHA) only due to the peculiarities of its accounting, exclusion of tax debts of the taxpayers upon which bankruptcy action is brought and write-off, delay and extension of tax liabilities. Taking the mentioned factors into account, tax debt of business entities to the budget as for July 1 this year should have reached 19 billion 233.5 mln. UHA.

Expenditures of the state budget general fund were not fulfilled - 92.4%. Only expenditures by some budget programs were fulfilled in planned scope, totally at 4 billion 801.5 mln. UHA, which constituted 19.4% of the planned expenditures. Expenditures by 750 budget programs were fulfilled in less scope than planned, totally at 2 billion 79 mln. UHA including expenditures not fulfilled at all by 31 programs totally at 80.2 mln. UHA.

Substantial violations and drawbacks still took place while state budget execution; control over budget discipline was unsatisfactory. Unsatisfactory settlements by the budget funds administrators caused payables growing and budget funds redeployment to receivables. Payables for the reporting period grew by 848.3 mln. UHA and amounted to 3 billion 738.2 mln. UHA as for 01.07.2004. Receivables grew by 404.9 mln. UHA and amounted to 6 billion 260.3 mln. UHA.

Conclusions of the Board of the Accounting Chamber in the follow-up to the **execution of the state budget of Ukraine for nine months of 2004** proved that achieved basic macroeconomic indices exceeded significantly parameters envisaged by the state budget for 2004. However, they did not make adequate impact on the state budget execution. In the conditions of the economic growth, debt liabilities of the enterprises accumulated, including for the consumed energy resources.

Negative tendencies resumed in economy, namely inflation enhancing, rocketing prices for consumer goods, metal and oil products. Generally, price growth rate exceeded consumer price growth rate more than 3.3 times. Such misbalance observed from the beginning of the year caused critical potential accumulation that triggered inflation. It was the fact that the Accounting Chamber emphasized in the follow-up to the analysis of the execution of the state budget of Ukraine for the first six months of 2004.

Despite the state budget revenues fulfillment and available free budget balance funds, expenditures of the state budget general fund were not fulfilled. Expenditures only by some budget programs were fulfilled in planned scope, totally at 7 billion 805.7 mln. UHA which is only 18.2 % of the planned expenditures; expenditures by a number of budget programs were fulfilled in less scope than planned, totally at 3 billion 630.2 mln. UHA (excluding expenditures for the state debt servicing and reserve fund); expenditures of 138.3 mln. UHA were not fulfilled at all.

The Cabinet of Ministers of Ukraine for the reporting period did not reinstitute wage tariff scheme in the state-financed sector employee wages and resolutions passed by the Government in July-September of 2004 on the pension increase nullified practically all results of pension recounting within pension reform depending upon the wage and working record and reinstated pension levelling.

The Cabinet of Ministers of Ukraine did not implement the Decree of the President of Ukraine

#506/2004 from 05.05.2004 "On Additional Measures Aimed at Improvement of Social Security System Payments to Citizens" which obliges to settle the arrears of compensations, assistance and benefits until 01.08.2004 to the citizens suffering from Chornobyl disaster.

The Government did not ensure plan fulfillment on the state capital investments. These expenditures were financed in the amount of 162.6 mln. UHA, which was only 52.3% of nine-months-plan and 38.2 % of yearly expenditures. The Law of Ukraine #1801-IV from 17.06.2004 "On the amendments to the Law of Ukraine "On the State Budget of Ukraine for 2004" increased expenditures for capital investments by 193.1 mln. UHA, out of which 174.8 mln. UHA was envisaged for reconstruction and construction of 18 objects, which were not envisaged by the list of objects for 2004.

In nine months of 2004, the state debt rose following the growth of direct and state secured debt liabilities because of the Cabinet of Ministers of Ukraine and the Ministry of Finance taking external and internal loans exceeding state debt repayment and state budget deficit financing. The state debt growth rate increased sharply in the third quarter of 2004. So, total state debt increased by 3.6 billion UHA if compared with the beginning of the year but it increased by 2.7 billion UHA for the third quarter alone, which is 75% of its growth.

At the end of 2004, the Accounting Chamber analyzed status of legal support of the implementation of the Law of Ukraine "On the State Budget of Ukraine for 2004" by the Cabinet of Ministers of Ukraine which confirmed that during the year the Cabinet of Ministers did not comply with the standing legislation regarding legal regulation of the mechanism of implementation of the Law of Ukraine "On the State Budget of Ukraine for 2004".

Despite the fact that in 2004 the Government adopted 78 resolutions and orders to implement the articles of the Law of Ukraine "On the State Budget of Ukraine for 2004" envisaging respective Government's resolution, legal regulation of six articles of the mentioned Law was not provided; legal regulation of two articles was provided partially; legal regulation of four articles was provided only in December of 2004.

The government did not ensure fully adoption of its own resolutions, necessary to regulate budget process in Ukraine. Out of 43 articles of the Law of Ukraine "On the State Budget of Ukraine for 2004" requiring respective resolution of the Cabinet of Ministers, only 35 were realized in full scope.

At the same time, adoption of the resolution by the Cabinet of Ministers of Ukraine in 2004 breaching the Law of Ukraine "On the State Budget of Ukraine" and other regulations, non complying of the standing legislation by the Government regulating budget process in Ukraine led to the growth of expenditures envisaged in the Law of Ukraine "On the State Budget of Ukraine for 2004"; uncontrolled and non transparent use of the part of funds of the state budget of Ukraine; change of the assignment of the funds of the state budget of Ukraine.

Part 2 of article 4 of the Budget Code of Ukraine envisages that in the budget process of Ukraine regulations are applied only regarding the cases not breaching the Constitution of Ukraine, this Code and the Law of Ukraine "On the State Budget of Ukraine. It means that adoption of illegitimate resolutions by the Cabinet of Ministers of Ukraine binding in the power hierarchy for the state executive authorities led to the budget violations in the state budget execution in 2004, breach of the responsibility principle of the budget process participants according to item 11 part 1 of article 7 of the Budget Code of Ukraine.

According to articles 40 and 41 of the Budget Code of Ukraine and articles 7 and 27 of the Law of Ukraine "On the Accounting Chamber", the Accounting Chamber made **analysis and expertise of the draft Law of Ukraine "On the State Budget of Ukraine for 2005"** submitted by the Government to Verkhovna Rada of Ukraine in September of 2004.

In the follow-up to the analysis and expertise, the Board of the Accounting Chamber noted that the draft Law of Ukraine "On the State Budget of Ukraine for 2005" did not comply with some articles and provisions of the Constitution of Ukraine, the Budget Code of Ukraine and other regulations, did not take into account Main Directions of the Budget Policy for 2005, namely, regarding declared strategy of innovation development and presupposed economic recession.

Despite intent declared by the Cabinet of Ministers on refusing from unsystematic tax privileges, the draft state budget for 2005 was designed retaining functioning tax privileges.

Expenditures of the state budget of Ukraine did not take into account need for financial resources for introduction of Unified Tariff Chart of Labour Remuneration in State Financed Sector and monthly targeted assistance to pensions to approximate them to the subsistence level.

Growing centralization of financial resources in the state budget and transfer of the part of

revenues to local budgets were the prerequisites of the low financial potential of the local self-government authorities and acted as constraint for region development.

Generally, revenues of the state budget were understated and expenditures did not presuppose tackling of the burning social and economic problems. Analysis and expertise of calculations of the state budget revenues detected that because of the errors, particular state budget revenue indices for 2005 were understated by 11.5 billion UHA.

Conclusions of the Board of the Accounting Chamber proved the possibility to increase value added tax revenue - 6.6 billion UHA; enterprise income tax - 1.7 billion UHA; state property privatization - 1.6 billion UHA; companies dividends - 552.7 mln. UHA; rent by Ukrainian business entities for transition transportation (transfer) of passengers and cargoes through the territory and ports of Ukraine - 400 mln. UHA; funds from sales of excessive armament, defense and special equipment, other property of the Armed Forces of Ukraine and other military organizations established according to the legislation by means of settling the defaulted debt by National JSC "Naftogaz of Ukraine" to the Ministry of Defense - 194.5 mln. UHA; rent for oil extracted in Ukraine - 174 mln. UHA; rent for natural gas extracted in Ukraine - 110.2 mln. UHA; import charges - 59.1 mln. UHA; winegrowing, gardening, hop growing - 37.9 mln. UHA; consular charges - 21.4 mln. UHA.

Draft of the state budget regarding expenditures envisaged program and expenditures of non-priority and secondary character, therefore it was proposed to reduce it totally by 6 billion 523 mln. UHA. A number of other proposals were made on the other aspects of the state budget formation.

1.4. Effectiveness audit results of the specific areas of the budget funds use

Taking into account the nowadays requirements to the activity of supreme auditing institutions on the effectiveness audit, which is the Accounting Chamber in Ukraine, practically by all control and control and analytical measures of the Accounting Chamber in 2004 generalized conclusions were made on the effectiveness of the managerial decisions passed by the Cabinet of Ministers of Ukraine, main budget funds administrators on the budget funds use, system effectiveness and financing mechanism of the particular direction of the use of the funds of the state budget of Ukraine.

Mentioned activity became an integral part of control and analytical measures of the Accounting Chamber and is becoming their main part.

Control measures carried out by the Accounting Chamber in 2002-2004 on the use of the state budget funds for internal medicine enabled the Board of the Accounting Chamber to make a number of systematic, summarizing conclusions.

So, specified measures prove that there are no effective approaches to internal medicine specialized medical support and services for citizens.

The Ministry of Health Care of Ukraine being specially authorized central executive authority in health care has practically no impact upon the budget expenditures planning in internal medicine. Consequently, funds spending by the ministries and institutions totally at more than 640 mln. UHA in 2003-2004 remained out of its control. Besides, these expenditures were not coordinated with state health care system.

Non-transparent, ineffective system of functioning and use of the funds by the internal health care institutions emerged in the country. In many cases they function taking into consideration position of the head of the sector. Scope of financing of the internal medical institutions depends upon it as well.

Use of the funds is conducted without proper control at all stages of the budget process.

Ministries and institutions, budget funds administrators do not possess information on the real need and actual status of the medicines provision in their internal medicine.

State budget funds in the system of internal health care institutions were frequently used with the budget breaches including inappropriately and ineffectively.

Generally, system of internal medicine, namely its stationary medical aid institutions, is built irrationally, too centralized and disproportionate in the division of available capacities between the center and regions.

Unsatisfactory level of management organization of internal medical institutions from the side of the ministries and institutions which sphere they belong to, and lack of control over their activity from the side of the Ministry of Health Care of Ukraine preconditioned possibility of functioning of the hospitals, sanatoria and recreational institutions without accreditation and

accreditation certificates, and rehabilitation centers without licenses for medical practice. Only in the system of the Ministry of Internal Affairs of Ukraine, one fifth of medical institutions operated in this way.

For example, system of internal medical institutions is oriented to the medical services not connected directly with their functions and tasks defined by the budget program, medical services to the categories of citizens for which treatment budget allocations were not envisaged and they did not have the right for free treatment in the internal institutions. Thus, only in the system of the Ministry of Internal Affairs of Ukraine, 60% of the funds allocated from the state budget were used in that way.

In the follow-up to the audit of management effectiveness of forest resources of Carpathian Region of Ukraine, the Board of the Accounting Chamber made conclusion that the Cabinet of Ministers of Ukraine, former Ministry of Ecology and Natural Resources of Ukraine, the State Committee for Forestry of Ukraine, the Ministry of Agrarian Policy of Ukraine and regional state administrations did not ensure implementation of the State Program "Forests of Ukraine", effective, rational and ecologically balanced use of forest resources in Carpathian region.

Functioning management system of the forest resources of Carpathian region has many gaps and needs reforming.

Forestry system of Carpathian region lacks effective institutional management structure. There is no system interrelation between the management mechanisms: responsibility, control, encouragement and effective administrative sanctions.

Regional state administrations actually created misbalanced situation in the forestry of Carpathian Region adopting regulations and orders because the state represented by the state forestry bears the expenses connected with trees planting and treatment while commercial structures obtain profits from ripe forest cutting.

The Ministry of Agrarian Policy does not carry out state control over the use of forest resources and in the forestry sector. System-creating mechanisms of formation and support of the forestry activity were not developed, clear action program was not developed, and, consequently, financial and forest resources are used non-systematically.

Local and local self-government authorities, abusing lack of regulation, pass the decisions and grant the forests of the former collective agricultural enterprises to the permanent utilization at their own discretion. There is no legal substantiation of their state budget financing.

Audit of the use of the state budget reserve fund in 2003 proved that the Cabinet of Ministers of Ukraine preceded the practice of previous years, namely, allocation of the funds from the reserve fund, breaching article 24 of the Budget Code of Ukraine and Procedure of the budget reserve fund use adopted by the resolution #415 from 29.03.2002. Ignoring of the remarks and warnings by the Ministry of Economy and on European Integration of Ukraine, the Ministry of Finance of Ukraine and the Ministry of Justice of Ukraine while their passing the decisions upon the funds allocation prove the deliberate breaching by the Cabinet of Ministers of Ukraine of the standing legislation regulating budget reserve fund use and subjective approach in their allocation. Consequently, 32.3 % of the total state budget reserve fund in 2003 was allocated illegitimately for the planned measures and, respectively, should not be carried out by means of the fund.

Contrary to item 10 of the Procedure, 60 % instead of defined 20% of the total allocated reserve funds were directed to other measures.

Part of the funds allocated for emergencies amounted to 40% of the total funds and was the lowest for the last three years (2001 - 65.3%; 2002 -61.7%).

Reserve fund management in 2003 by the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine, the State Treasury of Ukraine, agencies and main funds administrators was ineffective.

Contrary to item 8 of the Procedure of budget reserve fund use in 2003, the Cabinet of Ministers of Ukraine passed the decisions on financing of the measures which were not fully financed in the previous years or not financed at all because there were no actual payables as for January 1, 2003.

The Board of the Accounting Chamber in the follow-up to the *audit and analysis of the state budget funds use allocated to the Program "Grain of Ukraine - 2001-2004"* made conclusion that the Program financing system introduced by the Government by means of the budget led to their illegitimate use and ineffective management and prevented from achieving the main goal of the Program - to increase gross grain production.

Clear development strategy of the domestic grain market was not shaped and its functioning

with the conditions, beneficial for the agricultural producers, was not ensured.

Existing state support system of agricultural producers through privileges has many gaps and is not transparent which breached principles of fairness and impartiality while state budget funds allocation among the agricultural enterprises.

Materials of the *audit carried out by the Accounting Chamber on the use of the state budget funds of Ukraine allocated in 2001-2003 to the Ministry of Defense of Ukraine for participation in the international peacekeeping operations* show that management system of financial resources of the state budget of Ukraine in this sphere is not transparent and do not ensure legal and effective budget funds use for the preparation of Ukrainian peace-keeping contingents.

Analysis of the use of the state centralized capital investments in 2001-2003 allowed to make conclusion that management of the funds of the state budget of Ukraine by means of the state centralized capital investments in 2001-2003 was conducted by the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine and the Ministry of Economy and on European integration of Ukraine with the breaches of the standing legislation; the objects were not brought into operation as it was planned.

Allocation of the centralized capital investments was conducted non-systematically and inconsistently without clear criteria of priority and terms of the objects' being brought into operation, preference was not given to complete the started constructions.

Reduction of expenditures of the state budget of Ukraine for state centralized capital investments, their not inclusion in the state budget for 2004 and substitution with subventions to the regions destroyed proper conditions for social and economic development of Ukraine.

In the *audit of the use of the investments by force structures for housing construction attracted through income tax privilege*, the Accounting Chamber detected that the Cabinet of Ministers of Ukraine did not fulfill tasks defined by the President of Ukraine on the creation of conditions, auspicious for housing construction financing for military men and their family members by means of the state budget of Ukraine and attraction of other sources including credits.

The goal set by the Complex Program of housing providing for military men and their family members was not achieved.

Lack of the proper control from the side of the Government over program implementation caused the situation when the number of objects of uncompleted construction did not decrease substantially and they were not brought into operation as priority task.

Financing system of housing construction created by the Government by means of investments, lack of control from the side of the Ministry of Finance of Ukraine, bodies of the State Treasury of Ukraine and construction orderers (the Ministry of Defense of Ukraine, the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine) led to systematic budget violations.

Analysis of formation and allocation of transfers from the State Budget of Ukraine to local budget and status of interbudget settlements in 2003-2004 allowed making the conclusion that interbudget reform approved by the Budget Code of Ukraine in 2001 did not harmonize interbudget relations, did not provide local self-government with fair allocation of the financial resources taking into account their powers and economic and social development level of the regions.

Centralized powers of the state defined by the legislation on the interbudget transfers (specific weight of transfers in the total expenditures of local budgets in 2004 amounted to 42.5% if compared with 5 % in 1995) and low financial potential of the local self-government bodies with the transfer of functions upon them without compensation of expenditures through budget revenues, limit their participation in the budget process and constrains region development.

Functioning system of formation by the Ministry of Finance of the subsidies and subventions from the state budget to local budget along with gaps in the standing legislation does not provide local-self government bodies and local executive authorities with financial resources in the scope, sufficient for fulfillment of the state functions delegated to them and remains non-transparent and ineffective.

Audit of the use of the funds allocated from the state budget of Ukraine for training of human resources for internal affairs bodies in the high education institutions of the Ministry of Internal Affairs of Ukraine, ineffective system of the state budget use by high education institutions of the Ministry of Internal Affairs does not ensure achievement of the main goal of the budget program of educational activity on the human resources training for the divisions of internal affairs bodies of Ukraine.

At the same time, if all available capacities of higher education institutions of the Ministry of Internal Affairs of Ukraine are oriented to training of the specialists particularly for the Ministry but not commercialization of these state-financed institutions and training of human resources for other spheres, two higher education institutions out of 12 would have been enough.

Audit of the use of the funds of the state budget of Ukraine allocated to the Ministry of Health Care of Ukraine for the State Program "Oncology" prove that the Ministry did not develop effective mechanism of program realization for more than two years of its duration. Consequently, people suffering from oncopathology did not get qualitative and timely, state guaranteed, free medical assistance.

The fact that the Cabinet of Ministers of Ukraine did not finalized National Program of Minimization of the Aftermath of Chornobyl Disaster adopted in the first reading and did not submit it to the approval by Verkhovna Rada of Ukraine led to the use of the state budget funds for complex medical and sanitary support of the citizens suffering from Chornobyl disaster in 2003 and first six months of 2004 by the Ministry of Emergency of Ukraine without proper control at all stages of the budget process. The Ministry did not possess information upon the real need and actual status of provision of specialized health care institutions with medicines for medical aid to people suffering from Chornobyl disaster.

Having analyzed *effectiveness of measures according to the Law of Ukraine "On the State Budget of Ukraine for 2003" on the state debt management*, the Board of the Accounting Chamber made conclusion that despite the conceptual orientation of normative document towards economic development of Ukraine, namely, in 2003 towards improvement (regulation) of the debt policy, its fundamental principles were not reflected in the Law.

The Law stipulated the norms for the state budget deficit, increase of the absolute size of the state debt oriented mainly to external loaning and respective strengthening of economic dependence on external creditors, growing debt burden on the state finances.

Because of the drawbacks in regulation making, the state budget of Ukraine in 2003 was fulfilled with deficit, state debt increased by 1.8 billion UHA including its external component by 2.7 billion UHA, taken loans exceeded debt obligations. Expenditures on servicing and repayment of the state debt grew almost by 1 billion UHA if compared with 2002, expenditures on servicing and repayment of the external state debt exceeded the same expenditures on internal state debt more than three times, including interest payments enhanced eight times.

The Board of the Accounting Chamber, taking into account *audit of the status of settlement of arrears of the devaluated insurance contributions of the citizens of Ukraine placed before January 2, 1992, in the former Ukrderzhstrakh institutions* made conclusion that the status of realization of state securities on the compensation of contribution devaluation losses to the citizens is shameful and neglects life expectancy of Ukraine.

System of expenditures financing of devaluated insurance contributions arrears does not ensure state securities, their compensation to the citizens by the types of the state securities.

Government policy in this sphere is extremely inconsistent. Thus, 2.6 billion of Soviet roubles of insurance reserves of the former Ukrderzhstrakh were not reflected in the documents for 1992-2002 both in assets and calculations (receivables) in accounting records and its legal successor National Insurance JSC "Oranta".

Mentioned problem was also not regulated by specific international agreement between legal successor of the former Soviet Union Russia and Ukraine.

In 2000-2001 the Government introduced mechanism of the funds use for the settlement of the devaluated insurance contributions of the citizens, which did not take into account peculiarities of these savings along with lacking financial resources for these purposes, limited insurance contribution compensation payments. This mechanism caused extremely unfair funds allocation among insurers and significant reduction of compensation payments.

By the results of the *audit and analysis of the financial performance of state (national) joint stock and holding companies for 2001-2003*, the Board of the Accounting Chamber made conclusion that state corporate rights management was ineffective; at the same time process of creation of joint stock companies by the state bodies was unsystematic and took into account in the majority of cases not state but departmental and subjective interests.

The audit confirmed that Decree of the President of Ukraine "On Urgent Measures on Regulation of State (national) joint stock and holding companies activity" due to the actual inactivity of Cabinet of Ministers of Ukraine remained unfulfilled. As a result, goal - to reform state economy sector and enhance responsibility of the state enterprises for their economic performance results while incorporation of the state enterprises and establishment of holding companies in Ukraine for the last decade was not reached.

2. Follow-up measures to control and expert and analytical activities

During the reporting year the Accounting Chamber intensified the work on the regular monitoring of the reaction to the information and Conclusions of the Board of the Accounting Chamber by the heads of the Cabinet of Ministers of Ukraine, ministries, other central authorities, audited objects. Such activity became an integral part of the complete cycle of each control and control and analytical measure.

Remarks, recommendations and propositions of the Accounting Chamber by the materials of the conclusions on the budget execution and expertise of the draft law on state budget were taken into account by Verkhovna Rada of Ukraine and Government in their decisions on improvement of state budget execution and budget process as a whole.

In the reporting period the Accounting Chamber intensified cooperation with the Committees of Verkhovna Rada of Ukraine. Representatives of the Accounting Chamber participated in the parliamentary hearings, were invited to the committee meetings, ad hoc investigation commissions, roundtables etc.

The Accounting Chamber worked over draft laws and made propositions on improvement of the standing legislation. By the results of the control and analytical measures 114 propositions were made to 13 draft laws.

Recommendations and propositions presented in the Conclusions of the Board of the Accounting Chamber by the results of control and analytical measures were reflected in the laws passed by Verkhovna Rada of Ukraine and taken into account during the drafting of the resolutions of Verkhovna Rada of Ukraine, were considered at the committee meetings.

Committee of Verkhovna Rada of Ukraine on Budget used regularly materials of the Accounting Chamber on the analysis of the execution of the state budget of Ukraine for 2003, its quarterly execution for 2004. When the Law of Ukraine "On State budget of Ukraine for 2005" was drafted, **conclusion of the Board of the Accounting Chamber on the draft law was taken into account. Part of the propositions of the Accounting Chamber were included in the Law of Ukraine #2285-IV from 23.12.2004 "On the State Budget of Ukraine for 2005"**.

The Law of Ukraine #2505-IV from 25.03.2005 "On the Amendments to the Law of Ukraine "On State Budget of Ukraine for 2005" and some other legal acts of Ukraine" passed by Verkhovna Rada of Ukraine took into account majority of the propositions of the Board of the Accounting Chamber on the state budget indices for the current year, 29 propositions out of 37 were included fully or partially.

Generally, propositions were taken into account on state budget revenues increase by 10 billion 268.7 mln. UHA, namely: state property privatization funds - 3 billion 35.6 mln. UHA, VAT - 2 billion 252.1 mln. UHA, enterprise income tax - 2 billion 186.5 mln. UHA, import charge - 1 billion 894.3 mln. UHA, rent for oil extracted in Ukraine - 330.4 mln. UHA.

As far as propositions on the state budget expenditures are concerned, n expenditures were reduced by 0.5 billion UHA by some non priority and secondary programs and expenditures to ensure Pension Fund paying pensions not lower than subsistence level for unemployable (332 UHA per month) and resuming of pension differentiation.

Particular propositions were taken into account regarding improvement of formula approach to the system of interbudget relations. Resolutions #1652 from 13.12.2004 and #196 from 23.03.2005 "On the Amendments to Formula of division of interbudget transfers (leveling subsidies and funds transferred to the state budget) between state budget and local budget" were adopted by the Cabinet of Ministers of Ukraine, which improved mechanisms of funds calculation transferred from local budgets to state budget; calculation of the revenues of the local budget general fund taken into account when defining interbudget transfers and calculation indices of the expenditures of specific local budgets for health care and education.

Besides, the Law of Ukraine "On State Budget of Ukraine for 2005" took into account as amendments other conclusions and remarks of the Board of the Accounting Chamber on the following:

- Allocation of the funds to implement on the regional level state programs aimed at social and economic development of the territories and funds to implement investment projects; to take measures on prevention of accidents and technogenic disasters in housing and utilities infrastructure and other hazardous objects of communal property among local budgets proportionately to the population size;
- Increase of the subsistence level provision to assign assistance according to the Laws of Ukraine #2811-XII from 21.11.92 "On State Assistance to Families with Children" and #1768-III from 01.06.2000 "On State Assistance to Lower Income Families";

- Introduction of Unified wage tariff system of grades and rates for employees of state financed institutions and organizations and respective expenditures at the account of additional funds attraction to state budget revenues;
- Increase of the minimal wage rate to subsistence level.

Sectoral privileges granted to the entities of free economic zones, priority development territories and territories experiencing losses from Chernobyl disaster were cancelled. To ensure this, amendments were introduced to 57 laws on taxation including to the Law of Ukraine "On Value Added Tax", "On Enterprise Income Tax", "On Innovation Activity".

Committee of Verkhovna Rada of Ukraine on Finances and Banking considered issue of the audit of the use of funds of State budget of Ukraine allocated to functioning of State Customs Servise of Ukraine, customs payment administration, interaction of control bodies, customs regimes application and customs mediation.

Committee of Verkhovna Rada of Ukraine on National Security and Defense considered the issue of the use of funds of State budget of Ukraine allocated in 2003 and first half of 2004 to functioning of State Guarding Office of Ukraine.

Committee of Verkhovna Rada of Ukraine on Construction, Transport and Housing and Utilities Infrastructure and Communications considered restructuring of Kyiv-Odesa highway and perspectives of highway development in Ukraine.

The Committee considered issues of the use of budget funds use by security agencies for construction (purchase) of housing for military men and for restructuring of coal and peat industries.

Audit of the use of funds of the state budget of Ukraine allocated to accumulation (growth) of material values of state material reserve, reimbursement of losses to liable depositaries and state material reserve servicing in 2 half of 2002 and in 2003 promoted significantly the Law of Ukraine #1713 from 12.05.2004 "On Amendments to Some Legal Acts of Ukraine" which introduced substantial amendments to the Law of Ukraine "On State Material Reserve". Namely, the concepts of state reserve refreshment and loaning were specified; new terms were introduced - "strategic need of the state", "arbitrary alienation of material values of state reserve"; article 7 "Financing of State Reserve System" was amended; State Committee for Reserve was granted the right to take measures by the decision of Cabinet of Ministers of Ukraine to stabilize market of strategically important products in case of disparity between domestic market demand and supply; procedure of material values issuing was specified and requirements and responsibility were strengthened for the state reserve material values operations. At the same time, by the Recommendation of the Accounting Chamber, to approximate the standing legislation to the Law of Ukraine "On State Material Reserve", amendments were introduced to the Civil Code of Ukraine, the laws of Ukraine "On Reinstitution of Solvency of Debtor or recognition of its bankruptcy", "On Grain and Grain Market of Ukraine" and Decree of the Cabinet of Ministers of Ukraine #7-93 from 21.01.93 "On State Duty".

According to the proposition of the Accounting Chamber on financing of housing construction for military men at the account of state budget of Ukraine applying mechanism of mortgages and privileged credits, the Law of Ukraine #1957 from 01.07.2004 "On Amendments to the Law of Ukraine "On Enterprise income Taxation" cancelled item 22.3 of article 22 of the Law of Ukraine "On Enterprise Income Taxation".

Proposition of the Board of the Accounting Chamber on the necessity to credit revenues from UNO Secretariat directly to multicurrency account of State Treasury of Ukraine to ensure training of peacekeeping contingents was included to the Law of Ukraine #2285 from 23.12.2004 "On State Budget of Ukraine for 2005".

By the results of audit of the use of funds of State budget of Ukraine for servicing and repayment of state debt to Turkmenistan to legally norm system of state debt management, resolution was passed by Verkhovna Rada of Ukraine #1854-IV from 24.06.2004 "On the Basic Directions of Budget Policy for 2005" which outlined a number of limitation indices of state debt.

The mentioned was also taken into account in the Law "On State Debt of Ukraine" (#1229-1 from 17.06.2004).

By the results of the analysis of the measures effectiveness according to the Law of Ukraine "On State Budget of Ukraine for 2003" on state debt management, the Board of the Accounting Chamber proposed to determine state debt management expenditures in separate budget program of the state budget for 2005 but the amended Law of Ukraine #2285 from 23.12.2004 "On State Budget of Ukraine for 2005" did not contain earmarked expenditures program for state debt management and special reserve of operations financing of prior redemption of state debt

securities.

Remarks and propositions of the Accounting Chamber by the results of analysis of formation and use of subsidy granted in 2003 from state budget to local budgets for assistance to families with children, lower-income families and people disabled from childhood and disabled children were included in the Law of Ukraine #1743 from 03.06.2004 "On Amendments to article 5 of the Law of Ukraine "On State Social Assistance to persons not entitled for pensions and disabled people", Resolution of Verkhovna Rada of Ukraine "On Adoption of the concept of the Law of Ukraine "On State social Assistance to people disabled from childhood and disabled children" #1917 from 29.06.2004.

Propositions of the Accounting Chamber on elimination of the drawbacks and effectiveness enhancing of the budget funds use was taken into account not only by Verkhovna Rada of Ukraine in legislative instruments in the reporting year but in the Decrees of the President of Ukraine.

Actuality and substantiation of the conclusions of the Board of the Accounting Chamber by the results of the analysis and appraisal of macroeconomic indices execution considered in the Law of Ukraine "On State Budget of Ukraine for 2003" confirmed the Decree of the President of Ukraine #175 from 09.02.2004 "On System of Measures to Eliminate grounds and conditions promoting crimes and corruption" issued in the follow-up to All-Ukrainian Meeting on Organized Crime Fight and Corruption and Human Right protection which ordered the Government to analyze until March 1, 2004, the reasons of non-conformity of state budget revenues to dynamics of fundamental macroindices of economic and social development of Ukraine considered in the State budget of Ukraine for 2003 and to take measures to prevent such non conformity in 2004.

Taking into account propositions of the Accounting Chamber, Decree of the President of Ukraine #576 "On urgent Measures on Completing the Wage Arrears Settlement" recognized as unsatisfactory the work of Ministry of Fuel and Energy of Ukraine, Ministry of Industrial Policy of Ukraine, State Property Fund of Ukraine, Council of Ministers of Autonomous Republic of Crimea, Vinnitsa, Zaporizhzhia, Mykolayiv, Sumy, Kharkiv Region Administrations on wage arrears repayment in the first quarter of 2004 and attention of the heads of these authorities were drawn to the necessity to reverse the situation in this sphere urgently. At the same time Cabinet of Ministers of Ukraine get the order to take effective measures to tackle the issue.

Decree of the President of Ukraine #671 from 23.06.2004 "On the Urgent Measures to Enhance Effectiveness of VAT charging" recognizes as unsatisfactory the work of State Tax Administration on realization of state tax policy in charging and reimbursement of VAT. To improve the mechanism of VAT charging Cabinet of Ministers of Ukraine was ordered to develop draft laws about amended Law of Ukraine "On Value Added Tax", to develop and adopt methods of revenues forecasting, to take measures on establishment of unified data base of State Tax Administration, State Customs Service, Ministry of Finance, State Treasury on payment of taxes, duties. At the same time, State tax administration was ordered to reconsider VAT accounting procedures to improve calculation of the value of the tax privilege impact on revenues of the State Budget of Ukraine. Besides, State Tax Administration and other authorities including prosecutor's office, were obliged to conduct audits of legitimacy of VAT privileges granted by business entities functioning in special economic zones, territories of priority development, in technological parks, on the territory contaminated after Chornobyl disaster.

Materials of the audits of the Accounting Chamber were used for meetings of the Council of National Security and Defense of Ukraine.

Thus, Council of National Security and Defense of Ukraine at its meeting in September of 2004 discussed results of the audit carried out in 2003 of the use of budget funds to provide people suffering from sugar diabetes with insulin. Expert group was established of Interinstitutional Commission on Biologic and Genetic Security by Council of National Security and Defense of Ukraine which includes Mr. Y.A. Flissak, Director of Department of the Accounting Chamber.

By the address of the Secretary of the National Security and Defense Council of Ukraine, the Accounting Chamber submitted materials of the audit of the budget funds use for supporting the object "Confinement" in safety to prepare Council meeting.

Materials of the Accounting Chamber were taken into account and promoted adoption by the Cabinet of Ministers of Ukraine a number of resolutions and orders on budget process.

Namely, resolution #13 from 14.01.2004 adopted Procedure of the use of 140 mln. UHA from state budget meant for partial compensation of the cost of mineral fertilizers produced in Ukraine as an incentive for procurement and enhancing their application.

Resolution #15 from 14.01.2004 "On Adoption of Strategy of Attraction of International Technical Assistance for 2004-2007" envisages improvement of legislative framework for corporate management.

Resolution #155 from 11.02.2004 adopts Fundamental conceptual approaches to effectiveness enhancing of state corporate rights management.

Resolution #183 from 18.02.2004 transfers authorities of state corporate rights management of National JSC "Nadra of Ukraine" to State Committee of Natural Resources of Ukraine.

The Government also passed a number of decisions to ensure sustainable development sugar beet complex. Thus, resolutions #456, 473 and 475 from 14.04.2004 withdrew temporarily sugar beet seeds from free trade regime with Republic of Moldova, sugar and sugar syrup from free trade regime with Republic of Georgia, Russian Federation and Republic of Belarus.

Resolution #467 from 14.04.2004 "On Adoption of the Provision on Register of State Property Objects used in business activity" obliged Ministry of Economy and State Property Fund to keep register of state property objects.

Resolution #474 from 14.04.2004 which functioned before the Law of Ukraine #1959 from 01.07.2004 "On Amendments to article 2 of the Law of Ukraine "On Operations with Give-and-take Raw Materials in International Economic Relations" was adopted, which regulated this matter prohibiting import of sugar and sugar syrup to customs territory of Ukraine by give-and-take raw materials operations.

Resolution #509 from 19.04.2004 "Some Issues of Subsidy Granting from state budget to local budgets for investment projects in 2004" adopted Procedure of subsidy granting from state budget to local budgets for investment projects in 2004, which defines mechanism of subsidy granting from state budget to local budgets for investment projects implementation.

Resolution of the Cabinet of Ministers of Ukraine #1046 from 12.08.2004 "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine # 13 from January 14, 2004 "Procedure of the state budget funds use which are allocated for partial compensation of the cost of mineral fertilizers produced in Ukraine" was approximated to the Law of Ukraine "On Grain and Grain Market in Ukraine".

To ensure Ukraine's fulfilling its obligations of the preparation of the Project "Fund of Municipal Development of Ukraine" resolution #1077 from 25.08.2004 was passed "On Procurement of Goods and Services within the framework of advance loan for the project "Fund of Municipal Development of Ukraine" (Program of Municipal Credit Market Development).

Resolution #1203 from 14.09.2004 "On Amendments to Form of Division of Interbudget Transfers (equalizing subsidies and funds transferred to state budget) among state budget and local budgets" specifies legislative and normative basis of the calculation formula.

Resolution #1429 from 10.09.2003 to eliminate drawbacks in implementation of the Program "Grain of Ukraine" establishes State inspection of Quality Control of Agricultural Products and Monitoring of its Market (Resolution #65 from 22.01.2004 adopts Regulations on it).

Resolutions of the Cabinet of Ministers of Ukraine #876 from 07.07.2004 "On Measures on Mortgage and Intervention Grain Operations" approximate Procedures of application and the Law of Ukraine "On Grain and Grain Market of Ukraine" and #1569 from 17.11.2004 "On Ensuring of Realization of some Provisions of the Law of Ukraine "On Grain and Grain Market in Ukraine".

Resolution #1562 from 13.12.2004 "On Amendments to Formula of Division of Interbudget Transfers (equalizing subsidies and funds transferred to state budget) among state budget and local budgets" improves mechanism of funds calculation transferred from local budgets to state budget.

Resolution #1713 from 23.12.2004 adopts Procedure of the Funds Use meant for creation and introduction of thermoenergy cogeneration modules of carbon methane utilization in 2004 Which absence made negative impact on the state budget execution by specific directions and programs.

Resolution #1730 from 23.12.2004 defines mechanism of audits of reporting system and accounting of stock and transport vehicles at enterprises by customs bodies, which cross customs border of Ukraine both in the process of customs clearance of goods and transport vehicles and after it regarding their compliance with the customs legislation.

Resolution #1796 from 31.12.2004 amends item 3 of Resolution of the Cabinet of Ministers of Ukraine #70 from 24.01.2002 on normative setting for the number of trainees, post-graduates and PhD students per one full time office of academician-pedagogical employee of National

Academy of State Management by the President of Ukraine.

Order #207-p from 31.03.2004, #616-p from 25.08.2004 and #884-p from 06.12.2004 adopts requirement to mobilize taxes, duties to the state budget and tax debt settlement.

Order #300-p from 12.05.2004 State Reserve Seed Fund of Ukraine by the proposition of Ministry of Agrarian Policy of Ukraine and resolution of the Supervisory board of State JSC "Khib of Ukraine" according to article 7 of the Law of Ukraine "On Seed and Planting Stock", was transformed into state enterprise belonging to management domain of Ministry of Agrarian Policy of Ukraine.

Order #332-p from 26.05.2004 "On adoption of the Concept of Improvement of Food Supply and Quality of Food Products" recognizes that the majority of aggregate costs of households is for food products (about 62 %) but consumption level of basic food remains low and diets misbalanced. Social and economic conditions and ways of achievement of dietary allowance of population.

According to the Order #414-p from 05.07.2004 "On Adoption of Supplementary Measures on Denshadowing of National Economy for 2004-2005": Ministry of Economy and Ministry of Fuel and Energy have to intensify the work of balance commissions connected with analysis of reasons of unsatisfactory economic activity of fuel and energy enterprises; Ministry of Economy, central and local authorities analyze constantly financial and economic state of state enterprises to detect the signs of fictitious bankruptcy or bankruptcy causing and prevention of related actions; Ministry of agrarian policy, Ministry of Economy, Ministry of Finance, Ministry of Justice have to intensify the work on procurement of grain and food to state reserve and regional resources exclusively through accredited commodity exchanges using infrastructure of agrarian market; State Tax Administration, State Customs Service, Ministry of Economy, Security Service of Ukraine, Ministry of Internal Affairs have to audit regularly proper use of property brought to Ukraine to realize investment projects in special economic zones and on special investment regime territories.

According to Order #607-p from 25.08.2004 State Tax Administration, State Customs Service, Chief Auditing Department, Ministry of Economy, Ministry of Education? Ministry of finance, Ministry of Internal Affairs, Security Service of Ukraine and State Committee for Entrepreneurship must establish working group on organization and conducting of the audits of legitimacy of VAT privileges obtaining.

Order #667-p from 22.09.2004 adopts Program of Tax Debt Reduction for 2005, according to which ministries, other authorities are obliged to ensure full tax and duties revenues to state budget from enterprises, institutions and organizations belonging to their management domain and tax debt reduction according to the normative defined by the Program. Besides, Program adopts organizational measures on tax debt reduction in 2005.

By the proposition of the Accounting Chamber after results of the disbursement of the loan of International Bank for Reconstruction and Development, agreement was reached with World Bank about prolongation of the Project of rehabilitation and Extension of Central heating system of Kyiv for 2 years (until 31.12.2006) and measures are taken to resume the functioning and refreshment of interinstitutional working group to coordinate and control project realization taking into account that JSC Energy Company "Kyivenergo" amalgamated to newly created National JSC "Energy Company of Ukraine".

Except the Government, results of the audits carried out by the Accounting Chamber were considered and taken into account by heads of authorities - chief budget funds administrators.

So, the **Ministry of Finance of Ukraine** to regulate relations during state control over compliance with budget legislation and identification of the bodies authorized to conduct it developed draft Law of Ukraine "On State Control over Compliance with Budget Legislation and Responsibility for Budget Violations" and draft Law of amendments to the Budget Code of Ukraine.

By the results of state debt management effectiveness carried out by the Accounting Chamber, orders of Ministry of Finance adopted Procedure of advance repayment of long term state securities (#308 from 05.05.2004) and Regulation on Department of Financial Policy and State Debt Management (#404 from 18.06.2004).

To eliminate drawbacks revealed by the Accounting Chamber in grant disbursement for project development "Program of Social Development (Fund of Municipal Development)", the Ministry of Finance sent explanatory letter to 58 main budget funds administrators (ministries and departments) and work was conducted with those planning to obtain grants in 2005 on planning and obtained grants reflection in the budget of the next year.

With an aim to fulfill Conclusions of the Board of the Accounting Chamber on budget funds use audit allocated in 2002-2003 to National TV Company of Ukraine, Ministry of finance to use budget funds effectively and properly developed measures to correct budget allocations meant for State TV and Radio Broadcasting Committee for state order and TV and radio programs production.

Proposition of the Board of the Accounting Chamber on expediency of planning and execution of balanced (deficit-free) state budget, to reduce the fiscal pressure on state finances and expenditures on state debt servicing and repayment was taken into account by Ministry while development of main directions of budget policy for 2005-2008.

By the Conclusion of the Board of the Accounting Chamber about legislative regulation of investment process, Ministry of Finance together with Ministry of Economy, State Construction Committee and Chief Auditing Department submitted to Verkhovna Rada draft law "On Basic Grounds for Subsidies Granting from State Budget of Ukraine to local budgets for investment projects (registration #3184 from 03.03.2004).

The Ministry of Justice of Ukraine to eliminate the drawbacks revealed by the Accounting Chamber in the audit of the use of funds of the State Budget of Ukraine allocated in 2003 to State Court Administration of Ukraine for functioning of courts of law, other bodies and institutions of court system completed the transfer process of the court premises and auto vehicles to the management domain of State Court Administration.

By the conclusions of the Board of the Accounting Chamber on legitimacy of indisputable write-off of the funds from general fund of State budget of Ukraine to reimburse the losses caused to legal and physical entities by illegitimate actions of authorities, Cabinet of Ministers of Ukraine drafted the Law of Ukraine "On Reimbursement of Losses caused to physical and legal entities by illegitimate decisions, actions or omission of state authorities, authorities of Autonomous Republic of Crimea, local self-government authorities, their officials while their fulfilling their authorities" and submitted to Verkhovna Rada of Ukraine #6503 from 14.01.2005 which proposed to reimburse losses caused by illegitimate decisions, actions or omission of state authorities, their officials at the account of the state budget, and local self-government - from respective local budget. Indisputable write-off of the funds from State budget of Ukraine and accounts of respective local budgets are carried out exclusively by the bodies of State Treasury of Ukraine in the order the decisions are received.

The State Court Administration by the results of processing of Conclusions of the Board of the Accounting Chamber developed action plan aimed to eliminate revealed budget violations, overcoming of their consequences and approximation of their activity to the full compliance with legislation in the shortest possible terms according to which main directions of realizations of the recommendations of the Accounting Chamber and deadline was set for elimination of budget legislation violations. Results of the measures taken were considered by the Board of State Court Administration which discussed in details the most burning problems emerging while implementation of the propositions of the Accounting Chamber and possible ways of their solution, necessity was set to discuss some provisions of the mentioned propositions by the Board of judges of Ukraine.

The Ministry of Defense of Ukraine by the results of the audit of the use of funds of State Budget of Ukraine allocated in 2001-2003 to the Ministry of Defense of Ukraine to ensure participation in international peacekeeping operations and to ensure timely and full procurement of peacekeeping divisions of Armed Forces of Ukraine issued the order #19 from 10.01.2004 "On Amendments to Interim Instruction on Material and Technical Procurement of military units and specific divisions fulfilling tasks within peacekeeping forces". Besides, by the facts of violations on the office revealed by the Accounting Chamber, Chief of Military and Engineer Institute of the Ministry of Defense of Ukraine was dismissed.

Within the framework of budget violations elimination revealed by the Accounting Chamber while the audit of the use of funds of State Budget of Ukraine allocated to reforming of the Armed forces of Ukraine, Ministry of Defense established ad hoc commission to examine the facts of budget discipline violation, investigation and guilty officials brought to responsibility. Regulations on Procedure of Financial Planning and Use of Budget Funds were brought into force where authorities, rights and obligations of the officials were specified.

Security Service of Ukraine in reaction to the Conclusion of the Board of the Accounting Chamber by the results of the audit of the use of funds of State budget of Ukraine and investments for construction (purchase) of housing for military men, adopted the plan of Measures on elimination of the drawbacks and Order #88/DSK from 01.03.2004 appointed internal investigation of the illegitimate actions of officials of Security Service of Ukraine connected with the use of investments during housing construction for military men. By the results of internal investigation disciplinary penalties were imposed on the guilty officials by Order #753-oc from 24.03.2004.

The Ministry of Internal Affairs of Ukraine to fulfill the Conclusions of the Board of the Accounting Chamber on the audit of the use of funds allocated in 2003 from the State budget of Ukraine for human resources training for internal affairs bodies in the higher education institutions of Ministry of Internal Affairs, developed and adopted Measures on prevention of budget violations in financial and business activity of higher education institutions of Ministry of Internal Affairs, strengthening of financial and executive discipline. Rectors of higher education institutions conducted internal investigations of financial discipline violation, guilty officials were brought to responsibility. Jointly with Ministry of Education and Science of Ukraine procedure of reimbursement of losses in case of pre-term dismissal of young specialists from internal affairs bodies and divisions or termination of training contract at own will, normatives of material and technical and financial support of higher education institutions of Ministry of Internal Affairs of Ukraine were developed.

To fulfill remarks and propositions of the Accounting Chamber by the results of the audit of the use of funds of State Budget of Ukraine allocated in 2003 and first half of 2004 for medical support of internal affairs bodies officials and internal troops military men, heads of health care institutions of Ministry of Internal Affairs of Ukraine, headships of the Ministry ordered to include obligatory charity donations of the citizens directly to the state budget special fund and to ensure effective internal control over cost, scope and payments for the provided medical services.

The Ministry of Industrial Policy of Ukraine by the results of the audit of the state budget funds use meant for wind power plants construction and to ensure effective use of state budget special fund issued Order #178 from 13.04.2004; to fulfill the order amended Complex program of wind power plants construction is developed.

Control over budget funds use and titles execution of buildings by enterprises-beneficiaries of funds by the work of tender committees was made more stringent.

By the results of the audit of state budget funds use meant for restructuring and liquidation of objects of mining chemistry enterprises and nature protection measures in the zone of their functioning, Ministry adopted project "Closing of the sulfur quarry and revival of the landscape in the functioning zone of State Mining Enterprise "Podorozhnenskiy Rudnyk" (order #271 from 07.06.2004).

To eliminate the drawbacks by the results of the audit and analysis of financial assistance settlement on credit basis granted to the former Ministry of Industry of Ukraine in 1995 to repay arrears of coal and energy carriers, Ministry issued order #432 from 27.08.2004 "On Ensurance of the Financial Assistance Funds Return". Inventory was conducted and materials were summarized to file petitions to Economic Courts on charging of the financial assistance granted to the enterprises.

The Ministry of Fuel and Energy of Ukraine to fulfill the Conclusions of the Board of the Accounting Chamber on the audit of state budget funds use meant for construction of nuclear power plant units, drafted the orders of the Government "On Adoption of the Corrected Project and Budget Documents of Construction of Unit #2 of Khmel'nitsk nuclear Power Plant" and "On Adoption of the Corrected Project and Budget Documents of Construction of Unit #2 of Rivne Nuclear Power Plant", control over construction of the nuclear power plant units was made more stringent.

Order of State Enterprise National Nuclear Energy Generating Company "Energoatom" #515-p from 13.07.2004 implements new Regulation "On the Procedure of The procurement of Goods, Works, Services for State Funds" which highlighted procedure of state funds procurement; another order #219-p from 24.03.2004 changed tender committee members and amended Regulation on Tender Committee.

To eliminate drawbacks revealed in the audit and analysis of the use of the funds of State Budget of Ukraine in 2003 and first six months of 2004 meant for technical refitting of coal, lignite and peat enterprises, Ministry issued the Order #707 from 11.11.2004 "On Measures of Executive Discipline Enhancing in State Budget Funds Use meant for quipping of Mines" which reprimanded Directors General of State Enterprise "Makiyivvugillia", State Enterprise "Sverdlovanratsyt", State Enterprise "Ordzhenikidzevugillia" and State Enterprise "Donbasanratsyt".

To increase significantly effectiveness of the state budget funds use and strengthening of financial discipline, the Ministry developed measures on elimination of revealed violations and drawbacks, ordering and improvement of state budget funds use meant for restructuring of coal and peat industries. Measures were approved to improve the work and bringing to responsibility of the guilty persons of Vugletorfrestructuryzatsiya (order #486 from 16.11.2004) and State Enterprise "Donvuglerestructuryzatsiya" (order #109 from 25.10.2004).

The Ministry of Education and Science of Ukraine by the results of the audit of planning

and use of the funds of State budget of Ukraine for training and capacity building of the medical human resources in higher education institutions of III-IV accreditation levels, issued an Order #570 from 07.07.2004 which notified each higher education institution about the control indices of state order of higher education experts training, shaped respective data base to control state order execution. To define more precisely scope of financing, the Ministry held a meeting with the representatives of higher education institutions, developed respective software transferred to the higher education institutions for operative statistic activity.

To fulfill the Conclusions of the Board of the Accounting Chamber on audit of planning and use of funds of the State budget of Ukraine for informatization of general education institutions, computerization of village schools, the Ministry took specific measures on elimination of violations and drawbacks, namely: it was planned to develop sectoral Program of Informatization of General education institutions, computerization of village schools in 2005; specifications to training computer unit, procedure of stamping of software for training purposes, sectoral Instruction on the procedure of accounting of operations of centralized material values supply, typical projects of placement and assemblage of NKK, list of works meant for educational institutions were developed and adopted in the set order, the Statutes of Scientific and Methodical Center were amended.

The Ministry of Health Care of Ukraine to fulfill the resolution of the Board of the Accounting Chamber by the results of the audit of the use of funds of State Budget of Ukraine allocated to State Program "Oncology" implementation in 2002-2003 and to ensure effective control over planning and application of the medicines supplied to health care institutions in centralized way, issued order #373 from 26.07.2004 "On improvement of Work Organization on the Use of goods and items of centralized supply".

To eliminate remarks by the results of the audit of planning and use of state budget funds for training and capacity building of medical human resources in the higher education institutions of III-IV accreditation levels, the Ministry envisaged creation of state registers of doctors and nurses working in the state, communal and non-state health care institutions within the Plan of Main Organizational Measures for 2004.

Having agreed with the remarks of the Accounting Chamber about lower knowledge level of students paying for their education if compared with those studying at the account of state budget, the Ministry introduced system of license integrated exams including means of doctors' knowledge and skills diagnostics as component of state education standards and to make objective, independent from the higher education institutions appraisal of the real level of knowledge of medicine students. To improve specialists training quality the order #148 from 23.03.2004 "On Measures to Realize Provisions of Bologna Declaration in the system of higher Medical and Pharmaceutical Education" adopts measures of higher medical education reforming and its joining European education area. To improve quality of postgraduate medicine training, license integrated exam "Krok-3", Treatment, Pediatrics will be introduced from the next studying year as compulsory element of interned doctors attestation (order #160 from 26.03.2004).

The Ministry of Transport and Communication of Ukraine by the results of audit of purposeful and effective use of funds of State Budget of Ukraine for training of human resources in higher education institutions of I-IV accreditation levels in 2003-first six months of 2004, considered Conclusion of the Board of the Accounting Chamber at the meeting with heads of higher education institutions of the Ministry. By the results of consideration, bilateral contracts shall be concluded with the students studying at the account of state budget from 01.10.2004. Ukrzaliznytsia provided 90 thous. of graduates studying at the account of state budget and 82 thous. graduates studying at the account of physical and legal entities with jobs in railway specialties. Address was submitted to the Cabinet of Ministers of Ukraine which proposed to include the Ministry to the list of central authorities having higher education institutions in their structure.

The Ministry of Ukraine on Emergencies and Protection of Population against Aftermath of Chornobyl Disaster to the Conclusions of the Board of the Accounting Chamber on the audit of the use of funds of State budget of Ukraine allocated for complex medical and sanitary support of the citizens suffering from Chornobyl disaster, conducted meeting of the Board in 2003 and first six months of 2004 and working meeting with participation of regional state administrations representatives responsible for the social protection of the population suffering from Chornobyl Disaster and planned reaction Measures for 2005 in the Program of Measures on Organization of Complex Medical and Sanitary Support of Persons Suffering from Chornobyl disaster.

By the results of the audit of the use of funds of State budget of Ukraine in 2003 to sustain Ukrainian State Association "Radon" and to construct launch facilities "Vektor", meeting of the Board of the Ministry considered and adopted measures (order #97 from 06.10.2004) on elimination of drawbacks. Resolution of the Board of the Ministry reprimanded head of Ukrainian State Association "Radon". Working group was established by the Committee of Verkhovna

Rada of Ukraine on Fuel and Energy Sector, Nuclear Policy and Nuclear Safety to develop regulative framework for establishment of the Special fund of Nuclear Wastes Treatment. According to the resolution of the Board of the Ministry #5 from 25.10.2004, regional divisions of Chief Information and Analytical Center of Radon on nuclear wastes accounting at all special integrated works of association (except for Donetsk DMSK) were established and Typical Regulations on these divisions were developed. To improve functioning procedure of state inventory of nuclear wastes, Radon worked out relevant propositions and submitted them to State Committee for Nuclear Regulation of Ukraine (letter #1-10/9-1098).

The Ministry of Agrarian Policy of Ukraine to fulfill Conclusions of the Board of the Accounting Chamber on the audit of the use of funds of State Budget of Ukraine to support and develop selection, prepared two orders, one of which is to specify quantity and quality defined by the budget program passport envisaged reflection of the number of pedigree agricultural animals as for the beginning of the financial year, and another approved Plan of Measures on elimination of the drawbacks in the use of state budget funds for selection programs in animal and plant production at agricultural enterprises (to fulfill the mentioned measures Ukrderzhrybgosp developed and adopted Plan of Measures on the budget funds use on KPKV 2804080 "Selection in fish production"). Order #406 from 17.11.2003 adopts Regulations on the procedure of Attestation of Employees performing special works connected with production, storing and sales of pedigree (genetic) resources.

To fulfill Plan of Measures the Ministry developed Regulations on the conditions of Competition to identify the contractor of the state selection program in animal production (order #499 from 30.12.2004 registered in the Ministry of Justice on 17.01.2005 #48/10328); program of saving and rational utilization of genetic resources are to be agreed with Ukrainian Academy of Agrarian Sciences, procedure as adopted on delegation of authorities to Ministry of Agroindustrial Policy of Autonomous Republic of Crimea, chief departments for agriculture and food of regional administrations on control over fulfilling of quantity and quality indices and effective use of funds allocated to animal production selection program (order #391 from 02.11.2004). Resolution "On Establishment of Chief State Breeding Inspection" was drafted and submitted to the Cabinet of Ministers of Ukraine.

To fulfill the Conclusions of the Accounting Chamber, Ministry of Agrarian Policy approved at the meeting of the Board Action Plan on elimination of the drawbacks revealed by the Accounting Chamber during the audit of the use of budget funds allocated to the Program "Grain of Ukraine - 2001-2004", organized control over compliance by the regions with the structure of crops envisaged by the Program;

Adopted jointly with State JSC "Khliv of Ukraine" order #164/56 from 18.05.2004 "On Establishment of State Enterprise "State Reserve Fund of Ukraine", obliged all the chief departments for agriculture and food to strengthen departmental auditing service and to resume it where it had been liquidated (order #168 from 19.05.2004 "On Establishment of State Enterprise "State Reserve Fund of Ukraine"). The Ministry also changed procedure of the budget funds use to support flax and hop production which lead to the extension of croplands from 26 thous. ha in 2003 to 37 thous. ha in 2004, that is by 30%. Order #156 from 11.05.2004 established State inspection of Quality Control of Agricultural products and Monitoring of the Market as governmental body of state management within the Ministry.

The Ministry of Environment Protection of Ukraine by the results of analysis made by the Accounting Chamber of Ukraine of the implementation of State program of complex flood protection in Tysa basin in Transcarpathian Region passed an order #73-p from 15.11.2004 on the preparation of sectoral plan of the Program realization. Transcarpathian Regional Administration at the beginning of January of 2005 developed and started implementation of Actions on the fulfilling of recommendations of the Accounting Chamber.

The Ministry of Economy and on European Integration of Ukraine to fulfill the Conclusions of the Board of the Accounting Chamber on the analysis of the compliance with the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds" in the use of funds of State Budget of Ukraine in 2002-2003 and to strengthen the responsibility for the compliance with the legislation on state procurement drafted Law of Ukraine "On Amendments and Addenda to Some Legal Acts" which envisages strengthening of the authorities of the Ministry of Economy regarding control over compliance with the legislation on state procurement. The Ministry drafted instruction on interaction with law enforcement bodies while control over compliance by the budget funds administrators with the legislation on procurement of goods, works and services, Action Plan was approved on elimination of the remarks of the Accounting Chamber. To fulfill this Plan the order #238 from 06.08.2002 was amended on improvement of control procedure, order #196 from 20.05.2004 approximated cost of procurement with part 1 of article 2 of the Law of Ukraine "On procurement of Goods, Works and Services for state funds", draft of governmental resolution "On Effectiveness Enhancement of State Procurement System Functioning" was submitted to the Cabinet of Ministers of Ukraine.

By the results of the effectiveness audit of the foreign grant use for the preparation of the project "Program of Social Development (Fund of Municipal Development)" the Ministry jointly with the Ministry of Finances and State Treasury conducted a number of joint meetings after which the parties came to the agreement that introduction of the mechanism of financial monitoring of the international technical assistance projects is possible only in case they are co-financed by the Ukrainian party which will ensure that the project will be included to the state budget at the stage of its formation and enable the process monitoring and control.

The Ministry of Labour and Social Policy of Ukraine by the results of analysis of formation and use of subvention granted in 2003 from the state budget to local budgets for the assistance to families with children, low income families and people disabled from childhood and disabled children, developed plan-terms of reference on the complex audit of the financial and business and other areas of activity of regional territorial divisions of the Ministry management domain. State tax administration of Ukraine sent explanatory letters on the violations of the standing legislation by tax service bodies.

The Board of Main Department of State Service of Ukraine considered results of the audit of the state budget funds use for training of the specialist by qualification "State Administration" and to realize the propositions of the Board of the Accounting Chamber action plan for 2004-2005 was drafted. Control over state service employment of graduates of higher education institutions which train masters by the specialty "State Administration", over state authorities and local-self-government authorities which sent persons to training - to ensure employment of graduates according to the contracts of training. Agreed propositions were submitted to the Cabinet of Ministers on improvement of organization of training by the specialty "State Administration" which will be realized within the program of Development of State Service for 2005-2020 adopted by the Resolution of the Cabinet of Ministers of Ukraine #746 from 08.06.2004. Resolutions were drafted "On Amendments to the resolution of the Cabinet of Ministers of Ukraine #949 from 01.09.97 "On Adoption of the Regulation on Employment of Graduates of the Higher Education Institutions who Studied on State Contract Basis by the Educational-Professional Programs of Master Training by the Specialty "State Administration"; "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine #533 from 16.05.96 "On Procedure of Admission to the Higher Education Institutions by the Educational-Professional Programs of Master Training in Education Sector "State Administration"; "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine #167 from 08.02.97 "On Adoption of the Regulation on Training and Capacity Building Systems for State Servicemen and Regulation on Unified Procedure of Training, Re-training and Capacity Building of Heads of State Enterprises, Institutions and Organizations". National Agrarian University issued an order #324 from 25.06.2004, which intensified requirements to the compliance with the standing legislative acts on enrolling to studying by the specialty "State Administration" and employment of graduates.

The State Department for Veterinary Medicine to fulfill the measures of drawbacks and violations elimination revealed by the Accounting Chamber and to improve state administration in veterinary medicine, issued an order #21 from 25.02.2004 which introduced amendments to the Regulations on Veterinary Medicine Administration, zonal specialized state laboratory on diseases of animal youngsters and zonal specialized laboratory on animal diseases. Head of the Department for Veterinary and Prevention of Non-contagious Animal Diseases, heads of departments of Kyiv, Odesa, Lviv Regions were reprimanded for the insufficient control over the use of budget funds and accounting.

The State Committee of Ukraine for Regulatory Policy and Entrepreneurship to eliminate remarks by the results of the effectiveness audit of the state budget funds use allocated to National Program of Promotion of Small Enterprise, issued order #109 from 14.09.2004 "On Ensurance of Effective and Purposeful of the Use of Budget Funds for Realization of Measures of National Program of Small Enterprise Promotion in Ukraine"; Ukrainian Foundation for Enterprise Promotion adopted ways of the revealed drawbacks elimination by its order #98 from 07.09.2004.

The State Committee for Natural Resources of Ukraine to fulfill Conclusions of the Board of the Accounting Chamber issued order #109 from 14.10.2004 "On Ensurance of Effective and Purposeful Use of Budget Funds for National Program of Small Enterprise Promotion in Ukraine".

The State Committee of Ukraine for State Material Reserve at the meeting of the Board on 02.04.2004 to fulfill the Conclusions of the Board of the Accounting Chamber on the audit of the state budget funds allocated to accumulation (growth) of material values, adopted Action Plan on Elimination of Violations and Drawbacks. To prevent arbitrary use of material values, they are replaced at the enterprises of state reserve system. Debtors of the Committee returned material values at 5 mln. UHA and paid 542.8 mln. UHA to state reserve for 2004.

The State Committee for TV and Radio Broadcasting of Ukraine by the results of the

audit conducted by the Accounting Chamber of the budget funds use allocated to National TV Company of Ukraine in 2002-2003 and to fulfill orders of the Cabinet of Ministers of Ukraine, the Board meeting was carried out; to regulate the status of TV Company on legislative basis Law was drafted on the amendments to the Law of Ukraine "On TV and Radio Broadcasting"; to eliminate drawbacks and violations revealed by the audit, action plan was adopted, Regulation on State Order for Production and Distribution of TV and Radio Programs was drafted and adjusted with the central authorities and submitted to the Government consideration. Draft Program of Scientific and Technical Development of State TV and Radio Broadcasting for 2004-2009 was also submitted to the consideration of the Cabinet of Ministers of Ukraine which envisaged technical refitting and modernization of technical base of National TV Company of Ukraine which adopted measures on ordering of its activity by the order #232 from 20.05.2004 according to the requirements of the Accounting Chamber.

Resolution of the **Board of the National Bank of Ukraine** #580 from 30.11.2004 adopted Measures on Elimination of drawbacks by the results of the audit of expenditures execution of National Bank of Ukraine for 2004.

Foundation of the Social Protection of Disabled People to eliminate violations revealed by the Accounting Chamber in the use of state budget funds in 2003 and first six months of 2004 meant for compensation payments to disabled people for petrol, repair and technical maintenance of auto vehicles and transportation services and phones installation to disabled people of I and II groups, issued an order #128 from 30.09.2004. Resolution of the Government was drafted on the procedure and conditions of the installation of the telephones to the mentioned disabled people (according to article 35 of the Law of Ukraine "On Basis of the Social Security of Disabled People in Ukraine") and sent to the respective ministries for adjustment; the issue was solved on submitting of the regional accounting records to the Foundation by the Ministry of Transport and Communication of Ukraine; monthly analysis of payables and receivables on disabled people social protection programs is carried out and redivision of the budget funds is conducted to prevent their write-off. Lists of dead people getting compensation payments are constantly processed; Payments are made to the electric communication enterprises for the works on telephones installation to disabled people actually done by them after comprehensive examination of the actual costs substantiation; in expenditures planning for telephones installation to disabled people of I and II groups tariff quotients applied to respective regions of Ukraine are taken into account; substantiated planning of the expenditures is carried out by the regional offices of the foundation by the programs of the Social Protection of disabled people and formation of draft Budget inquiries of the Foundation; letter #04-239/1668 from 04.10.2004 on the receivables settlement of State Enterprise "Avtopratsia" was sent to the Ministry of Labour.

Foundation of the Physical Entities Deposits Securing to fulfill the remarks of the Accounting Chamber by the decision of administrative Board of the Foundation from 23.12.2004 adopted Regulation on the Procedure of Development, Adoption and Execution of Foundation cost estimate and Executive Board meeting (17.01.2005) adopted Action plan of Drawbacks Elimination revealed by the Accounting Chamber.

The National Academy of Sciences of Ukraine to fulfill the Conclusions of the Board of the Accounting Chamber on the audit of planning and use of the funds of State Budget of Ukraine for fundamental and applied sciences in 2002 and 2003 Resolutions of the Bureau of Presidium of National Academy of Sciences of Ukraine #117 from 22.04.2004 and #122 from 02.06.2004 which adopted measures on elimination of the revealed drawbacks and Report on drawbacks elimination. Procedure of the formation of topics and control over scientific research in National Academy of Sciences of Ukraine was developed, amended Typical Structures and Typical Personnel Charts of Scientific and Research Institutions of National Academy of Sciences of Ukraine was adopted. Scientific institutions of National Academy of Sciences of Ukraine were obliged to provide information in their yearly reports on economic effectiveness of expenditures (for applied developments). By the results of the audit 4 officials were admonished, 5 officials were reprimanded, chief accountant of Physics Institute was dismissed. Deputy Director on Scientific Work and Scientific Secretary of Subbotin Geophysics Institute of National Academy of Sciences of Ukraine were admonished by the resolution of the Scientific Board (10.06.2004); chief accountant and head of planning and production department of Gas Institute of National Academy of Sciences of Ukraine were reprimanded.

Ukrainian Academy of Agrarian Sciences by the results of the audit of planning and use of funds of State Budget of Ukraine allocated to science in 2002 and 9 months of 2003, through Resolutions of the Presidium, adopted Procedure of Coordination, Financing and Reporting on Execution of State Purposeful and Technical Programs of Ukrainian Academy of Agrarian Sciences for 2001-2005 (18.12.2003) and Regulation on Procedure of formation of Scientific and scientific and technical programs of Ukrainian Academy of Agrarian Sciences for 2006-2010 (26.08.2004), established Scientific-Methods Board of the Academy, held inventory of the fixed assets which enabled reduction of receivables by more than 5 mln. UHA if compared with the

beginning of 2004. Joint order of Ministry of Agrarian Policy, Ministry of Finances and Ukrainian Academy of Agrarian Sciences #94/23/210 from 22.03.2004 adopted Procedure of State Budget funds for selection programs in plant production and agricultural crops selection in primary plant production. To ensure authentic report data order #120 from 10.12.2003 was issued "On Ordering of Accounting and Financial Reporting in Scientific and Research Institutions, other Enterprises of Ukrainian Academy of Agrarian Sciences".

Order of the **Ukrainian Academy of Agrarian Sciences** #121-k from 18.06.2003 dismissed Mr. V.A. Vlasenko, Director of Mironivskiy Grain Institute.

Transcarpathian Regional State Administration by the results of analysis made by the Accounting Chamber of the realization of "State Program of Complex Flood Protection in Tisa Basin in Transcarpathian Region for 2002-2006 and Forecast until 2015" adopted Measures on Fulfilling of the Recommendations of the Accounting Chamber.

Lviv Regional State Administration by the results of analysis of formation and use of the subvention allocated in 2003 from the State budget to local budgets for assistance to the families with children, low income families and people disabled from childhood and disabled children and taking into account that banking institutions broke the deadlines of transferring the assistance to the personal accounts of the citizens, amended contracts concluded between Departments for Labour and Social protection of the population and JSC "Oshchadbank" where obligations of the parties were specified. Order #34 from 20.04.2004 admonished heads of the respective departments of labour and obliged heads of Brodivska, Zhovkivska, Starosambirska, Shevchenkivska and Sykhivska Regional State Administrations to bring to material liability persons guilty of violations.

To eliminate drawbacks by the conclusions of the Board of the Accounting Chamber on the analysis of state centralized capital investments use in 2001-2003, Procedure of formation and financing of the capital construction programs of housing and public and social and cultural objects at the account of budget was adopted.

Kharkiv City Administration by the results of the audit by the Accounting Chamber of the subvention use from State Budget of Ukraine meant for support of social and economic development of Kharkiv and taking into account 350 -years anniversary of the city, adopted order #3563 from 14.12.2004 on the measures of elimination.

Chernigiv Regional State Administration to eliminate violations revealed by the Accounting Chamber by the results of the analysis of subvention formation and use analysis allocated in 2003 from state budgets to local budgets for assistance for families with children, low income families and people disabled from childhood and disabled children, issued order #23 from 11.03.2004 on the measures to eliminate drawbacks.

Council of Ministers of Autonomous Republic of Crimea, regional, Kyiv and Sevastopol City State Administrations, to fulfill the Conclusions of the Board of the Accounting Chamber on the analysis of subvention formation and use from state budget to local budgets for investment projects, regional programs "Completing of objects construction" were developed. Zaporizhzhia, Poltava and Khmel'nitsk Regional State Administrations developed measures to reduce construction works cost, cooperation is held with local authorities and local self-government authorities to attract local budget funds to objects construction.

To fulfill article 26 of the Law of Ukraine "On the Accounting Chamber" and on the basis of the resolutions of the Board of the Accounting Chamber according to the Procedure of Submitting of audits materials on revealed violations by Chief Auditing Department of Ukraine, State Tax Administration of Ukraine and the Accounting Chamber to prosecutor's, internal affairs agencies, security service and tax police, 13 materials including 5 materials by the Resolution of the Board according to article 26 of the Law of Ukraine "On the Accounting Chamber" were submitted to General prosecutor's Office in 2004 to pass resolution according to article 97 of the Criminal Code of Ukraine and to apply prosecutor's reaction measures.

- By the facts of the audit of the use of funds of State budget of Ukraine meant in 2003 for construction of nuclear power plant units of Ukraine. According to the Deeds of reconciliation of the consideration results of the audit materials submitted by the Accounting Chamber to General Prosecutor's Office of Ukraine for 2004, the General Prosecutor's Office of Ukraine did not undertake reaction measures on the submitted materials;

- By the facts of the audit of the use of funds of State Budget of Ukraine allocated to Ministry of Health Care for implementation of State program "Oncology" in 2002-2003. According to the Deeds of reconciliation, materials of the case were used while preparation by the General Prosecutor's Office of the application №07/2/1-194 from 01.05.2004 to the Ministry of Fuel and Energy;

- On the audit of the legitimacy of actions of the National Bank of Ukraine on indisputable write-off of the funds from general fund of State budget of Ukraine in 2002. According to the deeds of reconciliation any reaction measures were taken by these materials;
- On the violation of the standing normative and legal acts during the use of funds of the Fund of Compulsory State social unemployment insurance. According to the act of reconciliation, part of materials on this case concerning audit in Lugansk Region was included to the materials of criminal case #37/04/9118 brought on 22.06.2004 by the Prosecutor's Office of Lugansk Region for investigation;
- On the violation of the regulations during the use of state budget funds meant for restructuring of coal and peat industries. According to the Deeds of Reconciliation, these materials are being examined;
- 8 materials by the inquiries of General Prosecutor's Office:
 - on the audits of the budget funds use in 2002-2003 by Ministry of Ukraine on Emergencies and Protection of People suffering from Chornobyl Disaster;
 - on the audit of budget funds use meant to Ministry of Fuel and Energy of Ukraine for state support of coal industry;
 - on the audit of state budget funds use by State Department for Veterinary Medicine in 2003 for administration and management of veterinary medicine and organization of activity of institutions in the mentioned sphere;
 - on the revealed facts of embezzlement, inappropriate use of state funds and abuses during formation, placement and execution of state defense contracts;
 - on the audits of state budget funds use allocated to State Committee on Defense of State Border of Ukraine in 2002 and first six months of 2003 by the Program "Defense of State Border";
 - On the audit of state budget funds and investments use for construction (purchase) of housing for the officers of Security Service of Ukraine;
 - On the audit of state budget funds use allocated in 2001-2003 to the Ministry of Defense of Ukraine for participation in the international peace-keeping operations;
 - On the audit of the funds use of State Budget of Ukraine by the State Affairs Department.

It should be emphasized that in 2004 reaction measures of the Cabinet of Ministers of Ukraine to the information submitted in the follow-up to control and control and analytical measures deteriorated. No responses were given to the letters of the Accounting Chamber indicating status of the state budget funds use by the following directions:

- Administration and management in veterinary medicine;
- Construction of wind power plants;
- Construction of nuclear power plant units of Ukraine;
- Supporting of the safety of the object "Shelter";
- Training of the specialists in higher education institutions of I-IV accreditation levels in 2003-first six months of 2004 for transport;
- Medical servicing of the internal affairs agencies and military men of internal troops allocated in 2003 and first six months of 2004;
- Training and capacity building of medicine specialists by higher education institutions of III-IV accreditation levels;
- Activity of the Fund of Physical Entities Deposits Securing;

- Financial and business activity of state (national) joint stock and holding companies for 2001-2003;
- Status of regulatory framework of the use of funds of the state budget of Ukraine for education.

Also, in some cases, responses of Ministry of Finances of Ukraine were of formal character.

There are significant problems in organization of reaction to the materials of the Accounting Chamber by the results of the control measures. They are connected particularly with breaking of 15days deadline according to article 29 of the Law of Ukraine "On the Accounting Chamber" for reaction of authorities, heads of enterprises, institutions, organizations, banks which were subjected to the audit.

Generally, according to the Resolution of the Board of the Accounting Chamber in 2004 44 Conclusions of the Board were submitted to the consideration of respective central authorities.

Responses were given to all 44 Conclusions, 3 of which breaking deadlines stipulated by the Law of Ukraine "On the Accounting chamber".

Majority of responses are characterized by high attention to the problems and violations revealed by the Accounting Chamber, contain information on the measures on elimination of drawbacks and further steps to tackle the outlined problems.

Analysis of responses of the respective central authorities, enterprises and organizations to the conclusions and propositions of the Accounting Chamber confirms justification and provability of the facts revealed by the Accounting Chamber.

In 2004 control over realization of the propositions expressed in the Conclusions of the Board of the Accounting Chamber in the follow-up to the control and analytical and expert measures was one of priorities in the activity of the state supreme financial control body and according to the submitted material it becomes more systematic and effective.

3. Improvement of regulatory and methods framework of the Accounting Chamber activity.

In 2004 the Accounting Chamber processed draft laws and prepared legislative propositions to improve draft laws of Ukraine and other normative acts concerning state budget and finances of Ukraine and legal regulation of the activity of the Accounting Chamber.

Attention was focused on the building of the state financial control bodies system based on the Law on state financial control system of Ukraine.

The mentioned act must regulate establishment of the integral system of state financial control bodies, define their legal status, division and prevention of functions and authorities duplication, interaction of financial control bodies among themselves, with state authorities and local self-government authorities, law enforcement bodies, status of state financial control bodies employees, other issues concerning such control.

Taking this into account, the Accounting Chamber submitted its propositions and remarks in 2003-2004 to the draft Laws of Ukraine "**On State Financial Control System in Ukraine**" (registration #1131 from 03.06.2002, author - People's Deputy of Ukraine Yuriy Karmazin), "**On Financial Control**" (registration #1131-1 from 30.08.2002, author - Cabinet of Ministers of Ukraine, besides draft Law "**On State Financial Control**" (registration #1131-2) brought in by People's Deputy of Ukraine Valeriy Konovaliuk to Verkhovna Rada of Ukraine on 18.02.2004 was processed and remarks were submitted.

Remarks of the Accounting Chamber to the draft Law of Ukraine "**On State Financial Control**" (registration #1131-2) contained proposition on unacceptability of the provisions of the draft law on granting to state auditing service of Ukraine status of central authority, definition of the President of Ukraine as entity of state financial control. Remarks were made on the definition of state financial control proposed by the Law, which narrowed its essence and content.

Having analyzed mentioned draft laws the Accounting Chamber preferred draft Law of Ukraine "**On State Financial Control System in Ukraine**" (registration #1131) brought in by People's Deputy of Ukraine Yuriy Karmazin viewing it as a basis for normative framework of the state financial control.

Propositions to the mentioned draft laws were submitted to the Committee of Verkhovna Rada of Ukraine on Finances and Banking.

The work went on the propositions to the draft Law of Ukraine "On amendments to the Law of Ukraine "**On State Auditing Service of Ukraine**" (registration #0969 from 14.05.2002) adopted

on 07.02.2002 in the first reading by Verkhovna Rada of Ukraine of third convocation.

The Accounting Chamber submitted repeatedly remarks to Verkhovna Rada of Ukraine on the discontent with renaming of the existing executive authority Chief Auditing Office to State Committee of Governmental Financial Control with the status of state executive power body and insisted on the status of Chief Auditing Office as special body of governmental financial control aimed at providing of internal financial control within executive power.

Propositions of the Accounting Chamber are at the Committee of Verkhovna Rada of Ukraine on Finances and Banking.

The Accounting Chamber prepared and submitted to Verkhovna Rada of Ukraine remarks to the draft Law of Ukraine "On State Control over Compliance with Budget Legislation and Responsibility for Budget Violations" (registration #3242) which concerns inclusion of provision on division of control authorities to the draft, exclusion of the provisions on general, specialized, internal and external control and it was proposed to expand list rights and obligations of control bodies officials and officials of the accountable bodies etc.

Propositions of the Accounting Chamber are considered by Committee of Verkhovna Rada of Ukraine on Budget.

Propositions of the Accounting to the draft Law of Ukraine "On State Debt" (registration #3700 from 17.06.2004) concern procedure of adoption and composition of Program of State Loaning, Control over State Debt; it was also proposed to make definition of term "state debt" according to the Budget Code of Ukraine, to introduce new article "Indices of Debt Burden", amend article "Expenditures for State Debt Management" etc.

Propositions were submitted to Committee of Verkhovna Rada of Ukraine on Finances and Banking.

The Accounting Chamber examined draft Budget Code of Ukraine (registration # 3700 from 02.07.2004) and submitted to Verkhovna Rada of Ukraine remarks concerning definitions of main terms of the Code, internal control system, external control and authorities of controllers of the Accounting Chamber determined by the draft. Propositions were made on approximation of the draft law and Constitution of Ukraine regarding procedure of appointment of chief controllers of the Accounting Chamber.

Propositions of the Accounting Chamber are considered by Committee of Verkhovna Rada of Ukraine on Budget.

Underlying for the development of legislative regulation of the activity of the Accounting Chamber is the adoption by Verkhovna Rada of Ukraine on December 8 of 2004 of the Law of Ukraine "On Amendments to the Constitution of Ukraine" which introduced amendments to article 98 of the Constitution of Ukraine according to which the Accounting Chamber will control in the name of Verkhovna Rada of Ukraine not only use of the Funds of State Budget of Ukraine but their acceptance. Enforcement of amended article 98 of the Constitution of Ukraine will enable the Accounting Chamber to realize in full scope control functions on state budget execution as integral process because revenues are the integral component of the state budget process.

It should be emphasized that to realize amended article 98 of the Constitution of Ukraine except regulation of respective authorities, functions, there is an issue of strengthening of the role of the Accounting Chamber guiding by the following key factors.

First of all, state budget revenues include not only tax non tax sources of budget filling, transfers, donations, grants etc but which is not less important - funds attracted through debt obligations of state authorities. Thus, the Accounting Chamber will be able not only to monitor budget filling but all loaning circumstances. Another key factor is the right of the Accounting Chamber to audit not only the use of budget funds by such administrators as State Tax Administration, State Customs Service, Pension Fund and rest of state social funds but comprehensiveness, legitimacy and correctness of charging of state budget revenues.

Besides, to ensure full realization by the Accounting Chamber of the functions and authorities imposed by Constitution and laws of Ukraine, strengthening of the control by the Accounting Chamber over legitimacy and effectiveness of the budget funds use at places, the Accounting Chamber addressed to Verkhovna Rada of Ukraine with the respective letter on the necessity of establishment of its territorial representative offices. Building of the Accounting Chamber infrastructure on the regional level is legally regulated through adoption of adoption by Verkhovna Rada of Ukraine of the resolution#1784-IV "On Establishment of Territorial Representative Offices of the Accounting Chamber". To fulfill this resolution the Accounting Chamber established three territorial offices in 2004 in Western, Eastern and Southern regions centering in Lviv, Dnipropetrovsk, Odesa.

The Accounting Chamber objected to the exclusion of item 8 article 6 on the function of the Accounting Chamber to conduct preliminary analysis before consideration of the Antimonopoly Committee report on the compliance with the antimonopoly legislation at the meetings of the Committees and Verkhovna Rada of Ukraine from the draft Law of Ukraine "On Amendments to the Law of Ukraine "On the Accounting Chamber" (registration #5367) which was proposed by the mentioned law.

Respective letter on the non expediency of the amendments to the Law of Ukraine "On the Accounting Chamber" was submitted to Committee of Verkhovna Rada of Ukraine on Finances and Banking.

The accounting Chamber processed three drafts Economic Code of Ukraine submitted respectively by the People's deputies of Ukraine M. Gapochka, M. Onishchuk, O. Yedin and others(registration #4157), People's Deputy of

Ukraine V. Musiyaka(registration #4157-1) and by Cabinet of Ministers of Ukraine (registration #4157-2) and made propositions on them concerning inclusion of the norm to the Economic Code on the right of the Accounting Chamber to address to the economic court in the interests of the state within the authorities stipulated by the Constitution of Ukraine and Laws of Ukraine and granting of the right to the Accounting Chamber to address to the economic court with an application on recognizing the normative legal acts breaching the state interests in economic activity as invalid and normative legal acts, resolutions and actions (omission) as illegitimate.

Propositions were submitted to Committee of Verkhovna Rada of Ukraine on Legal Policy.

Out of these drafts Verkhovna Rada of Ukraine adopted draft Economic Code in first reading on 29.06.2004 (registration #4157-2) brought in by the Cabinet of Ministers of Ukraine, rest of the drafts were voted down.

Propositions of the Accounting Chamber to the draft Law of Ukraine "On State Treasury of Ukraine" (registration # 4471) concern procedure of appointment and dismissal of the heads of bodies of State Treasury of Ukraine, determination of the functions of the State Treasury of Ukraine, supplementing the provision to the draft law which determines responsibility of the State treasury bodies, procedure of their decisions disputing etc.

Propositions were submitted to the Committee of Verkhovna Rada of Ukraine on Finances and Banking.

Remarks of the Accounting Chamber to the draft Law of Ukraine "On Reserve Funds of the Budget" (registration #5090) are considered by Committee of Verkhovna Rada of Ukraine on Budget. The Remarks concern approximation of the separate provisions of the draft law and Budget Code of Ukraine, namely, directions of the state budget reserve fund use, passing the decisions on reserve fund allocations, and proposition to amend article "Control over Use of Funds from Budget Reserve Fund".

The Accounting Chamber made remarks to the draft law of Ukraine "On Amendments to Some Legislative Acts of Ukraine" (registration #4147) on inexpediency to deprive Ministry of Economy of such function as consulting and methodical assistance to customers and inclusion of the function on publishing of the Bulletin of State Procurement and right to establish its regional editions.

After Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine" on 01.07.2004, the President of Ukraine vetoed it three times and made propositions on it. On 18.11.2004 the mentioned Law was signed by the President of Ukraine but the propositions of the Accounting Chamber were not taken into account.

By the initiative of the Accounting Chamber proposition was submitted to Committee of Verkhovna Rada of Ukraine on Pensioners, Veterans and Disabled People concerning amendments to the Law of Ukraine "On Pensions for Special Merits to Ukraine" on the granting of the right to the Chairman of the Accounting Chamber to bring the petitions on assignment of pensions for special merits to the members of the Accounting Chamber.

The Accounting Chamber initiated propositions on amendments to the Standing Orders of Verkhovna Rada of Ukraine concerning submission by Verkhovna Rada of Ukraine of the draft laws which envisage or precondition new revenues and expenditures for state budget, to the consideration of the Accounting Chamber, and dissemination of its conclusions among People's Deputies of Ukraine and additions were proposed on the invitation of the Accounting Chamber representatives to the meetings of committees of Verkhovna Rada of Ukraine to consider the draft laws to which the Accounting Chamber made its propositions.

Propositions were submitted to Committee of Verkhovna Rada of Ukraine on the Standing

Orders, People's Deputy Ethics and Organization of the Activity of Verkhovna Rada of Ukraine.

The Accounting Chamber submitted 114 legislative propositions in 2004 to the draft laws of Ukraine concerning state budget and finances and legal regulation of the activity of the Accounting Chamber.

In the reporting year the work went on the development of various methodical materials aimed to enhance effectiveness and efficiency of the control measures and approximation of the procedures with the international management standards and audits conducted by supreme control body.

To give practical recommendations to the Accounting Chamber experts while their conducting the control measures on compliance by the budget process participants with the legislation on state procurement, Methodical recommendations on audits of the compliance by the customers with the standing legislation in Procurement of the Goods, Works and Services for State funds were designed and considered by the Board of the Accounting Chamber and adopted by its resolution #13-7 from 22.06.2004. Recommendations comprise audit of normative regulation of the activity of organizations, institutions, enterprises (companies) and establishment of the tender committee; customer's defining the procedures of procurement according to the budget purposes; use of the open bidding procedure; limited participation bidding; procedure of quotes inquiry, one bidder procurement, two stage bidding, preliminary participants qualifying; contracts on procurement. Also requirements to the Conclusions of the audit of state procurement legislation compliance were presented.

According to the decree of the President of Ukraine #400 from 08.04.2004 "On Amendments to the Decree of the President #1074 from September 19, 2000 to Fulfill the resolution of Verkhovna Rada of Ukraine #1784-IV from 15.06.2004 "On Establishment of Territorial Representative Offices of the Accounting Chamber", Resolution of the Board of the Accounting Chamber #15-3 from 10.07.2004 "On Establishment of the Territorial Offices of the Accounting Chamber", to continue building of the activity of the Accounting Chamber Regulation on the Territorial Office of the Accounting Chamber was drafted and adopted by the Order #78 from 28.07.2004 which determined main tasks, functions and authorities of the Office, regulated rights and obligations of the headship, defined procedure of interaction of the Office and departments of the Accounting Chamber.

Besides, by the proposition of the Accounting Chamber Cabinet of Ministers passed the resolution #1577 from 18.11.2004 "Establishment of the Territorial Representative Offices of the Accounting Chamber which determined measures and ordered Council of Ministers of Autonomous Republic of Crimea, Kyiv and Sevastopol City State Administrations, Ministry of finances, Ministry of Economy on the Establishment of the territorial Offices of the Accounting Chamber.

Taking into account new structure of the Accounting Chamber and to improve management of the Accounting Chamber, order #110 from 04.11.2004 adopted Division of the obligations between Chairman of the Accounting chamber, First Deputy and Deputy Chairman and Secretary of the Accounting Chamber.

To enhance effectiveness and efficiency of the Accounting Chamber, to create internal effective system of the permanent control over implementation of the resolutions and Conclusions of the Board of the Accounting Chamber and enhance the responsibility of its employees for the end result of the work, Procedure of the Control over Implementation of the Resolutions and Conclusions of the Board of the Accounting Chamber by the Results of the Control Measures was developed and adopted by the order #132 from 20.12.2004. Procedure determines:

- Two-tier control system where on the first organizational tier general organization of the control can be observed, results and reaction status are summarized and on the second expert-analytical - control, monitoring are conducted and respective measures are taken;
- Specific functions of the structural divisions of the Accounting Chamber on the control over reaction to the resolutions and Conclusions of the Board of the Accounting Chamber and implementation of the mentioned documents;
- Procedure of the report making up on the results of control over implementation of the resolutions and Conclusions of the Board, appraisal of the taken measures effectiveness;
- Procedure of exclusion of issues on implementation of the resolutions and Conclusions of the Board of the Accounting Chamber from control.

To approximate rules and procedures of the audits of the state funds use and international audit standards, one of the key documents regulating practical control activities of the Accounting Chamber experts was developed and adopted by the resolution of the Board of the Accounting Chamber #28-6 from 27.12.2004 - Standard of the Accounting Chamber "Procedure of preparation and audit and execution of its results". Mentioned document was registered by the Ministry of Justice under # 115/10395 on 28.01.2005. Standard was developed according to the Law of Ukraine "On the Accounting Chamber", Budget Code of Ukraine, other regulative acts regulating relations in the control over state funds use, set rules and procedures of the audits conducted by the Accounting Chamber taking into account INTOSAI standards. It defines to such concepts as "audit", "purpose", "subject, object and entity of the audit", rights and obligations of the Accounting Chamber employees in the audit, rights and obligations of the officials of the audit object, procedure of the preparation and conducting of the audit, execution of its results, checking of the fulfilling of the propositions by the results of the audit.

In 2004 Methodical recommendations on the audit of the use of foreign credits secured by the Government of Ukraine and Standard on making up and execution of the Report by the Results of control measures.

4. International cooperation

In 2004 international activity of the Accounting Chamber was oriented to deepening of the bilateral relations with Supreme control bodies of other countries which activity and experience are interesting for our institution. Namely, by the results of the foreign trips to Hungary, Poland, Belarus and China, process was launched on introduction of the elements of the budget funds use effectiveness audit, approaches of training and capacity building system, new training technologies, information technologies audit to the activity of the Accounting Chamber. According to the scope of social interests and activity areas bilateral **agreements on cooperation were signed with Hungary, Korea and China.**

The hallmark in cooperation within INTOSAI was participation of the Accounting Chamber delegation headed by the Chairman V.Symonenko in XVIII INTOSAI Congress in Budapest, Hungary, which hosted representatives of over 170 countries. The Congress considered two important subjects: **"Opportunities for Development of Bilateral and Multilateral Cooperation between VKO" and "Coordination of Efforts for Audit of National, Regional, Local Control Bodies and Local Self-government Authorities"**.

Key feature of activity in the reporting year was the launch of brand new direction of work on bilateral and multilateral levels. It concerns parallel audits on reconciled directions with Supreme Control bodies of Central and Eastern Europe. In this direction significant progress could be observed in the previous year

in realization of agreements reached by Chairmanship of the Accounting Chamber and respective institutions.

The Accounting Chamber and VKO of foreign countries identified common problems requiring financial control in many spheres of social and economic development.

On the bilateral level the Accounting Chamber of Ukraine and State Auditing Office of Hungary specified and identified scope of issues on parallel audit of the protection of upper Tisa protection. During working meetings the experts of the Accounting Chamber of Ukraine and State Auditing Office of Hungary agreed the program of parallel audit of implementation of **"Agreement between Government of Hungary and Government of Ukraine on water sphere t border waters"**. Main stages of the audit and structure of joint report were also determined.

Professional relations of auditors from Ukraine and Poland acquired new characteristics in the realization of joint projects in the interests of both countries. Cooperation with Poland is based on identification of directions for parallel audits: "Audit of the Programs of Flood Measures in Carpathian Region and Analysis of their Effectiveness" and "Realization of Programs of State Border Development within modernization and Construction of the border passages" planned to be finished in 2005.

To develop bilateral relations between the Accounting Chamber and Council of the Audit and Inspection of Republic of Korea, the Accounting Chamber participated in the workshop on information technologies audit organized within the framework of Asian Organization of Supreme Financial Control Bodies (ASOSAI) in Seoul. In the follow-up to the workshop recommendations were developed for the state bodies responsible for the development of this sphere on expediency of integration of state information systems, elaboration of long term development strategies, compliance with state standards and further use of information systems.

Taking into account the importance of the Chornobyl disaster problems, its impact on environment of the country, control over finances use allocated for elimination of the nuclear

disaster aftermath, underlying for the Accounting Chamber in 2004 was initiation among Supreme Control Bodies of foreign countries establishment of special subgroup to eliminate aftermath of nuclear and technogenic disasters and nuclear wastes within Working Group of EUROSAI on Ecoaudit.

The Accounting Chamber took a number of organizational measures on the above issue within working groups of EUROSAI and INTOSAI on Ecoaudit.

As a result Working group of EUROSAI on Ecoaudit at its III meeting in Sophia, Bulgaria, discussed establishment of such subgroup. Proposed initiative of the Accounting Chamber was supported by 7 Supreme bodies - members of the Working Group: Poland, Austria, Czech Republic, Switzerland, Denmark, Latvia and European Auditor Court and representatives of INTOSAI Working Group.

Annual meetings of the heads of supreme financial control bodies of CIS countries became regular which discuss urgent issues and problems of the state financial control development in post-Soviet countries. In September in Astana, Republic of Kazakhstan, regular meeting of the Council of heads took place, which discussed "**Publicity and Transparency in the Activity of Supreme Control Bodies**". Supreme financial control bodies of CIS pay much attention to this issue, which is reflected in program document of INTOSAI Lima Declaration.

In the follow-up to the above meeting "**Declaration on Publicity in the activity of Supreme Control Bodies and their interaction with various power branches**" was adopted.

The Accounting Chamber applies widely recommendations "**International Audit Standards - Basis of Improvement of Cooperation between Supreme Financial Control Bodies of CIS**", "**Scientific Basis of Economic Information of Control Activity and Audit**", "**Scientific and Practical Basis of the Development of Terminology of Control Activity and Audit**" passed during international workshop "Development of Methodological Basis of Audit and Control Measures as Main direction of Improvement of Cooperation between CIS Financial Control Bodies" which took place in Bishkek, Republic of Kirgizia according to the working plan of IV session of the Council.

Complex organizational measures were realized in the reporting year within cooperation with UNDP technical assistance programs "Honesty in Practice" and TACIS of EU "Audit of State Finances".

Within the TACIS project training course were conducted for the Accounting Chamber experts based on EU countries. A number of workshops were conducted on financial control system strengthening in the country where People's Deputies of Ukraine and international experts participated.

By the initiative of UNDP the Accounting Chamber represented Ukraine at the international conference on corruption and criminality.

Information exchange is going on with colleagues from Russian Federation, Romania, China, Estonia, Bulgaria, Hungary, and Lithuania.

Nowadays the Accounting Chamber works actively to establish contacts with foreign control bodies, which undoubtedly promote role and authority of the institution on the international level, strengthen prestige and recognition of Ukraine in the world.

5. Publicity of the Accounting Chamber activity

TO fulfill article 40 of the Law of Ukraine "On the Accounting Chamber" the Board of the Accounting Chamber in 2004 ensured wide, timely and objective informing of the society about budget discipline in Ukraine. Because the law defines one of essential principles of the Accounting Chamber activity on the par with legitimacy, objectiveness and independence.

Analysis of the respective work proves strongly that one of the effective way of influencing the violators of the budget legislation is still publicizing the results of the audit of the use of State budget of Ukraine. Practically all results of the control and control and analytical activity for 2004 received broad media coverage.

To ensure publicity of the control and control and analytical work in the up-to-date conditions the Accounting Chamber uses widely available organizational opportunities, information resources to cooperate with large number of printing and electronic domestic mass media.

- **Main forms of the audit results publicizing in the reporting year were:**
- **Placing the information announcements in mass media;**
- **Systematic placing the information in Internet with publicizing the materials on the own**

WEB-site;

- **Public speeches, articles, interview of the chairmanship and experts of the Accounting Chamber;**
- **Issuing of the new TV version of the programs "Account from the Accounting Chamber" on First National Ukrainian TV Channel;**
- **Issuing of the information bulletins of the Accounting Chamber.**

Specific feature of the organization of the work of the Accounting Chamber was stable contacts with large number of mass media. More than 70 of them were provided regularly with materials based on the Reports of the control measures approved by the Board of the Accounting Chamber.

The Accounting Chamber placed more than 1.5 thous. materials in mass media in the reporting period which informed the society about the results of the audits carried out by the experts of the Accounting Chamber; 1050 materials contained references to the materials of the Accounting Chamber audits.

If compared with 2003 tendency towards increasing number of publications about the Accounting Chamber activity can be observed (2003 - 705; 2004 - 1437) which proves growing demand of the society for information product of the Accounting Chamber.

Results of the audit of the State Executive Office alone were developed into 40 publications in mass media, two TV programs were issued; materials on the funds use by State Guarding Office were developed into 19 publications, materials of the audit of the expenditures of National Bank of Ukraine - in 15 publications.

Interest of the society was triggered by the Address of the Accounting Chamber to the society and political forces of the country on financial and budget situation in Ukraine connected with economical situation in the country i October-December of 2004. It was translated by leading TV and radio channels and published by more than 50 mass media.

In the last year a number of electronic mass media emerged which place regularly materials of the Accounting Chamber. These are pro-UA, From-UA.com, Business Information Network, Mignews.com.ua, Korrespondent.net, ua-tenders.com, Finanse.com.ua, "Tribuna", "4th Power", "Postup", "Economic News of Ukraine".

Peculiarity of 2004 can be considered new contacts and publications in regional press "Vyskiy Zamok", "Lvivska Gazeta", "Donbas" which is important and effective for informing the society about activity of the Accounting Chamber and its territorial Offices.

Contacts with the newspapers having the biggest issue in the country, newspapers of legislative and executive power "Golos Ukrayiny" and "Uriadovi Kuryer" became more systematic and constructive.

Publications of the Chairman of the Accounting Chamber V. Symonenko were widely discussed in the society. These are "Where is the money?", "Economic Miracle or lost opportunities" ("Den"), "Glamour and Pauperization of the budget" ("Moscow Komsomolets in Ukraine"), "With such Dynamics ... we can die without having waited for something good" (Magazine "Profile"), "We are not able to manage the funds" ("Yurydychnyi Visnyk Ukrainy"), "Budget Stability - State Strength" ("Silski Visti").

In the reporting year a number of specific measures were taken to enhance the effectiveness of the results of publicizing the activity of the Accounting Chamber, which made positive impact on its role and place in the society. Among them, participation of the chairmanship of the Accounting Chamber in the sessions of the Parliament - "Days of the Government", parliamentary hearings, roundtables, conducted in Verkhovna Rada of Ukraine and with participation of the People's Deputies.

Speeches from the parliamentary rostrum provided opportunities for broad informing the society about financial discipline.

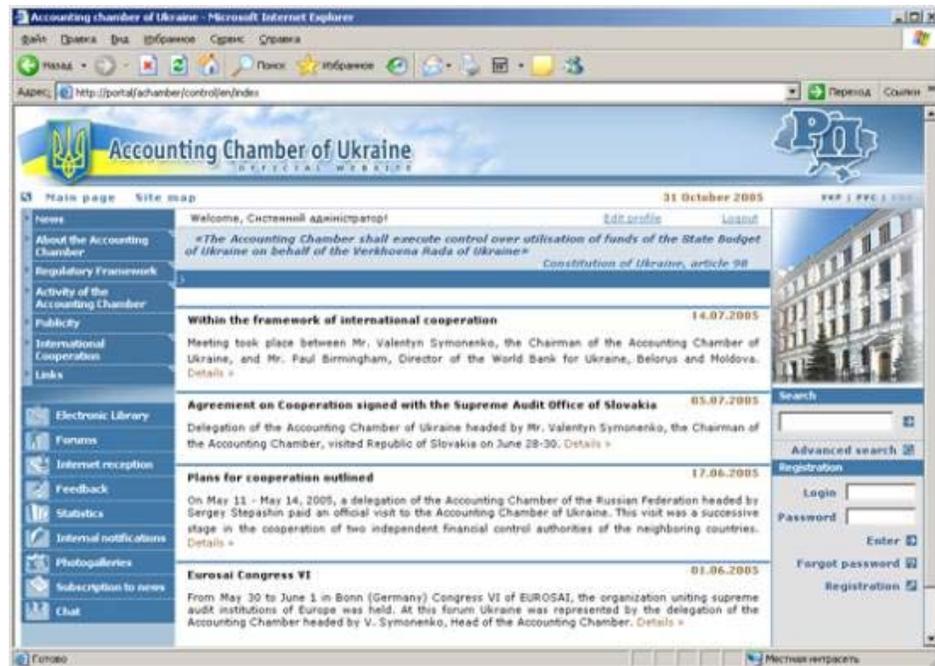
Another direction of information policy is the speeches of the members of the Board of the Accounting Chamber at state events, social fora, representative conferences both within the country and abroad.

During the year the Accounting Chamber continued using opportunities of the cooperation with the projects functioning in Ukraine (UNDP, TACIS) for broader publicizing its performance results.

Thus, under UNDP Project the Accounting Chamber conducted roundtable "Elaboration and Introduction of effective communication policy by state bodies: Ukrainian and Eastern European Experience". Such event with participation of heads of information services and public relations departments of Verkhovna Rada of Ukraine, Secretariat of the Cabinet of Ministers, ministries, other central executive authorities, members of the Board of the Accounting Chamber, representatives of UNDP projects considered strategic tasks of such departments, principles and priorities of communication policy of state authority, mechanisms and forms of information and reports spreading, cooperation with mass media.

Information on sphere and legal framework of the Accounting Chamber work was placed in reference academic publications.

Last year WEB-site of the Accounting Chamber was renewed and became the information source for more than 12 thous. people per month. Homepage of the new WEB-portal look like the following:



One of the forms of our information publicizing is direct informing of the People's Deputies. Last year each People's Deputy got 21 information bulletins containing results of the audits conducted by the Accounting Chamber.

The Accounting Chamber is searching for the new effective ways and reserves to publicize control measures, introduction of system of timely and objective informing the citizens on the use of their funds. First step will be establishment of own journal launched in 2004.

6. Operations Support of the Accounting Chamber

6.1. Human resources

In 2004 targeted work was continued to select and employment of the employees according to the Laws of Ukraine "On the Accounting Chamber", "On State Service" and "Fight against Corruption". Priority of this work was filling the vacancies with highly qualified experienced employees having degree in economy or law, much experience in control, analytical and organizational work. Selection of the candidates for the competition was made according to the typical professional and qualification requirements of state employees. For the previous year 68 employees got the jobs in the Accounting Chamber.

As for 31.12.2004 actual number of employees in the Accounting Chamber amounted to 340 out of which 320 public employees. In 2004 43 employees resigned and personnel turnover amounted to 12.6 %.

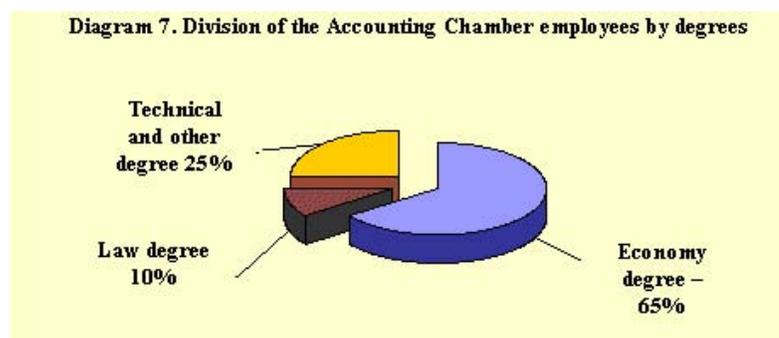
For the reporting period work was carried out to engage to the Accounting Chamber young people - graduates of the higher education institutions. To achieve this positions of II category expert were included to the personnel chart of the Accounting Chamber in 2004. In the previous year 4 young experts were appointed to these positions.

For the reporting period 62 employees who fulfill successfully their job functions, show initiative, have organizational skills and necessary working experience were promoted which amounts to 19.4 % of the total number of public employees.

Last year 64 public employees (20.1%) were granted higher ranks out of which 4 heads were granted higher ranks by the Cabinet of Ministers of Ukraine.

Quality composition of the heads and experts of the Accounting Chamber is the following:

- 98.8% of public employees have completed higher education;
- 8 employees are studying at the higher education institutions to obtain second higher education;
- employees obtained second and third higher education;
- 221 employees have degree in economy, 34 employees - in law and 85 employees - in techniques and other spheres (diagram 7);



- 1 Doctor of Science and 11 Candidates of Science (4%)
- 5 employees have Honorable title "Honored Economist of Ukraine" and 1 employee - "Honoured Employee of Service Sphere of Ukraine."

These indices prove high scientific and educational and professional level of personnel of the Accounting Chamber. For 8 years of its existence stable professional human resources basis of the Accounting Chamber was formed. 130 employees have 5 and more years of working record in the Accounting Chamber (38.2%); and 80 employees --from three to five years (23.5%).

Important component of the human resources policy is the capacity building of the employees of the Accounting Chamber which was conducted in the previous year in the main types of state employee training according to the standing legislation, namely:

- 20 state employees were trained by professional programs, all of them passing exams for "excellent" and obtaining state certificate;
- 80 state employees were trained at short term workshops conducted in the Accounting Chamber;
- 24 state employees were trained at short term workshops conducted in other organizations of Ukraine, 2 of them obtaining state certificate, 1- certificate and 3 employees - certificate of functional training in civil protection;
- 64 state employees were trained at permanent workshops by TACIS project "Audit of State Finances";
- 7 state employees were trained at programs of other TACIS projects, 4 of them obtaining certificates on international accounting standards application;
- 4 state employees undertook business trips abroad to get capacity building and study state-of-the-art experience of Supreme control bodies of different countries (by TACIS, INTOSAI, UNDP etc), 2 of them obtaining certificates.

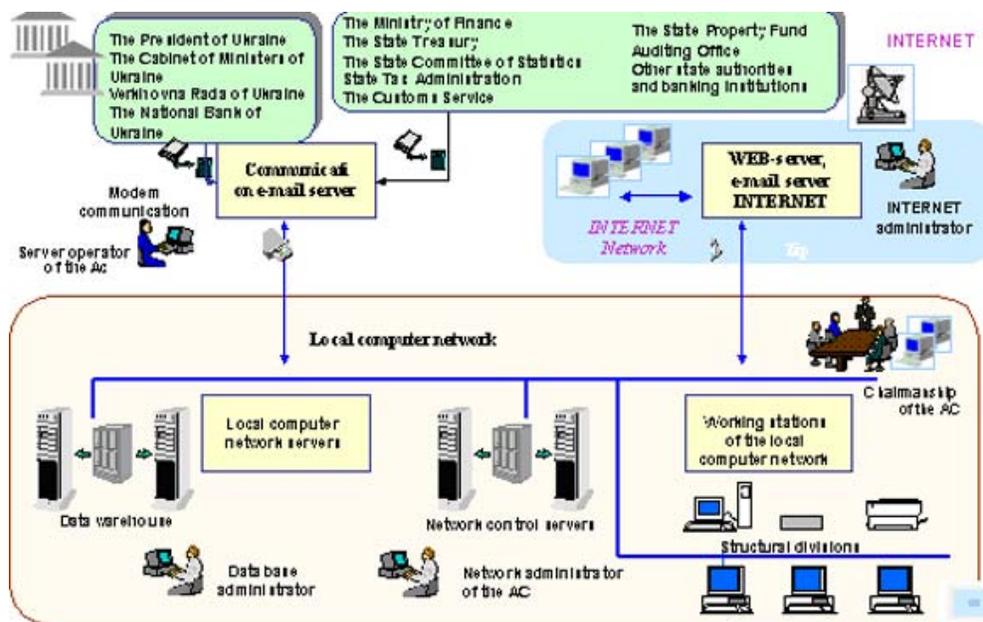
Priority in capacity building of state employees was planning and compulsory, interest of all

parties in capacity building of the Accounting Chamber personnel.

6.2. Information analysis system and data base of the Accounting Chamber

In 2004 the work went on creation of analytical component of information and analytical system of the Accounting Chamber - subsystems of operative analysis and control over financial and economic indices of State Budget of Ukraine and monitoring of macroeconomic indices; information and reference component of information and analytical system of the Accounting Chamber was improved and developed; local computational network was modernized; informatization of territorial offices of the Accounting Chamber was launched. Structure of information analysis system of the Accounting Chamber is shown below.

Structure of information analysis system of the Accounting Chamber



Information analysis system of the Accounting Chamber enables employees to get on-line information about status of the execution of State Budget of Ukraine and social and economic development of the country, materials of news and information agencies, to monitor standing legislation of Ukraine. It contains data on new entries in information funds including library or electronic information resources.

In 2004 complex measures were taken to modernize local computer network. Project and cost estimate documents were drafted and approved and a number of works were performed: new central switch board CISCO Catalyst 6500 and additional modern switchboards were installed. Additional cables were laid in the subsystem of working places which will allow to increase number of working places in local computer network. Project documents are in the process of drafting on creation of complex system of information protection and creation of switchboard communication unit of single state information-telecommunication system.

Territorial offices of the Accounting Chamber are in the process of informatization: PTK was supplied and installed in three newly created territorial offices, local computer network was designed and communication channels to Internet were created in territorial offices of the Accounting Chamber in Odesa and Dnipropetrovsk.

Scientific and research works on development of subsystems of monitoring of financial and economic and macroeconomic indices were conducted within the framework of National program of Informatization at the account of state budget allocation for 2004 for its realization. Resolution of the Cabinet of Ministers of Ukraine #181-p from 27.03.2004 "On Adoption of List of Tasks (projects) of National Program of Informatization for 2004, their state customers and Scope of Financing" allocated 300 thous.UHA to the Accounting Chamber to implement National Program of Informatization but main burden of introduction and application of information technologies is on the budget of the Accounting Chamber.

Corporate system of information resources search and system of web-resources monitoring

in Internet was developed and introduced.

Functioning software of information and analytical system of the Accounting Chamber and computer equipment were monitored. The shift was done to new version of automated documentation and control over resolutions fulfilling "Case-96".

Information cooperation of the Accounting Chamber with ministries, institutions, periodicals etc provides big bulk of economic information, financial reporting, statistical data, analytical selections and bulletins. Besides, information resources of the Accounting Chamber are supplied with books, journals, reference books, regulative acts etc. As for 01.01.2005, information resources amount to about 800 thous. electronic documents with daily entry of 6-7 Mbite or 450-500 documents. Total number of financial reports, economic information, statistical data, selections and bulletins amounts to nearly 600. Their periodicity ranges from daily express reports to monthly, quarterly and annual selections. In 2004 library of the Accounting Chamber received almost 4 thous. financial and economic, statistic, banking and regulative documents. At the beginning of 2005 the library contained more than 145 thous. materials of news agencies and periodicals, information selections of international centers of economy and finances analysis, programs of Ukraine development promotion, selections of materials of control bodies of different countries and materials and documents of the Accounting Chamber. It was achieved, particularly, due to information cooperation and obtaining of financial, accounting, statistic and banking reporting from Ministry of Finances, State Treasury, State Committee of Statistics, State Tax Administration, National Bank of Ukraine, main budget administrators and other state authorities.

Agreement was signed with State Commission on Securities and Stock Market which serves as a basis for the Accounting Chamber to obtain electronic database reflecting current securities market status, financial status of its participants and provide maximum information for deep analysis of performance of state (national) joint stock and holding companies with state property share.

To create conditions of effective use of the Accounting Chamber resources, subsystem "Electronic library of the Accounting Chamber" was created in 2004 in information and reference subsystem of information and analytical system of the Accounting Chamber which allows to familiarize operatively with the list of documents and literature on finances, audit, accounting, banking, legal framework of audit, financial control, international activity stored in the library fund by subject and special rubrics and presented in alphabetical an systematic catalogues with annotations, output characteristics and contents of the books.

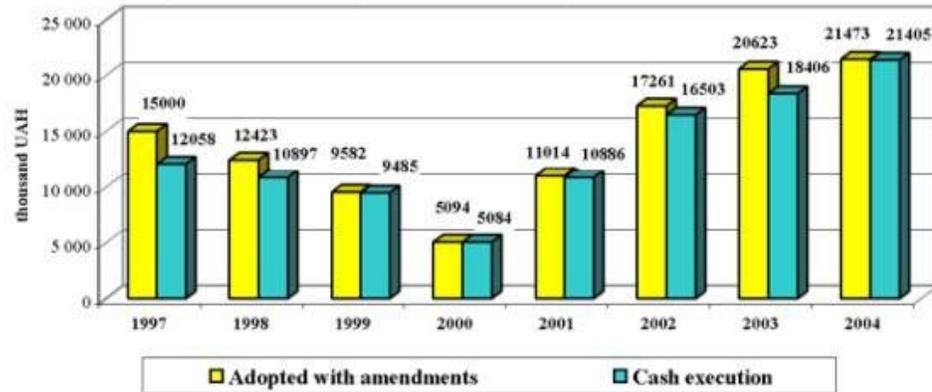
Number of visits to Web server of the Accounted Chamber in Internet where information on its activity is published regularly rose sharply. It is proved by the number of references to it which at the end of December of 2004 exceeded 840 thous. (that is increased by 300 thous. for one year). Such rising was prompted by the growing number of materials on the Accounting chamber activity especially bulletins issued in the follow-up to the Accounting Chamber Board's considering the materials of control and control and analytical measures which were place on Web server.

New version of Web portal of the Accounting Chamber was developed and now is undergoing research operation and soon will replace Web server functioning in parallel. Development and information content filling of web portal take into account experience of other state institutions of Ukraine and supreme control bodies of other countries.

Since further development of information and analytical system of the Accounting Chamber requires relevant financing of scientific and research works, development of software, purchase and modernization of computer equipment, State budget of Ukraine from 2005 by the propositions of the Accounting Chamber will include specific budget program 6511020 "Creation of Information and Analytical System of the Accounting Chamber.

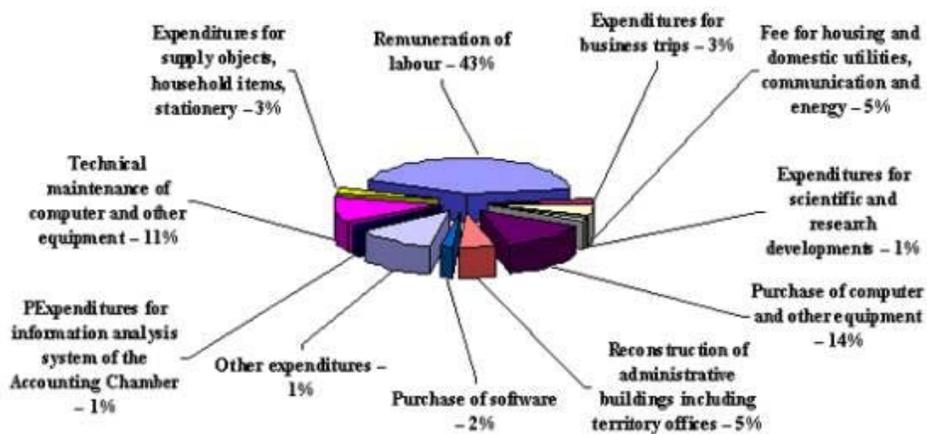
6.3. Financial and logistic support

The Law of Ukraine "On State Budget of Ukraine for 2004" envisages expenditures for sustaining of the Accounting Chamber as 21 mln. 473.4 thous. UHA (diagram 8).

Diagram 8. Financing of the Accounting Chamber in 1997-2004

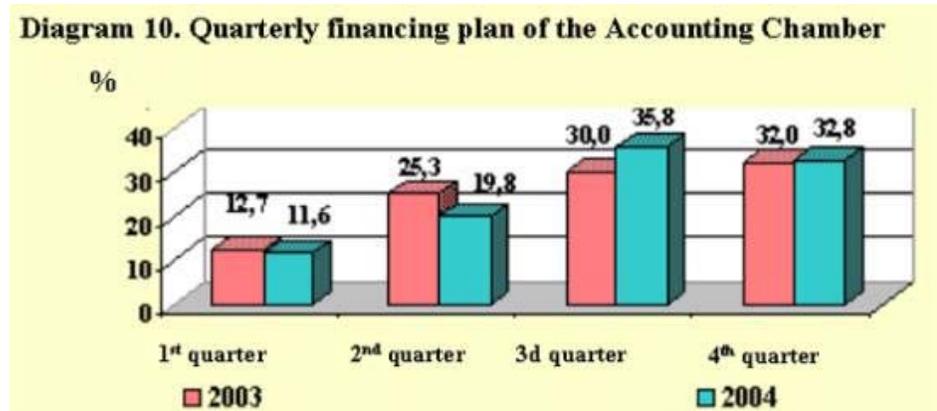
According to the letter of the Committee of Verkhovna Rada of Ukraine on Budget #06-9/9-964 the Accounting Chamber receives financing of 300 thous. UHA within National Program of Informatization.

General expenditures structure of the Accounting Chamber sustaining the Accounting Chamber in 2004 is presented in diagram 9.

Diagram 9. Expenditures structure of the Accounting Chamber in 2004

Financing in 2004 had the following peculiarities.

Monthly allocation plan was adopted by Ministry of Finance of Ukraine with the gradual growth of financing which hindered significantly financial and economic performance of the Accounting Chamber especially in I quarter. Thus, only 11.6 % of annual allocations was envisaged for the first quarter, 19.8% - for II quarter while 35.8% - for III quarter and 32.8% - for IV quarter (diagram 10).



The State Treasury of Ukraine conducted 100% financing of budget allocations within monthly estimate but in the first half of the month only 20 % of allocations were made (except wages with extra wage payments and expenditures and energy fees). That is budget allocations for the Accounting Chamber sustaining was made only during the last days of the month, which created current payables during the year.

Purchase of material values, works and services was conducted according to the Law of Ukraine "On Purchase of the Goods, Works and Services for State Funds", resolution of the Cabinet of Ministers of Ukraine #332 from 04.04.2001 "On Limit Sums of Payments for the purchase of Cars, Furniture, Other Equipment and Furnishings, Mobile Phones, Computers by State Authorities and Institutions and Organizations Sustained from State and Local Budgets", Order of Ministry of Finance of Ukraine #83 from 06.04.98 "On Procedure of Contracts Conclusion on Services Providing (execution of works) and Purchase of Material Values from Business Entities Paid from Budget Funds" and other normative acts.

Material and Technical base of the Accounting Chamber was consolidated in the reporting year, working conditions for its experts and personnel improved.

To achieve this, sanitary and cosmetic repairs of the offices were made. At the same time preventive and scheduled works were conducted to maintain engineering and energy systems of the Accounting Chamber in the proper state. In the reporting period maintenance, repairs, preventive and scheduled works at all kinds of communication equipment, TV, radio of the Accounting Chamber were performed; stable functioning of security systems of administrative buildings was ensured (safety and fire alarm systems, TV surveillance, fire extinguishing, fire alarm systems), proper functioning of the service communication channel for TV transmission of plenary meeting of Verkhovna Rada of Ukraine which enabled heads of structural divisions to get information directly from the meeting hall of Verkhovna Rada of Ukraine.

Besides, in 2004 to conduct various representative events on the high professional international level, first stage of the equipping of multifunctional hall with modern systems of transmission systems of TV and digital imaging, computer graphics, computer rows in analog and digital formats. The steps were also made to improve security systems of administrative buildings of the Accounting Chamber - metal detectors were installed and brought into operation, plastic card admission system was introduced.

According to the resolution of the Cabinet of Ministers of Ukraine #1577 from 18.11.2004 "Issues of Establishment of Territorial Offices of the Accounting Chamber" significant work was done to place territorial offices of the Accounting Chamber in the regions, namely in Odesa (6, Fontanska Doroga str), in Dnepropetrovsk (58, Komsomolska str.), in Kyiv (8/26 Industrialna str.), in Lviv (2 Linkoln str.). Complete furnishing of 45 working places was provided at contractual terms for three representative offices of the Accounting Chamber - in Odesa, Dnipropetrovsk, Lviv.

Health care station of the Accounting Chamber was equipped for primary patient examination and manipulative procedures means, which provides emergency aid to the Accounting chamber employees.

To intensify control over effective and targeted use of the funds for the Accounting chamber sustaining, internal control system was introduced ensuring transparency and legitimacy of budget funds spending.

Performance results of the Accounting chamber during 8 years prove undoubtedly the necessity, usefulness and expediency of the establishment and existence of such supreme control body as the Accounting Chamber. Consumer value of control, control and analytical and

expert measures was confirmed by ever growing interest to them from the side of all branches of power and society.

Experience accumulated by the Accounting Chamber proves urgent necessity to adopt amended Law of Ukraine "On the Accounting Chamber of Ukraine" and creation of integral transparent system of state financial control. Starting point of the process of consolidation of disintegrated activity of a number of control authorities should be adoption of the Law of Ukraine "On the System of State Financial Control". Guiding by the powers of the Accounting Chamber and the fact that it acts in the name of Verkhovna Rada of Ukraine, it is the Accounting Chamber that should coordinate the system of financial control of Ukraine.

Control measures conducted in the reporting year confirmed systematic character of the large number of budget violations while budget funds using, which unfortunately were committed by audited objects. Such situation was in many cases caused by gaps in the standing legislation of Ukraine regulating budget relations; absence of integrated system of financial control (both external and internal); not always adequate and full reaction and consideration of the propositions and recommendations of the Accounting Chamber in the follow-up to the control measures from the side of audited objects heads; lack of powers of the Accounting Chamber on all-round control over budget process.

Report of the Accounting Chamber for 2004 was adopted by the Resolution of the Board of the Accounting Chamber #9-1 from 28.04.2005.

Mr. VALENTYN SYMONENKO
CHAIRMAN OF THE ACCOUNTING CHAMBER

Appendix 1

List of information bulletins issued by the Accounting Chamber in the follow-up to the measures conducted in 2004 and submitted to Verkhovna Rada of Ukraine

Issue 1	Report on the audit results of the effectiveness of forestry resources management in Carpathian Region of Ukraine
Issue 2	On the results of the audit of the use of funds of State budget of Ukraine allocated for sustaining of the State Customs Service of Ukraine
Issue 3	On the Results of the Audit of the Status of Allocation, Legitimacy and Effectiveness of the Use of Subventions from the State Budget for Investment Projects directed to Social Infrastructure Development of Autonomous Republic Of Crimea for 2003
Issue 4	On the Results of the Audit of Investments Use by Force Structures of the Investments to Housing Construction attracted to Housing Construction at the account of Income Tax Exemptions
Issue 5	On the Results of Analysis and Appraisal of the Impact of Macroindices of Economic and Social Development for Execution of State Budget of Ukraine in 2003
Issue 6	On the Results of the Audit of Reserve Funds Use of State Budget of Ukraine in 2003
Issue 7	On the Results of the Audit of Planning and Use of the Funds of State Budget of Ukraine for Training and Capacity Building of Medical Specialists at Higher Education Institutions of III-IV accreditation levels
Issue 8	Conclusions on Execution of State Budget of Ukraine and Budget Funds Use in 2003
Issue 9	On the Results of the Audit of Status of Repayment of Devaluated Insurance Contributions Arrears of Citizens of Ukraine place in Ukrderzhstrakh before January 2, 1992
Issue 10	On the Results of the Audit of the Use of Funds of State Budget of Ukraine allocated in 2001-2003 to the Ministry of Defense of Ukraine to Ensure Participation in International Peacekeeping Operations
Issue 11	On the Results of Analysis of the Effectiveness of Measures envisaged by the Law of Ukraine "On State Budget for 2003" on State Debt

	Management
Issue 12	On the Results of the Audit of the Funds Use Allocated in 2003 from State Budget of Ukraine to Train Personnel for Internal Affairs Bodies at Higher Education Institutions of Ministry of Internal Affairs of Ukraine
Issue 13	On the Results of the Audit and Analysis of the State Budget Funds Use Allocated to the Execution of the Program "Grain of Ukraine - 2001-2004"
Issue 14	On the Results of the Audit of the use of Funds of State Budget of Ukraine allocated to the Ministry of Health Care of Ukraine to ensure State Program "Oncology"
Issue 15	Conclusion in the Follow-up to the Execution of State Budget Of Ukraine for the first six Months of 2004
Issue 16	On the Results of Analysis of Formation and Allocation from State Budget of Ukraine to the Local Budgets of the Transfers and Status of Interbudget Settlements in 2003-2004
Issue 17	Conclusions in the Follow-up to the Analysis and Expertise of the draft Law of Ukraine "On State Budget of Ukraine for 2005"
Issue 18	On the Results of the Analysis of the Use of State Centralized Capital Investments for 2001-2003
Issue 19	On the Results of the Audit of the Use of Funds of State Budget of Ukraine allocated for Complex Medical and Sanitary Support of Citizens Suffering from Chernobyl Disaster
Issue 20	On the Conclusion in the Follow-up to the Analysis of the Execution of State Budget of Ukraine for nine months of 2004
Issue 21	On the Results of the Audit of Cost Estimate of National Bank of Ukraine

Appendix 2

Major Objects of Control and Control and Analytical Measures of the Accounting Chamber in 2004

- Ministry of Science and Education of Ukraine;
- Ministry of Health Care of Ukraine;
- Ministry of Labour and Social Policy of Ukraine;
- Ministry of Ukraine on Emergency and Population Protection against Chernobyl Disaster Aftermath;
- Ministry of Finance of Ukraine;
- Ministry of Economy and on European Integration of Ukraine;
- Ministry of Justice of Ukraine;
- Ministry of Fuel and Energy of Ukraine;
- Ministry of Industrial Policy of Ukraine;
- Ministry of Agrarian Policy of Ukraine;
- Ministry of Transport and Communications of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- Ministry of Defense of Ukraine;

- Ministry of Environment Protection of Ukraine;
- State Committee of Forestry of Ukraine;
- State Committee of Ukraine for Aqueous Resources;
- State Committee of Ukraine for Land Resources;
- State Committee of Ukraine on State Material Reserve;
- State Committee of Ukraine on Construction and Architecture;
- State Committee of Ukraine for Communications and Informatization;
- State Committee of Ukraine on Regulatory Policy and Entrepreneurship;
- State Treasury of Ukraine;
- Antimonopoly Committee of Ukraine;
- State Property Fund of Ukraine;
- State Tax Administration of Ukraine;
- State Court Administration of Ukraine;
- State Customs Service of Ukraine;
- Security Service of Ukraine;
- Main Department for State Service of Ukraine;
- Administration for State Boarder Service of Ukraine;
- Central Election Commission of Ukraine;
- National Academy of Science of Ukraine;
- National Bank of Ukraine;
- National JSC "Oranta";
- State Executive Office;
- Pension Fund of Ukraine;
- Fund of Social Protection of Disabled People;
- Fund of Physical Entities Deposits Securing;
- Ukrainian Fund of Entrepreneurship Support;
- Ukrainian Fund of Social Investments;
- State Fund of Housing Construction for Young People Support;
- Academy of Medical Sciences of Ukraine;
- Ukrainian Academy of Agrarian Sciences;
- State Department for Veterinary Medicine;

- State Department for Fishery of Ministry of Agrarian Policy of Ukraine;
- State Employment Center of Ministry of Labour and Social Policy of Ukraine;
- State Administration of Railway Transport of Ukraine "Ukrzaliznytsia";
- State Service for Rights Protection for plant sorts of the Ministry of Agrarian Policy of Ukraine;
- Central Sanitary and Epidemic Station at Railway Transport;
- State Territorial and Sectoral Association "Southern-Western Railway"
- State Enterprise "Prydniprovyia Railway"
- Ukrainian State Association "Radon"
- State Specialized Enterprise Center of Processing and Dumping of Technogenic Wastes "Tchnocenter"
- State Specialized Enterprise "Chornobyl Nuclear Power Plants";
- Intersectoral Scientific and Technical Center "Confinement" of the National Academy of Science of Ukraine;
- Group of Project Management of Plan of Actions at Object "Confinement" of State Specialized Enterprise "Chornobyl Nuclear Power Plant;
- State Enterprise "Ukrvaccine";
- Economic Court of Kyiv;
- Economic Court of Appeal of Kyiv;
- Court of Appeal of Kyiv;
- Military Court of Appeal of Central Region;
- Donetsk, Luhansk, Mykolayiv, Kirovograd, Cherkasy and Chernivtsi Regional State Administrations;
- Ministry of Agricultural Sector of Autonomous Republic of Crimea;
- Department of Capital Construction of Kyiv Regional State Administration;
- Main Department of Agriculture and Food of Vinnytsia Regional State Administration;
- Territorial Department of State Court Administration in Kyiv, Kyiv, Dnipropetrovsk and Kharkiv Regions;
- Kyiv Regional Sanitary and Epidemic Station;
- Kyiv City Sanitary and Epidemic Station;
- Territorial Departments and Structural Divisions of National Bank of Ukraine - Main Department of National Bank in Kyiv and Kyiv Region, Economic Department; Operation Department;
- Department of State Treasury in Kharkiv, Zaporizhzhia, Mykolayiv, Kirovograd, Cherkasy and Chernivtsi Regions;
- Main Financial Departments and Main Departments of Labour and Social Protection of Population in Lviv and Chernigiv Regional State Administrations;

- Main Financial Departments of Poltava and Khmel'nitsk Regional State Administrations;
- Department of Economy and Capital Construction of Zaporizhzhia, Poltava, Sumy and Khmel'nitsk Regional State Administrations;
- Chernigiv Regional Center on Accrual and Payment of Pensions and Allowances;
- Department of Capital Construction of Manufacturing and Exploitation Enterprise "Derzhprom" of Kharkiv Regional State Administration;
- Department of Construction, Repairs and Reconstruction of City of Kharkiv City Council;
- Lugansk and Chernigiv Representative Offices of State Committee for Regulatory Policy and Entrepreneurship and Regional Funds of Entrepreneurship Support;
- Department of Accounting and Allotment of Housing Space of Shevchenko and Obolon District in Kyiv State Administrations;
- Western Regional Customs;
- Volyn, Rava Rus, Yagodyn and Halytch Customs;
- Institute of Sugar Beets of Ukrainian Academy of Agrarian Science
- Institute of Aircology and Biotechnology of Ukrainian Academy of Agrarian Science;
- Institute of Plants Protection of Ukrainian Academy of Agrarian Science;
- Institute of Grain Production Ukrainian Academy of Agrarian Science;
- Institute of Physics;
- Institute of Economy;
- Vernadskyi Institute of General and Non-Organic Chemistry;
- Institute of Gas;
- Physicotechnological Institute of Metals and Alloys;
- National Academy of State Administration by the President of Ukraine;
- National Academy of Internal Affairs of Ukraine (Kyiv);
- Lviv Law Institute of Ministry of Internal affairs of Ukraine;
- Donetsk Law Institute of Internal Affairs of Ministry of internal Affairs of Ukraine;
- Odesa Law Institute of National University of Internal Affairs of Ministry of Internal Affairs of Ukraine;
- National University of Internal Affairs of the Ministry of Internal Affairs of Ukraine (Kharkiv);
- Lugansk Academy of Internal Affairs of the Ministry of Internal Affairs named after 10-th anniversary of Ukraine's independence;
- Kyiv University of Economy and Technology of Transport;
- Ukrainian State Academy of Railway Transport;
- National agrarian University;

- JS Energy Supply Company "Kyivenergo";
- Banknote - Coinage Yard;
- JS Commercial Bank "Pravex Bank";
- State JSC "Khib Ukrayiny";
- State Enterprise of State JSC "Khib Ukrayiny" "State Reserve Seed Fund";
- State Enterprise National JS Energy Company "Energoatom";
- Construction corporations and concerns: "Ukrbud", "Ukrcement", "Ukragrobud", "Ukrmontazhspetsbud", "Ukrbudmaterialy";
- Ukrainian Financial and Industrial Concern;
- Antonov ANTK;
- Kyiv State Aviation Factory "Aviant";
- JSC "Motor Sich";
- Yavoriv State Mining Holding Enterprise "Sirka";
- Stebnytskyi State Mining Holding Enterprise "Polymyneral";
- State Mining Enterprise "Podorozhnenskyi Rudnyk";
- State Enterprise "United Directorate of Construction of Northern Crimean Channel";
- State Enterprise "Donuzlav Wind Power Plant"
- State Enterprise "Central Western Company "Vugletorfrestrukturyzatsia";
- State Enterprise "Ukrshakhthydrozakhyst";
- State Enterprise "Donvuglerestrukturyzatsia";
- State JSC "Mine "Butivka-Donetska";
- Separated Divisions of State Enterprise "Rovenkyantratsit" - mines #81 "Kyivska"; named after F. Dzerzhynskyi; named after V.Vakhrushev; named after M.Frunze;
- Separated Division of Khmelnytsk Nuclear Power Plant State Enterprise National JSC "Energoatom";
- State Scientific and Production Enterprise "Ukrenergomash";
- JSC "Dnipropetrovsk Pipe Plant";
- JSC "Donetsk Iron and Steel Works";
- JSC "Nyzhniodniprovskyi Pipe Plant";
- JSC "Novomoskovsk Pipe Plant";
- JSC "Silur";
- JSC "State Holding "Pavlograd vugilliya"; branches of JSC "State Holding "Pavlogradvugillya": "Mine "Blagodatna", "Mine "Pavlogradska", "Mine "Ternivska", "Mine "Samarska".

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Examined by the Board of the Accounting Chamber

25.01.2005

The Economics Ministry proved ineffective to influence state procurements transparency

In 2004 the Accounting Chamber inspected how the Economics and European Integration Ministry of Ukraine had performed functions stipulated by the Law of Ukraine "On Procurement of Goods, Works and Services with State Funds", Article 3.

The Accounting Chamber Board considered the audit report and came to the conclusion that, **while performing the indicated functions, the Economics and European Integration Ministry of Ukraine had failed to provide efficient coordination of state procurement, to take proper steps to remove infringements and systematic shortcomings revealed by the previous controlling measures in the state procurements coordination field.**

The Ministry's efforts in state procurements coordination field need to be considerably improved.

The Regulation on the Economics Ministry of Ukraine (approved by President of Ukraine Decree as of October 23, 2000 No 1159) does not itemize the Ministry's functions in state procurement coordination and does not work out a gear of their implementation. The document lacks systematic, perspective scheduling of the Ministry's profile department and its structural branches to fulfil functions stipulated by the Law of Ukraine "On Procurement of Goods, Works and Services with State Funds", Article 3.

A range of Cabinet of Ministers Resolutions and the Economics Ministry Orders covering this issue produces a negative impact upon transparency and competitive power of state procurements and unfavorably affects legal and efficient use of state budget funds.

The Economics Ministry's control over adherence to the current legislation as a guidance in procuring goods, works and services with state funds has brought no result. The Economics Ministry is unjustifiably shifting its own authorities (and responsibility) in issues of control over fulfilling the state procurement legislation upon supervision and auditing bodies, the State Treasury and main economic boards and regional and town state administrations.

The Ministry of Economics has been sticking to the previous practice of ignoring current legislation when issuing agreements to its clients for some state procurement procedures. Only for the first 9 months 2004 the Ministry had illegally issued 42 letters of agreement for the total of 147 million 758.4 thousand UAH.

The Accounting Chamber Board concludes that such Ministry's "provision" of adherence to the current legislation requirements with regards to state procurements discourages state procurements from being transparent and impedes development of a relevant competitive power.

The Board has forwarded its conclusions to the Economics and European Integration Ministry of Ukraine for removal of the revealed shortcomings.

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Examined by the Board of the Accounting Chamber

15.02.2005

Reserve, if there is one, not a burden to a pocket ...

The Accounting Chamber Board, having considered results of the audit for spending the 2004 state budget funds on accumulation (increase) of state material reserve valuables, has drawn a conclusion that **the Cabinet of Ministers of Ukraine and the State Reserve Committee did not create conditions for meeting requirements on creation of a state material reserve**, for which they were made responsible by the Law "On the State Material Reserve".

Accounting Chamber auditors have revealed that basic principles of state material reserve system functioning, which would take into consideration up-to-date strategic needs, military and political goals and economic situation of Ukraine, remain so far undetermined. As a result, reserves were not accumulated for raw materials, logistic and production means aiming at meeting strategic needs of the state and carrying out urgent works during emergency effects removal.

The Government failed to develop new approach to formation, storage and employment of material valuables of the mobilization reserve, which resources do not correspond to modern technical conditions and state standards. There is no idea about sources to compensate expenses to the staff involved in maintenance and storage of material reserves. Such reserves are often located at incorporated or bankrupt enterprises and shelf-life of most of them has already expired or is close to expiration requiring their urgent de-reservation and sale.

The auditors have disclosed that executive services of the Ministry of Justice did not collect accounts receivable from State Reserve Committee debtors on suits for the total of **817.4 million UAH** that the Committee won at the Economic Court in 2004. Only **0.2 per cent** of the amount won in courts was returned to State Reserve Committee's accounts.

Lack of a system of spending state budget funds for formation, maintenance and service of the state reserve, the Cabinet of Ministers of Ukraine and the State Reserve Committee **failed to provide in 2004 achieving planned results in all directions of budget programs implementation** - stated by the auditors.

Accounting Chamber audit has revealed that spending of budget funds and materials resources of the state reserve in amount of **163369.8 thousand UAH** admitted violation of the current legislation, of which **127000 thousand UAH** was spent with the Budget Code infringements, **12045.8 thousand UAH** admitted violation of the Law of Ukraine "On the State Material Reserve", **24324 thousand UAH** was used with breakage of the Law of Ukraine "On Procurement of Goods, Works and Services for the State Funds".

In addition, the Government admitted ineffective usage of budget funds in amount of 85436.1 thousand UAH and ineffective management of **37535.6 thousand UAH**.

Relevant information has been forwarded to Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine; conclusions have been sent to the State Reserve Committee for taking necessary steps.

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Examined by the Board of the Accounting Chamber

15.02.2005

Good intentions conceal ineffective activity

Activity of the Industrial Policy Ministry in 2003-2004 on employment of state budget funds for financial support to production and creation of new home-manufactured plants growth stimulators and protectors **has appeared ineffective**, while measures taken to expand their production have turned out to be **unsatisfactory**. This is proven by results of the audit conducted by the Accounting Chamber.

Ineffective management of state budget funds in 2003 by the Industrial Policy Ministry has caused a situation when home producers of plants growth regulators and protectors were missing over 7.7 million UAH.

The auditors have discovered that state financial support to production and creation of new home-manufactured plants protectors, their state testing, registration through a mechanism of commercial banks' credits easing had significant shortcomings and was not properly calculated from the economic point of view. Only one enterprise was able to benefit from such type of state financial aid by receiving 238.2 thousand UAH in 2003.

The Industrial Policy Ministry did not provide levels of home producers' access to these means of state financial support in 2004. Nearly half of them was not included in the branch program of development of home production of plants growth stimulators and protectors.

The audit has made evident that the mentioned branch program lacks financial support, its compilation and implementation being formal, ignoring needs and financial possibilities of both the state and enterprises. Expected financing of programmed activities does not meet state budget indices and enterprises do not reach their financial commitments. Enterprises' disbursements for plants growth stimulators and protectors in 2004 hardly approached 50 per cent of the programmed amount.

In 2003-2004 the Industrial Policy Ministry of Ukraine was allocating budget funds to enterprises lacking licenses for production of plants growth stimulators and protectors, which infringes several Laws of Ukraine at a time ("On Pesticides and Agrochemicals", "On Licensing Certain Types of Economic Activity", On State Budgets of Ukraine for 2003 and 2004). **Consequently, these enterprises spent 1788.2 thousand UAH with current legislation infringements.**

Lack of control on behalf of the Industrial Policy Ministry made it possible for some enterprises to **ineffectively use state budget funds, advancing money in amount of about 900000 thousand UAH on raw materials** procurement for a period exceeding that allowed by regulatory acts. Considerable amount of budget funds has been spent on wrong purposes.

220 thousand UAH of budget funds targeted for expansion of substances use (including relevant state testing of a substance which has not been put in production) was ineffectively disposed by the Industrial Policy Ministry of Ukraine.

Relevant information has been forwarded to Verkhovna Rada of Ukraine, conclusions have been sent to Industrial Policy Ministry for urgent measures to be taken.

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Examined by the Board of the Accounting Chamber

22.03.2005

Declared goal and sad reality: funds spent but none of the six programs performed

The State Department for Execution of Punishments of Ukraine failed last year to compile and perform relevant budget programs providing for effective implementation of aims and targets of the state policy in this field, -

Accounting Chamber Board' conclusion made after the audit of employment of the state budget funds assigned to the State Department for Execution of Punishments of Ukraine in 2004 to provide its activity and to reform the criminal-execution system.

The inspection has revealed that the system of using budget, material and technical resources introduced at the Department proved to be uneconomical, extravagant and non-transparent. Disregard of basic principles of program and target planning and non-performance of budget expenditure brought about lack of control on behalf of the Department over legal and effective usage of financial and material resources, connection between the aim of budget allocations and results of their employment.

Funds worth 164.1 million UAH (including 150.8 million UAH from the budget) have been spent to support the system viability rather than to encourage its development and improvement.

Conditions of prisoners' maintenance have not experienced a crucial change. Punishment execution institutions with available capacities for 158605 places kept 191241 prisoners, that is deficit of places in punishment-execution institutions comprised 20.5%.

Regardless of deficit of 5 018 places in detention facilities, none was created of those 1250 places provided for during 2004.

Of 1 364 buildings, engineering constructions and sites, budget facilities, only 330 or 24.2% was actually repaired.

The problem of providing medical equipment has not been solved.

The problem of providing accommodation to Department servants and their dependants lacked sufficient attention. Only long-lasting construction sites held up over 1000 flats, while 2892 families of rank and supervisory personnel of the criminal executive system were waiting for accommodation.

Department's activity financing directions outlined by budget programs' passports did not envisage activities on development and reformation of the criminal-executive system and were not coordinated with targets of state program approved by the related President and the government of Ukraine. As a result, the state budget financed ineffective activities, which made impossible complete resolution of any of the goals declared.

Lack of a single state target program of reforming the criminal executive system, taking into consideration international experience and world standards, requirements of the Code of Criminal Procedure of Ukraine and the Law of Ukraine "On State Target Programs" which would outline expected results and efficiency criteria makes an impediment to resolution of the most important problems in this field.

Existing system of formation, placement and performance of procurement of goods, works and services with the state funds, which was introduced at the Department, opposes the current legislation, being ineffective and failing to provide transparency in this field and to achieve optimal and controlled employment of budget funds.

Absence of efficient internal control in the activity of the State Department for Execution of

Punishments of Ukraine and negligence of proposals made after previous audit of the Accounting Chamber resulted in budget violations and ineffective employment of budget funds in amount of 136 million UAH.

The Accounting Chamber Board informed the President of Ukraine, Verkhovna Rada and the government of Ukraine about the revealed violations of the current legislation and made relevant proposals. The conclusion has been forwarded to the State Department for Execution of Punishments of Ukraine for appropriate reaction and taking relevant steps to remove the indicated shortcomings.

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Examined by the Board of the Accounting Chamber

05.04.2005

"Golden" migrant at the expense of needy ukrainian?

The state budget of Ukraine spent in average 811 UAH every month in 2003 and 848 UAH in 2004 for maintenance of one refugee at refugees' temporary shelter - as discovered by Accounting Chamber's inspection of employment of state budget funds monthly assigned for support to refugees and establishment of accommodation places for illegal migrants. At the same time the declared level of social security of Ukrainian citizens amounted at that period to 342 UAH and 362 UAH per individual and was not actually provided by the state.

The auditors have ascertained that the State Committee of Ukraine for National Minorities and Migration and its local offices improperly managed budget funds that were allocated in 2003-2004 as aid to refugees and means of establishing accommodation places for illegal migrants. 1.6 million UAH of budget resources was used improperly, 1.3 million UAH was used ineffectively, 6.8 million UAH was spent with violations of the current legislation, of which 6.4 million UAH with infringements of the Law of Ukraine "On Procurement of Goods, Works and Services with State Funds".

Usage of funds by the State Committee of Ukraine for National Minorities and Migration was accompanied by groundless management solutions. Investment of funds by the State Committee of Ukraine for National Minorities and Migration in establishment of two additional accommodation places for refugees (with only 18.4 per cent of occupation at the Odesa-based accommodation facility) causes considerable unjustifiable spending of the state budget resources.

The Odesa-based temporary accommodation place for refugees (TAPR) is able to provide temporary residence to at least 1000 persons annually, which is three times as much as a number of refugees entitled to have shelter in Ukraine in 2004. Decisions of the State Committee of Ukraine for National Minorities and Migration as to creation of another two facilities (for 457 beds in Yagotyń, Kyiv region and for 100 beds in Perechyn, the Transcarpathian region) were groundless, while procurement and reconstruction of relevant premises causes ineffective usage of 13.7 million UAH of budget funds.

Orders of the Cabinet of Ministers No 803-r and No 673-r initiated transfer to the State Committee of Ukraine for National Minorities and Migration (meeting its request) two cantonments from the Ministry of Defense (cantonment No 7, Zhuravychi, Volyn region and cantonment No 1, Rozsudiw, Chernigiv region), which favored the State Committee of Ukraine for National Minorities and Migration's intention to organize businesses in fields subordinated to other agencies.

These bulky property complexes (cantonment No 7 includes 77 buildings and constructions located at a land area with the surface 601.4 ha, cantonment No 1 has 49 buildings and constructions at 33.05 ha) several times exceed needs of facilities for accommodation of illegal migrants and demand considerable maintenance spendings from the state budget.

Creation by the State Committee of Ukraine for National Minorities and Migration of temporary accommodation places for illegal migrants based on cantonments belonging to presently disbanded military units and reluctance to accept from the State Frontier Service of Ukraine a Pavshyne place equipped for accommodating illegal migrants as originated from proposals of successful bidders, contracting agreements with them and design estimates for appropriate reconstruction of the facilities will lead to ineffective usage of state budget funds in amount of 52.7 million UAH.

As discovered by the auditors, the State Committee of Ukraine for National Minorities and Migration assigned 10 buildings for future accommodation of illegal migrants in Volyn-based cantonment No 7 and 9 buildings of the same purpose in Chernigiv-based cantonment. To dispose of the rest of state property, the State Committee of Ukraine for National Minorities

and Migration established three state enterprises: Zhuravychi-based forestry and hunting facility and two housing service enterprises Strateg and Rozsudiv, their activities being far from the tasks lying with these executive authorities.

The inspection materials have been forwarded to the General Prosecutor's Office of Ukraine.

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Examined by the Board of the Accounting Chamber

19.04.2005

Although money was allocated for the program, the safety technique has not improved

The Accounting Chamber Board considered the audit report on the use of state budget funds allocated to the Ukrainian Ministry of Fuel and Energy for creation of a unified telecommunication system of dispatcher control and automated regulation of mining machines and technological complexes (UTAS) for raising safety standards at mining enterprises.

Having considered the audit results, the Accounting Chamber Board concluded that 111.7 million UAH used during 2001-2004 for financing of the UTAS system creation, was used inefficiently, with violations of the current legislation, and in some cases not according to intended purpose. The main objective of creating UTAS systems for the improvement of safety standards at mining enterprises for budget costs had not been reached within the scheduled terms.

The audit revealed that in 2001 and 2003, infringing the Law of Ukraine "On Procurement of Goods, Works and Services with State Funds", the Cabinet of Ministers took the decision on the usage of 26.62 million UAH of budget funds by the Ministry of Fuel and Energy of Ukraine for the purchase of "know-how", without using purchase procedures stipulated by the Law.

An additional resolution on procurement of the "know-how" for creation of UTAS systems and their implementation at mines adopted by the Cabinet of Ministers, which was brought forward for governmental review by the Ministry of Finance (and not by the Ministry of Fuel and Energy), did not comply with the steps for implementation of the Program for raising safety standards at coal mines that had been approved by the Cabinet of Ministers.

The auditors determined that the Ukrainian Ministry of Finance, in violation of article 36 of the Budget Code of Ukraine, missing a budget request of the key authorized body - the Ministry of Fuel and Energy, provided for the expenses for creation of UTAS systems amounting to 25 million UAH in the draft of State Budget of Ukraine for 2004. Incorporating changes in the state budget of Ukraine for 2004 as to increase of expenses by 50 million UAH for creation of the UTAS system also lacked substantiation and calculations on behalf of the Ministry of Fuel and Energy of Ukraine.

Without proper control by the Ministry of Fuel and Energy, as a result of insufficient analysis of UTAS system implementation conditions at "Trudivska" and "Shcheglovska-Glyboka" mines, and also capabilities for manufacturing and implementing this system, **state budget funds amounting to 36.7 million UAH** intended for creation of UTAS systems in 2001-2003 **were spent ineffectively, as the above-mentioned systems had not been implemented at mines within the scheduled terms.**

In addition, the auditors revealed that the absence of concrete actions of the Ministry of Fuel and Energy for the organization and purchasing of UTAS systems, failure to take into account the capabilities of the state-owned company Petrovsky Mining Equipment Plant **regarding the implementation of the above-mentioned systems at mining companies in 2004, and also untimely transfer of funds by mining companies caused inefficient employment of state budget funds.** As the Ministry lacked a clearly defined procedure for distribution and providing state funds for creation of UTAS systems, in particular, the regulations on holding a tender competition and the criteria for evaluation of companies' proposals, the distribution of state budget funds in 2004 was formal and lacked transparency.

Transfer to the state-owned company Petrovsky Mining Equipment Plant in 2004 of budget funds by enterprises that were receiving budget funds under contracts on UTAS systems creation on a one hundred per cent prepayment basis, without taking into account of the cost and planned terms of performing separate work steps, resulted in **interest-free crediting of**

the plant's business activities at the expense of state budget funds.

Actually, state financial resources amounting to 71.8 million UAH were withdrawn from the state budget. The above-mentioned funds could have been used by the state for financing of other budget programs.

The conclusion drawn by the Accounting Chamber Board on this issue has been forwarded to the Cabinet of Ministers of Ukraine and the Ministry of Fuel and Energy of Ukraine to take proper steps for the elimination of shortcomings and violations detected, and the information was provided to Verkhovna Rada of Ukraine.

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Considered by the Accounting Chamber Board

June 22, 2005

Law for all!

Press Service of the Accounting Chamber shall turn to publicizing of the audit results of the Central Election Committee. According to the Law of Ukraine "On the Accounting Chamber" Central Election Committee should have considered Conclusions of the Accounting Chamber Board within 15 calendar days from the date of their receiving and submitted list of measures aimed at elimination of detected flaws and violations to the Accounting Chamber. Instead, headships of the Central Election Committee started interpreting and denying some conclusions of the Accounting Chamber in mass media.

Mentioned audit was conducted by the Accounting Chamber in conformity with the Law of Ukraine "On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2004".

Report of the audit and conclusions of the Accounting Chamber Board are based on the materials of Deeds made up in the follow-up to the audit and signed by Mr. Y. Davydovych Chairman of the Central Election Committee, Chief Accountant and other executives of the Committee without any reservations.

Right to sign all settlement and payment documents belonged to Mr. Davydovych from April 1, 2004, as Deputy Chairman of the Committee who was responsible for organization of cost estimate forming, allocation of budget funds and organization of revenues and expenditures accounting according to the division of functions.

Formal reaction of the chairmanship of the Committee to the violations detected by the preliminary audits of the Accounting Chamber and non-comprehensive measures taken to eliminate them resulted in their becoming persistent. In particular, overstated needs for funds for elections; use of the funds allocated for elections, for enhancing of inventory of the Committee and development and putting into operation of software "Elections". From year to year expenditures for labour remuneration are overstated through overstatement of personnel of the Committee Secretariat along with significant number of vacancies (over 30%).

Auditors have found that expenditures for labour remuneration with benefits increased almost six times in 2003-2005 while average number of employees of the Committee remained almost the same. Thus average monthly salary of the Central Election Committee members amounted to 6893 UAH in 2004 and 9173 UAH in the first three months of 2005. With prejudice to the laws on labour remuneration chairmanship of the Central Election Committee itself raised salaries of the Committee members and assigned special benefits, which resulted in illegal payments of 1.3 mln. UAH.

At the expense of the budget program "Elections of the President of Ukraine" 10 mln. UAH allocated to modernization of system "Elections" and purchase and installation of video conference equipment was used inappropriately. At the same time, funds allocated in the capital expenditures by the program "Management in Elections and Referenda" for development of the mentioned system were re-allocated to purchase cars, office furniture repair the Committee offices.

The Committee purchased 17 cars totally at 3 mln. UAH in 2004. Besides, two cars were given free by the State Administration and Secretariat of the Cabinet of Ministers of Ukraine ("Mercedes-Benz 500L which cost 686.2 thous. UAH and "Daimler Chrysler which cost 365.4 thous. UAH).

While awarding "Termik" (Kramatorsk, Donetsk Region) with the contract of production and delivery of ballot boxes to the Territory Election Committee, conformity of the winner to the qualification requirements was not considered with prejudice to article 15 of the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds" (Chairman of the Tender Committee is Mr. Y. Davydovych). Statutory fields of activity of this enterprise had nothing to do

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with the subject of procurement and it acted actually as mediator. Consequently, additional expenditures of the budget funds were incurred.

Delivery of the ballot boxes started only from October 6, 2004, while Territorial Election Committees had had to get 82.7% of ballot boxes by that time in line with schedule. Supplementary contract between Central Election Committee and Termik from October 14, 2004, reduced volume of ballot box production and increased their price. As a result, cost of ballot box production increased by 11106 thous. UAH.

Taking into account approaching date of elections and non-fulfilled contractual obligations by Termik, Committee had to engage Vasykiv Factory of Refrigerators to production of ballot boxes but at higher prices, which required additional 4476 thous. UAH.

Improper control over new price setting enabled Termik to understate number of ballot boxes produced at previous (lower) prices, which led to overstatement of the product cost by 3753 thous. UAH.

The Accounting Chamber understands peculiarities and difficulties of the last elections, however, it does not cancel standing legislation on the procedure of the budget funds use. Hopefully, the Central Elections Committee will finally react to the reservations of the Accounting Chamber, as required by the Law, and flaws detected by the audit will help the Committee to create reliable system of financing of the election process, accounting and control over the budget funds use during the next elections. As for violations of the legislation, they shall be appraised by the Prosecutor's General Office.

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Considered by the Accounting Chamber Board

July 5, 2005

Save our lives by ourselves?

The Accounting Chamber has conducted control measures on legal and economic basis of formation, placement, financing and execution of the state defense order during the last several years. Namely, main components of the state defense order of the Ministry of Defense, Ministry of Industrial Policy, Ministry of Internal Affairs of Ukraine and other central authorities and military establishments were audited.

Results of the control show that state concern of strengthening of state defensibility and security through procurement of armaments and defense machinery, scientific and research and development efforts; realization of governmental programs on viability and explosion and fire security of arsenals and armories; disposal of ammunition unsuitable for further utilization and storing; improvement of rear supplies of military establishments has gradually become concern of sole ministries and institutions.

Primary factors were not realized in the state:

- On ensuring of viability of arsenals and armories because executed works did not allow reaching level of viability of the mentioned objects to ensure their safe and secure functioning;
- On development of new technologies and creation of permanent capacities of ammunition disposal which hindered disposal of ammunition defined by the Program and resulted into troublesome situation that could have led to the unpredictable consequences.

Non-finished and non-implemented scientific developments that cost much budget funds were not registered and were not moved forward.

Non-conducted procedural and repair works of defense machinery and armaments deteriorated its quality and reduced defensibility of the Military Forces of Ukraine.

Financing of the mentioned Programs were made on the last-in-the-agenda principle only at 15-20% of the need.

Blasts at artillery armories in Artemovsk and especially in Novo-Bogdanovka of Zaporizhzhia Region led to large material and moral losses but disposal of ammunition non suitable for further utilization were not conducted practically at all in 2004 and first six months of 2005 on different reasons as monitoring of the Ministry of Defense held by the Accounting Chamber of Ukraine proves.

Taking into account state importance of these issues and proposals of the Accounting Chamber, Verkhovna Rada of Ukraine and Government of Ukraine increased several times financing of the state defense order, namely, works on viability of armories and arsenals and disposal of ammunition in 2003-2005; their progress was considered by the Government of Ukraine and National Security and Defense Council of Ukraine at their meetings.

Realizing the fact that even enhanced financing can not combat rapidly existing problems, the Accounting Chamber Board decided to bring under control large allocated funds of the state budget targeted financing and realization of the state defense order and to audit military establishments and central authorities.

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Considered by the Accounting Chamber Board

August 16, 2005

State procurements held by the Antimonopoly Committee are unsatisfactory

System of planning and financing of the funds of the State Budget of Ukraine in the bodies of the Antimonopoly Committee of Ukraine is improper and does not ensure their legitimate and effective use -

It was the conclusion of the Accounting Chamber Board having considered Report on the Audit of the funds use of the State Budget of Ukraine and analysis of conformity with the legislation on state procurement held by the Antimonopoly Committee of Ukraine in 2003-2004 and in the first six months of 2005.

The auditors found that expenditures of the Antimonopoly Committee of Ukraine in the mentioned period were planned without all necessary criteria of effective performance of the Committee. Performance indices of the budget programs were set voluntarily, passports of the budget programs did not contain appraisal criteria of the Committee performance justified by the economic competition on the market of goods, works and services.

It was revealed that management and use of the funds of the State Budget of Ukraine in 2003-2004 and first six months of 2005 were made by the Antimonopoly Committee with prejudice to the standing legislation: 206 thous. UAH was used with budget violations; 1 mln. UAH was used ineffectively.

Over 1 mln. UAH of the earmarked fund has not been used for two years and is actually additional reserve for the Committee, which proves ineffective management of the funds of the State Budget of Ukraine.

The Accounting Chamber Board also made conclusion that the Antimonopoly Committee of Ukraine had not ensured consistent abiding the standing legislation on state procurement. It made negative impact on the competitive climate in this sphere, transparency of procurement procedure of goods, works and services, rational use of the state funds.

Comparative analysis of the total expenditures for procurement of goods, works and services envisaged by the cost estimate for 2003-2005 with planned procurement volume for the mentioned period showed that totally 5 mln. 561,4 thous. UAH of budget funds or nearly 17% of total expenditures for procurement of goods, works and services left outside the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds".

Such situation was caused (except for existing value margin of the Law application) by improper planning, accounting and reporting of procurements in the Committee.

The audit detected low level of organization of the procurement procedures by permanent tender committee of the Antimonopoly Committee of Ukraine, non-complying with the state procurement legislation.

Dynamics of these violations grow from year to year that is proved by ineffective measures taken by the Committee to eliminate reasons and conditions causing violations, namely, improper organization of activity and unsatisfactory internal control.

Thus, violations of state procurement legislation were detected totally at 1 mln. 430 thous. UAH in 2003, 4 mln. 540.5 thous. UAH in 2004, 527.7 thous. UAH in the first three months of 2005 that took place during procurement of goods, works and services held by the Antimonopoly Committee of Ukraine.

The Accounting Chamber Board sent information of the audit results to Verkhovna Rada of Ukraine, and Report to the Antimonopoly Committee of Ukraine for reaction and elimination of detected flaws.

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Considered by the Accounting Chamber Board

September 16, 2005

Why is state support ineffective?

The Ministry of Fuel and Energy of Ukraine allocated **1 bln. 267.9 mln. UAH of budget funds** to provide state support to coal mining plants and to cover partially expenditures of cost price of the products in 2004 and first six months of 2005, **out of which 94.4% (1 bln. 196.7 mln. UAH) was used ineffectively by the Ministry and state enterprises, over 1.3 mln. UAH was used with prejudice to the standing legislation.**

The auditors of the Accounting Chamber detected that system of allocation and distribution of state support applied by the Ministry of Fuel and Energy was ineffective and did not promote sales, improvement of product quality and reduction of cost price of coal production.

Cabinet of Ministers of Ukraine and the Ministry of Fuel and Energy of Ukraine did not create conditions for the program realization "Ukrainian Coal", namely, on transparent solvent coal market with real impact of the state on the process of pricing. Despite allocated **11.8 bln. UAH** from the state budget in 2001 - July 1, 2006, to develop coal industry, there were no coal production growing planned by the program "Ukrainian Coal".

Such conclusions were made by the Accounting Chamber Board on the basis of the audit of the state budget funds use allocated to the Ministry of Fuel and Energy of Ukraine in 2004 and in six months of 2005 according to the program "State Support of Coal Mining Plants to Cover Partially Cost Price Expenditures of the Products".

As a result of formal approach of the Ministry to planning of state support for 2004-2005, calculations of the enterprises were overstated totally by **497 mln. UAH** including **187 mln. UAH** for 2005. Calculations of the enterprises overstated planned coal output, commodities, understated planned prices of coal products and included costs of coal supply to some categories of people for domestic purposes.

The facts that there is no mechanism of state support funds distribution among structural divisions of the coal mining plants enabled State Enterprise "Lvivvugillia" and State Enterprise "Donetsk Coal Energy Company" to allocate over **2 mln. UAH and 8.6 mln. UAH** respectively for the audited period, of the budget funds for the production without justification which contradicts Procedure of state support allocation (Resolution of the Cabinet of Ministers of Ukraine No. 1311 from August 21, 2003).

With prejudice to the Law of Ukraine "On Procurement of Goods, Works and Service for State Funds" SE "Lvivvugillia" concluded contracts of 530 thous. UAH without tenders.

Information on this issue was sent to Verkhovna Rada of Ukraine and Cabinet of Ministers of Ukraine, Conclusion of the Accounting Chamber was sent to the Ministry of Coal Industry of Ukraine to take necessary measures to eliminate detected violations.

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Considered by the Accounting Chamber Board

October 1, 2005

There are a lot of unused reserves

Financial performance of the National Bank in 2004 if compared with 2003 has improved significantly -

It was proved by the audit of the National Bank cost estimate execution in 2004 held by the Accounting Chamber.

National Bank of Ukraine took into consideration recommendations of the Accounting Chamber made in the follow-up to the previous audits which improved cost estimate process and eliminated majority of violations while elaborating and adopting this document for 2004, justifying its indices, introducing amendments.

However, the audit showed that financial activity of the National Bank still had a lot of unused reserves to ensure economical, legitimate and effective state funds spending.

One of them is substantial enhancing of effectiveness of capital construction funds use.

The Accounting Chamber Board made conclusion that the National Bank of Ukraine did not ensure effective and rational capital construction funds use.

Numerous corrections of the capital construction plan regarding growing number of objects and decreased financing leads to funds dissipation, increased cost of the objects and respectively expenditures to complete construction in the future periods.

When the number of capital construction objects was doubled (from 35 to 71) Capital Investment Plan for 2004 did not include seven uncompleted construction objects; no works were conducted at nine objects included to the plan, works have been held at five objects for more than six years and were not still completed.

Out of 36 launch objects that cost 106.7 mln. UAH actually only 27 were put into operation, which cost 98 mln. UAH, i.e. funds distraction to uncompleted construction of nine objects to be put into operation in 2004 was 8.7 mln. UAH as for January 1, 2005.

The auditors detected that creation of the National System of Mass Electronic Payments (NSMEP) was delayed continuously because leadership of the National Bank of Ukraine changed its policy in 2003-2004. Consequently, this market was occupied mainly by international payment systems (Visa and MasterCard).

The Accounting Chamber Board paid much attention to production of state awards by Banknote and Coin Yard because, according to the auditors, 197.7 thous. medals "60 years of liberation of Ukraine from fascist aggressors" to be awarded to the soldiers, had been stored at storehouses for a long time; the medals cost 1.7 mln. UAH and were not accepted for storing and paid with prejudice to the contract by the customer State Administration.

Reasons are overstated need for medals by nearly three times by the State Administration and leadership of Banknote and Coin Yard instead of filing claims just sends written reminding to the State Administration that does not give any positive effect.

Th auditors found that with prejudice to the Law of Ukraine "On State Awards of Ukraine", without respective resolution of the President of Ukraine, Department of State Protocol and Ceremonial of the President of Ukraine and State Administration had ordered, and Banknote and Coin Yard had produced 70 medals of precious metals to be awarded to the honourable guests which caused illegitimate spending of 92 thous. UAH of the state funds.

If compared with the war soldier medals made of brass and cost 8.52 UAH, gold medals for honourable guests cost by 400 times more and silver medal cost by 55 times more.

These medals were awarded without any documentation.

The Accounting Chamber Board also made conclusion about low level of control of the National Bank leadership over its structural divisions complying with the standing legislation on state procurement and its violations.

The Accounting Chamber audited labour remuneration funds used by the National Bank and detected that there were extra spending of 513 thous. UAH, extra 46.3 thous. UAH was transferred to pension fund of Ukraine, 165.3 thous. UAH of penalties for non-complying with the standing legislation on new jobs creation for disabled people was transferred.

Low efficiency of property selling that had not been used for a long time, loss making performance of social objects caused ineffective expenditures and losses of 300 thous. UAH in 2004.

Information on the audit results of the cost estimate execution by the National Bank of Ukraine in 2004 was sent by the Accounting Chamber Board to Verkhovna Rada of Ukraine and Secretariat of the President, Report was sent to the National Bank of Ukraine to take measures to eliminate detected violations.

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Considered by the Accounting Chamber Board

October 27, 2005

Funds of the State Property Fund - under state control!

System of financing of activities of the State Property Fund of Ukraine as central executive body and its regional offices at the expense of special fund of the budget program "Measures connected with state property privatization" does not meet generally accepted approaches on the financing sources of the state authorities (at the expense of the general fund of the state budget), creates unequal labour remuneration conditions, material and social support, if compared with other state bodies - it was conclusion of the Accounting Chamber Board having considered Report of the results of the audit of the state budget funds use by the State Property Fund of Ukraine.

The auditors revealed that the reasons were mainly the following: today regulatory framework regulating Fund's activity, accumulation and use of the extra-budget privatization fund was not harmonized with the Budget Code and other standing legislative acts. Wide range of special funds use fields according to the budget program "Measures connected with state property privatization", legislative right for the funds re-distribution by the Fund among articles and improper control of the Ministry of Finance create climate for voluntary use of the budget funds.

The audit revealed that **10.8 mln. UAH** was used with prejudice to the Budget Code and other legislative acts regulating use of the state budget funds and **314 thous. UAH** was used ineffectively.

Mr. V.Symonenko, the Chairman of the Accounting Chamber, stressed at the meeting that unclear purposes and division of the fields of the budget programs realized by the Fund mutilated their essence and actual expenditures allocated both to Fund's activity and its regional offices and to the measures connected with state property privatization.

It was also conditioned by unjustified planning of expenditures of the general fund according to the program "Management and administration in state property sphere" which consists of labour remuneration and benefits at 98%.

As a result, nearly 80% of funds to be allocated to privatization of state property is used to sustain Fund and to provide additional material incentives and social welfare to its employees.

Materials of the audit prove that attraction of mentioned funds to material incentives and social welfare of the Fund employees was made exceeding standard which caused **6.2 mln. UAH to be used with prejudice to the standing legislation**; that enabled providing resort certificates and tickets nearly to all head office employees.

Improper fulfillment of article 15 of the Law of Ukraine "On Procurement of goods, works and services for state funds" on setting of qualification requirements to research and development workers by the State Property Fund caused state budget losses of 250.8 thous. UAH, ineffective use of 314 thous. UAH and 50 thous. UAH was used with prejudice to the Law of Ukraine "On scientific and scientific and technical activity". In particular, LLC "Polar-Invest" spent only ten days to complete the work "Experience of world countries in privatization and state property management and possibilities of its application in Ukraine" which size was 481 pages. The work was paid with 250 thous. UAH but there is **no mentioned report in the Fund.**

Property Fund of Autonomous Republic of Crimea, central authority of Crimea, was sustained with 1.2 mln. UAH of the state budget funds with prejudice to the Budget Code of Ukraine. Funds coming from local budgets to compensate expenditures of local privatization programs were used to sustain some regional offices and branches of the State Property Fund of Ukraine.

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The Accounting Chamber Board proposed to **change system of financial sustaining** of the Fund and its regional offices while forming the State Budget of Ukraine for 2006 and next years. **The fund shall be sustained at the expense of general fund according to the budget program "Management and administration in state property sphere"**.

Information on this issue was sent to Verkhovna Rada of Ukraine, Cabinet of Ministers of Ukraine, Ministry of Finance.

Report on the audit results was sent to the State Property Fund of Ukraine to take necessary measures to eliminate detected violations.

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The World Bank considers the Accounting Chamber a reliable source of information regarding public procurements in Ukraine

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On November 17, 2005 the World Bank mission paid a visit to the Accounting Chamber of Ukraine. Meeting with the ACU management was held within the Bank's working visit to Ukraine aiming at investigating operational efficiency of the national public procurement system.

In the course of the meeting Ukrainian party reported about major indicators characterizing state of public purchases in the country, as well as the position of the Accounting Chamber in the process of the control over public procurements.

International experts expressed their interest in two ACU activity aspects, in particular publicity principle and conclusions on audits conducted.

At the end of the meeting agreement was reached regarding continuing working consultations and providing the World Bank with the information on the subject discussed.

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Considered by the Accounting Chamber Board

07.02.2006

Fraud schemes are flourishing

Existing system of public procurements still has many flaws, violations and ineffective use of the state funds, it was the conclusion of the Accounting Chamber Board having analyzed "Report on the results of control measures held by the Accounting Chamber in 2005 regarding public procurements, formation and placement of the state order". The budget funds administrators did not ensure proper level of competitiveness and transparency of tender procedures, did not take adequate and effective measures to eliminate violations of the standing legislation.

Thus, result of the Accounting Chamber's control measures at 35 sites was violations of the standing legislation on public procurements totally at 3 billion 970 mln. 873.2 thous. UAH. The most widely spread violation is to hold procurement without following the procedures fixed by the standing legislation that make 93.1% of total sum of violations for 2005. The lion's share of these violations was detected in the State Service of Auto Roads of Ukraine.

Such violations as signed contracts without following legislation on procurements; applying for closed tenders with less than two biddings on procurement subject; applying of the closed tender procedure to procurements that are not complicated or specific; applying of the closed tender procedure without agreeing with the Ministry of Economy etc also made negative impact on the transparency of public procurements and ensuring of the rights and interests of bidders. Considerable share (15.3 %) of the state funds is still used on uncompetitive basis with the procedure of one-participant-procurement.

The auditors pointed that main reasons of the violations of procurement legislation detected in 2005 by the control measures of the Accounting Chamber like in previous years are the following: direct ignoring of the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds" and legislative acts issued by the Ministry of Economy and on European Integration on public procurement; improper application of legislation on procurements; lack of necessary regulatory acts of the Ministry of Economy of Ukraine on complying with the Law etc.

Mr. V.Symonenko, the Chairman of the Accounting Chamber, stressed that the budget funds administrators are responsible for improper realization of the Law regarding non-complying with the standing legislation and the Ministry of Economy as authorized body on public procurements regarding ineffective fulfilling its functions fixed in article 3 of the Law.

The Accounting Chamber Board drew attention that explanations given by the Ministry of Economy are untimely and do not cover all issues of procurement procedure, and measures of influence to prevent violations taken by main administrators are formal and ineffective. Analysis function of the Ministry of Economy as authorized body of public procurement is limited to collection and statement of available statistics without deep analysis of background.

Results of the control measures of the Accounting Chamber in 2005 on the funds use of the State Budget of Ukraine allocated to state order proved that **there is no integral system of formation and placement of the state order in the country. Large share of the funds is not used on competitive basis on the stage of state ordering, i.e. illegitimately. Main principle of state ordering that is effectiveness of the state funds use on competitive basis is not ensured by the customers.**

Control function of the Ministry of Economy of is ineffective in this sphere.

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Considered by the Accounting Chamber Board

07.02.2006

Foreign entrepreneurs are subsidized from the State Budget of Ukraine

Violation of the standing legislation by the Cabinet of Ministers of Ukraine, the Ministry of Industrial Policy of Ukraine, the Ministry of Economy and the Ministry of Finance of Ukraine, improper state property management by the Ministry of Industrial Policy of Ukraine, deliberate actions of management of State Enterprise "61 Kommunars Ship Building Plant" on loss-making contracts for shipbuilding for Greek customer caused the situation when nearly 98 mln. UAH from the State Budget of Ukraine was attracted to finance liabilities of business entity and the budget funds were used with prejudice to the standing legislation,

It was the conclusion of the Accounting Chamber Board having audited the state budget funds use allocated to complete building of transportation refrigerator ships.

The Accounting Chamber auditors detected that the Cabinet of Ministers of Ukraine passed decision to allocate budget funds to State Enterprise "61 Kommunars Ship Building Plant" with budget legislation violation in 1997-2002, namely, violation of the Laws of Ukraine "On budget System of Ukraine", "On Enterprises in Ukraine" and Budget Code of Ukraine. Including the measures of completing refrigerator shipbuilding with high level of readiness in 2004-2006 also violated Budget Code of Ukraine.

Results of the audit showed that budget funds of 97.9 mln. UAH was allocated from the state budget to State Enterprise "61 Kommunars Ship Building Plant" in 1997-2005 with violations of the standing legislation and another 43.5 mln. UAH was envisaged by the Law of Ukraine "On the State Budget of Ukraine". Budget funds were allocated at the plant to finance building of transportation refrigerator ships for the foreign customer. Losses of the plant were actually covered from the state budget arising from the fact that the part of contracts for shipbuilding was signed by the former management at the price lower than cost price of such building in 1995-1997.

The auditors also detected that State Enterprise "61 Kommunars Ship Building Plant" was financed at the end of December of 2005. Misbalanced financing of refrigerator ship completing from the state budget led to ineffective use of the state budget funds of 13140 thous. UAH in 2004-2005, including 502.1 thous. UAH in 2005.

Lack of proper control of the Ministry of Industrial Policy of Ukraine over the state budget funds use by State Enterprise "61 Kommunars Ship Building Plant" in 2004 led to inappropriate use of the state budget funds of 180.6 thous. UAH.

While organizing public procurements in 2004 State Enterprise "61 Kommunars Ship Building Plant" did not ensure proper complying with the Law of Ukraine "On Procurement of Goods, Works and Services for State Funds". The enterprise signed contracts totally at 12046.7 thous. UAH with prejudice to this Law, budget funds of 10544.2 thous. UAH was allocated to these contracts.

It was also detected that the state, except for direct allocations for ship completing, granted financial assistance of 48.7 mln. UAH to State Enterprise "61 Kommunars Ship Building Plant" through tax privileges in 2000-2005. Despite this, any progress in financial and economic situation at the plant cannot be observed.

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Considered by the Accounting Chamber Board

20.02.2006

State authorities hamper accommodation cheapening

The state spent 20 mln. UAH in 2004 to launch the State Mortgage Authority, however, its purpose was not reached because mortgage credit volume did not increase, quality of bank credit portfolio did not improve and credit cost was not reduced for people in 2005, it was the conclusion of the Accounting Chamber Board having considered materials of the audit of the funds of the State Budget of Ukraine used by this Authority.

The auditors detected that the Authority refinanced only four mortgage credits amounting to 0.8 mln. UAH at the end 2005 while total sum of mortgage credit of Ukrainian banks was more than 10 billion UAH. Main activity of the Authority, refinancing of mortgage credits, took 2.3 times less than personnel maintenance. Due to such ineffective performance annual income does not cover state funds spent to sustain it.

Due to omission of the Supervisory Board, managerial board of the Authority has not been formed for more than half a year, program of actions for 2005 was not considered and approved, requirements to mortgage credits and securities issuing parameters, conditions and economic terms were not identified, reports and explanations of the Chairman of the Board on routine activities were not heard.

Under such conditions MR. V. Kostytskyi, ex-Chairman of the Board, did not organize proper work to reach the purpose, violated statutory provisions regularly, did not ensure legitimate, effective and rational management of the state funds, which made negative impact on the Authority in 2005.

Nearly half of the year the Authority functioned without structuring, personnel chart and salaries and first regulative documents were adopted by the Board 9 months after the Authority had been established. Activity of the tender committee of the Authority was not organized and oriented to follow the standing legislation and internal regulations on public procurements; just vice versa part of procurements was made without any tender procedures. Exceeding available powers, management of the Authority passed subjective decisions placing state funds on deposit accounts at understated interest rates, which caused income loss of more than 240 thous. UAH.

It was stated at the Accounting Chamber Board meeting that such negative performance results of the State Mortgage Authority had made the state influence on these social and economic relations inadequate to their social importance, which hinders realization of article 47 of the Constitution of Ukraine concerning right of Ukrainian citizens to have accommodation.

While state authorities procrastinate, commercial banks obtain profits from high interest rates of mortgage credits. It, in turn, deprives majority of population of the possibility to use their constitutional right and generate accommodation frauds similar to Elita-Center Company.

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Speech by Mr. Valentyn Symonenko, the Chairman of the Accounting Chamber, at the session of Verkhovna Rada of Ukraine on information of the Cabinet of Ministers "On the state of execution of the State and local budgets for 2005 and influence of the current economic situation on the budget execution in 2006"

14.03.2006



**Dear Mr. Martyniuk!
Dear members of the Government!
Dear people deputies!**

People deputies, our society have already heard much about successful execution of the State Budget of Ukraine for 2005 from the numerous statements of government members and mass media comments.

People deputies, our society have already heard much about successful execution of the State Budget of Ukraine for 2005 from the numerous statements of government members and mass media comments.

The Accounting Chamber being independent control body made the following conclusion on the basis of analysis and monitoring of operational records of the state bodies: the State Budget of Ukraine for 2005 was not executed at all, both by revenues and expenditures.

I would like to emphasize that main reason why the budget was not executed last year was unsatisfactory budget policy held under ineffective economic activity. Achieved GDP growth is 3.2 times less than it was planned.

Non-defined state policy or rather lack of such policy concerning property right, small business, revaluation of hryvna deteriorated investment climate significantly and halted structural reforms of the economy.

Foreign investments should have become the main driving force of economy growth but failed. Although according to the State Statistics Committee foreign capital growth amounted to 7.3 billion USD, which exceeded index of 2004 by 3.3 times. However, revenue of 5.8 billion USD is not capital investments to the economy and determined by the transfer of property rights for "Kryvorozhstal" and Aval Bank to non-residents. Real growth of direct foreign investments decreased almost three times (from 2.3 billion USD in 2004 to 1.5 billion USD in 2005).

Considerable increase of welfare benefits boosted inflation, which the government tried to suppress by enhanced import.

As a result, inflation was not suppressed and last year results showed that external trade balance was negative for the first time for six years and amounted to 1.8 billion USD.

This budget year the situation did not improve. Postponed inflation expectations start manifesting themselves. Consuming price index amounted to 103% in January-February of 2006. Real GDP growth amounted only to 0.9% in January and industrial output even decreased by 2.9%. At the same time, the state budget for 2006 fixed 7% GDP growth and 9.5% industrial

output.

Non-clear situation with natural gas prices, labour remuneration system, other problems prompted the Ministry of Economy to withdraw forecast of social and economic development for 2006. Six weeks have passed - what is next? Mistakes of 2005 are repeated when business had no clear macroeconomic landmarks or so-called signals of its development.

But let's turn back to the results of the previous year. Generally, the budget had 105 billion UAH of revenues or 99% of the sum approved by the law. Main reason is non-executed revenues of the earmarked fund caused by failure to compensate people's savings where settlements were actually made at 1.3 billion UAH or at 42%.

Revenues by 35 billion more were received in 2005 if compared with 2004. Calculations show that three fourth of growth (over 28 mln. UAH) is ensured on account of subjective factors: enhanced fiscal burden on payers caused by cancelled tax privileges, increased payment rates, peculiarities of VAT, mutual settlements and growth of extra payments.

These tendencies persevere this year as well and give clue to paradox when economic activity indices drop but budget revenues grow.

Unfortunately, no positive changes are observed in payment discipline. Debts of tax payers to the budget grew by 600 mln. UAH in 2005 and by 150 mln. UAH in January of this year and amounted to 9.5 billion UAH as for February 1. Debts have grown despite the fact that tax service bodies wrote off 6.8 billion UAH last year that is 1.7 times more than in 2004.

Now about expenditures. Despite excessive revenues of the general fund of the state budget in the last year its expenditures were not executed for more than 1.2 billion UAH. Like in previous years, the Ministry of Finance and the State Treasury restrained expenditures artificially. That's why they were almost 37% of the annual scope in October-December and over 16% in December. As a result nearly 630 mln. UAH was returned to the budget. Quality and effective use of the budget funds are not a matter for discussion under such skunkwork.

One of the problems of the budget execution that remains unnoticed is budget crediting. Last year 1.6 billion UAH or only 66% of credits were granted from the state budget. This year no credits were given at all. Primary reason is unsatisfactory work of the Ministry of finance, other Ministries and institutions regarding return of the credits.

Such situation leads to failure or non-full financing of a number of priority budget programs. For example, to form state food reserve and procurements about 100 mln. UAH was allocated to the Agrarian Fund in 2005 or about 32% of those envisaged in the budget.

It is necessary for the Government under such situation to analyze current practices and possibly to refuse or restrain considerably credits granted directly from the budget delegating this issue to the state banks.

Old practices of surplus budget execution under adopted deficit were applied in the last year. As a result, budget funds balance was 14.7 billion UAH as for January 1, 2006, primarily due to sold Krivorozhstal. These funds allowed to provide for expenditures at the end of the year and to finance arising deficit of 7.9 billion UAH. Expenditures of the budget is underfinanced.

Transfer policy remains one of the most crucial problems. Local budgets received only 91% of planned transfers. Subventions to the local budgets were executed by 73%. In particular, subventions for the privileges to some categories of people and subsidies to people were allocated only at 77%. Subventions to the local budgets for town gas supply amounted to 124 mln. UAH or only 30% of annual plan.

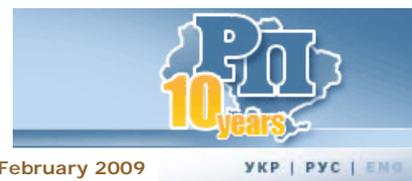
In general, local budget expenditures were executed only by 94 % of the scope approved by local councils. Specific weight of local budgets in common one dropped by 1.5 percentage points although the Budget Resolution envisaged growth.

At the same time, share of transfers in local budget revenues amounted to 43.5% although it was two times less five years ago (in 2000 - 23.4%). It supports dire necessity to transfer real budget resources to the local budgets. Disaster in Alchevsk and other towns are pinprick reminders of the necessity to decentralize budget resources.

To conclude with, I would like to state that we are concerned about economy that is on the verge of stagnation because it jeopardizes approved budget execution.

I hope that today deliberations will not turn into ordinary event but will be useful in choosing and elaboration of vital economic strategy of the state development and effective state budget policy.

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Considered by the Accounting Chamber Board

06.06.2006

Budget funds were used for land reform but land register not created

Today Ukraine does not have integral system of legal and organizational measures to implement land reform, to preserve, reconstruct and provide efficient use of land resources, to organize land management and land surveying, it was the conclusion of the Accounting Chamber Board having considered "Report on the results of the audit of implementation of the state order for land reform and protection of land resources for 2004-2005 made by the State Committee of Ukraine for Land Resources".

The auditors determined that procedure of implementation of the state order introduced by the State Committee of Ukraine for Land Resources did not ensure effective and legitimate use of the funds of the State Budget of Ukraine allocated to this purpose.

The audit showed that legal field of the State Committee of Ukraine for Land Resources and other authorities dealing with land reform needs improving. One of the reasons hampering land reform is doubling functions of the State Committee of Ukraine for Land Resources with other central authorities, namely, the Ministry of Justice of Ukraine, the Ministry of Environment Protection of Ukraine, local authorities and self-government bodies. It especially concerns creation and maintaining of the State Land Register by the State Committee of Ukraine for Land Resources.

The Board pointed out that today Ukraine did not have the State Land Register as single system of information and document management that should be the basis for system of registration of rights of property, pledge and restrictions for property, land management and surveying works, other reform priorities.

Creation and maintaining of the State Land Register should be imposed on the single body. Now these tasks and functions are imposed on the State Committee of Ukraine for Land Resources and the Ministry of Justice of Ukraine.

The audit proved low level of fulfilling of the state order on delimitation of state and communal land. Such situation is connected with lack of methodical and regulatory documents regulating mechanism of these works. The State Committee of Ukraine for Land Resources did not respond to these drawbacks.

The audit also detected facts of the use of the funds of the State Budget of Ukraine by the State Committee of Ukraine for Land Resources and its local offices allocated to the land reform and protection of land resources in 2004-2005: 624.3 thous. UAH inappropriately; 934 thous. UAH ineffectively; 9221 thous. UAH with prejudice to the Law of Ukraine "On procurement of goods, works and services for Public Services" including 5701.6 thous. UAH by central office and 3 519.4 thous. UAH by local offices.

State order for land reform was formed by the State Committee of Ukraine for Land Resources and the Ministry of Economy of Ukraine without taking into account the real need of local offices for quantity and quality indices of its implementation. There are no indices planning and feasibility study. The Committee did not consider draft cost estimates of the lower level administrators regarding legitimacy and correctness of calculations, appropriateness of planned expenditures, correctness of their distribution according to economic classification, compliance with the norms, prices, limits, other indices envisaged in the standing legislation.

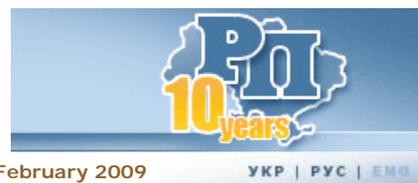
The Board made the conclusion that the State Committee of Ukraine for Land Resources did not ensure proper internal control over forming and fulfilling of the state order.

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Considered by the Accounting Chamber Board

29.06.2006

Money run but not water

Under the lack of effective control from the State Committee for Water Services and office of the State Treasury of Ukraine in Odesa Region, Odesa Regional Production Department for Water Services did not provide for compliance with the budget legislation and effective management of the state budget funds allocated in 2004-2005 for operation of state-wide and interfarm state melioration systems, protection against pernicious influence of waters of villages and farming lands, construction of Kilia and Tatarbuniar group water supply systems, it was the conclusion of the Accounting Chamber Board in the follow-up to the audit of the funds use of the state budget of Ukraine allocated in 2004-2005 to Odesa Regional Production Department for Water Services.

State-wide complex programs on water services approved by the Cabinet of Ministers of Ukraine and regional programs adopted by Odesa Regional Council and Regional State Administration in 2001-2003 do not provide integral complex approach to solution of the water service problems existing in Odesa Region. General and non-clear are the work directions defined by those programs, sources and scope of their financing have no feasibility study.

The auditors detected that financing of the program measures on account of the state budget funds was only 46% of need in 2004-2005. And no money at all was allocated from the local budget in that period, which violated the Law of Ukraine "On state-wide program of development of water services".

As a result, melioration system of the region loses its integrity. Area of irrigated lands has decreased by six times for the last ten years. Despite unsatisfactory technical state of the fixed assets making melioration measures in the region, proper efforts are not taken to replace them. It was detected that Regional Committee for Water Services had spent 3.1 % of total allocations in 2004-2005 in line with the budget program "Operation of the state-wide and interfarm state melioration systems". Remaining funds was allocated to sustaining and provision of Regional Committee for Water Services and its structural divisions (wages, utilities, repair of administrative buildings etc). At the same time, 3.6 mln. UAH was spent ineffectively for wages of workers at Regional Committee for Water Services servicing 120 pumping stations that did not function because there were no applications from agricultural producers.

Financing of construction of Kilia and Tatarbuniar group water supply systems that are necessary to supply people living in the region with quality drinking water was conducted within the scope not-sufficient to complete it. At the same time, 19.1 mln. UAH was allocated from the state budget in 2004-2005 that was used violating the set procedure of adoption of the investment programs and construction projects, their complex state study and state procurement of works and services.

Odesa Regional State Administration did not take proper measures to provide sources of finance and to organize the works of Kilia connection to Kilia group water supply system and waste water treatment facilities to supply Odesa residents with quality drinking water. As a result, effectiveness of budget capital investments of 6.5 mln. UAH allocated to reconstruction of local waste water treatment facilities in 2001-2005 was not ensured.

The Accounting Chamber Board in the follow-up to the audit proposed Odesa Regional State Administration to amend regional programs concerning water services to specify and provide proper feasibility study of planned measures and finance sources, and complex solutions to water service problems of the region.

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Considered by the Accounting Chamber Board

22.08.2006

Quarter billion UAH is the price for the state budget for non-coordinated actions of the National Bank and the Ministry of Finance.

The National Bank of Ukraine did not provide for execution of financial obligations to the State Budget of Ukraine for 2005 in the sum of 254.1 million UAH or over 20%, it was the conclusion of the Accounting Chamber Board having considered results of the audit of the budget of the National Bank of Ukraine in 2005. According to the Law of Ukraine "On the National Bank of Ukraine" it is obliged to transfer margin between extra revenues and budget expenditures.

Primary cause of such execution failure was early repayment of internal state loan bonds from the National Bank portfolio by the Ministry of Finance of Ukraine in 2005 which caused loss of 272 million UAH.

Analysis of the actual status of the budget execution of the National Bank of Ukraine for 2005 and financial performance proved real opportunity to fulfill its financial obligations to the State Budget of Ukraine in full scope despite lack of revenues of the Ministry of Finance.

Thus, having margin between revenues and expenditures of 1643 million UAH and financial obligations to the State Budget of Ukraine of 1209.5 million UAH, the bank transferred only 955.4 million UAH to the State Budget of Ukraine in 2005.

The Accounting Chamber Board noted, that responsibility for non-fulfilled financial obligations to the State Budget of Ukraine for 2005 shall be borne by the Cabinet of Ministers of Ukraine and the Ministry of Finance of Ukraine which did not organize properly execution of this index of the State Budget of Ukraine and did not analyze real status of the bank's budget execution, and the National Bank of Ukraine that had real opportunity to ensure its financial obligations through advance payment but did not initiate these transactions.

Decrease of the forecasted financial performance results of the National Bank of Ukraine and non-coordinated increase of the financial requirements by the Ministry of Finance of Ukraine causes the necessity to correct substantially the budget of the National Bank of Ukraine and creates background for its failure to fulfill its financial obligations to the State Budget of Ukraine.

The auditors found that due to changes made in 2005 revenues of the budget were increased by almost 1.5 times, on 938 million UAH, which under increase of planned expenditures by 10% increased margin between planned revenues and expenditures by 2 times.

Organization of budget process by the National Bank of Ukraine needs further improvement. Changes of budget allocations made during the year were not always consistent and necessary and the analysis of their further execution showed, ineffective in some cases.

Flaws of the budget process organization and departmental control over the funds use caused violations in expenditures for capital investments, procurement of goods, works and services, labour remuneration and welfare, and ineffective and inefficient use of the fixed assets and tangible assets.

During the considerations attention of the chairmanship of the National Bank was drawn to its non-compliance with the Law of Ukraine "On transfer of the art collection of Gradobank to state property. Although Gradobank's debt refunding (9.5 million UAH) was transferred to the bank in December of 2005 and collection was released from pledge, decision of the Board of the National Bank of Ukraine concerning refuse to transfer it was not cancelled and the collection has not been transferred to state property until now.

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Working Meeting of the First Deputy Chairman of the Accounting chamber of Ukraine Mr. Volodymyr Pershyn with the European Commission's Expert

On December 8, 2006 the working meeting of the First Deputy Chairman of the Accounting Chamber Mr. Volodymyr Persyn with the European Commission's Expert Mr. Derek Hunt was held in the Accounting Chamber.

In the meeting also took part the Head of the International Relations Department Mr. Taras Prytula and the Deputy Head of the Division on Special Commission on the Public Procurement Activity Ms. Margarita Gorbach.

The task of the European Commission is to research the public procurement sphere in Ukraine since publishing the World Bank's and SIGMA Reports in the March this year.

During the meeting the sides discussed the gaps of the public procurement system, the ways and methods of its improvement.

Mr. Pershyn reported on developing new draft Law on Goods, Works and Services for the budget funds as well as about activity of the Special Commission on Public Procurement under the Accounting Chamber.

Mr. Derek Hunt informed that the special report will be prepared and presented to the European Commission upon the mission's results with the proposal to start new project on the improvement of the public procurement system in Ukraine.

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Working Meeting of the Deputy Chairman of the Accounting Chamber of Ukraine Mr. Oleksandr Yaremenko with the OECD/SIGMA Experts

On December 13, 2006 the working meeting of the Deputy Chairman of the Accounting Chamber Mr. Oleksandr Yaremenko with the SIGMA's experts Mr. François-Roger Cazala and Mr. Joop Vrolijk was held in the Accounting Chamber. In the meeting also took part the Head of the International Relations Department Mr. Taras Prytula.

The mission task is to observe and analyse the changes that has been made in Ukraine since publishing SIGMA Report in the March this year, particularly in the sphere of the public financial control.

Deputy Chairman of the Accounting Chamber Mr. Yaremenko highly evaluated the conclusions and proposals of the SIGMA Report, made comments on recent amendments on the legislation on public procurement system. Also he informed about the developing of the new draft Law on the Accounting Chamber of Ukraine.

Mr. Yaremenko reported on the activity of the Working Group on internal and external control, reforming budget process, that acts in the framework of the Coordinated Council on performing assesment of the public administration using the SIGMA criteria. He emphasized that the Working Group's proposals, after their approval by the Coordinated Council will be send to the Cabinet of Ministers of Ukraine aiming to be concluded to the new Government Action Plan.

During the meeting Ukrainian side informed about the results of the EUROSAI International Conference "The Role of Supreme Audit Institutions in Figthing Against Fraud and Corruption", organized and held by the Accounting Chamber in September 2006.

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The history of establishment and development of the Accounting Chamber

The Accounting Chamber is a permanent acting body of external state financial control that has been functioning in Ukraine since 1997.

The Constitution of Ukraine adopted by Verkhovna Rada of Ukraine on June 28, 1996, fixed [constitutional status of the Accounting Chamber](#) as the body acting on behalf of Verkhovna Rada of Ukraine and executing control over use of the funds of the State Budget of Ukraine. On July 11, 1996, Verkhovna Rada of Ukraine approved the [Law of Ukraine "On the Accounting Chamber of Verkhovna Rada of Ukraine"](#). On August 19, 1996, the President exercised veto of the approved law. Verkhovna Rada overrode veto in October and the President signed the law.

In December of 1996 Verkhovna Rada of Ukraine assigned Mr. Valentyn Symonenko the Head of the Accounting Chamber. On December 11, 2003, he was re-assigned to this position by the absolute majority of the constitutional composition of Verkhovna Rada of Ukraine.

On December 28, 1996, the President of Ukraine appealed to the Constitutional Court of Ukraine requesting about conformity of the Law of Ukraine "On the Accounting Chamber of Verkhovna Rada of Ukraine" with the Constitution of Ukraine. Having considered the request the Constitutional Court approved the judgment No. 7-zp from December 23, 1997 that recognized some provisions of this law non-constitutional, namely:

Definition of the Accounting Chamber as body of "supreme state financial and economic" control;

Authority of organization and control over revenues of the State Budget of Ukraine;

Authority of control over "revenues of the State Budget of Ukraine obtained from state property management including privatization, selling, property management subjected to state property right".

Provisions of the law prevented the Accounting Chamber from full controlling over execution of the State Budget as integrated process because budget revenues were left out of control that was integral part of the budget process in the state. Reversing this situation needs amendments to the Constitution and further improvement of the Law of Ukraine "On the Accounting Chamber".

On January 17, 2002, people deputies of Ukraine at the second session of the fourth convocation

approved the Law of Ukraine "On Amendments to Article 98 of the Constitution of Ukraine" by the constitutional majority (300 votes for) that was the first time in the history of Ukrainian parliamentarism. According to this Law "Parliamentary control over forming and execution of the State Budget of Ukraine and local budgets regarding financing of local state administrations on behalf of Verkhovna Rada of Ukraine shall be exercised by the Accounting Chamber of Ukraine".

It means that according to the amendment to article 98 of the Constitution of Ukraine approved by the Parliament, the Accounting Chamber got the right to control not only use of the budget funds but forming of revenues of the state and local budgets regarding financing of the local state authorities. However, the President of Ukraine exercised veto again on the amendment to the Constitution introduced by the Parliament.

On December 8, 2004, Verkhovna Rada adopted the Law of Ukraine No. 2222-IV "On Amendments to the Constitution of Ukraine" that reads article 98 of the Constitution of Ukraine

as following:

"Article 98. Control over revenues of the State Budget of Ukraine and their use on behalf of Verkhovna Rada of Ukraine shall be exercised by the Accounting Chamber".

Thus, amended article 98 of the Constitution of Ukraine extended authorities of the Accounting Chamber regarding control over revenues and use of the funds of the State Budget of Ukraine.

The Accounting Chamber is [established by Verkhovna Rada of Ukraine and reports to it](#). Staff of the Accounting Chamber shall be appointed by Verkhovna Rada of Ukraine through secret balloting.

Relations between the Accounting Chamber and Verkhovna Rada of Ukraine are based on accountability, its independent status as the body of special constitutional competence being preserved.

The Accounting Chamber makes annual reports to Verkhovna Rada of Ukraine on its performance results. By consent of Verkhovna Rada its committees may hear reports, information (statements) of the Accounting Chamber on results of audits, revisions and inspections in line with the necessary deadlines.

Relations between the Accounting Chamber and other state authorities are based on organizational and functional independence within the band of authorities set by the applicable legislation.

The applicable law envisages that the scope of control authorities of the Accounting Chamber includes administrative staff of Verkhovna Rada of Ukraine, administration (secretariat) of the President of Ukraine, state authorities including their administrative staffs, the National Bank of Ukraine, the State Property Fund of Ukraine and other state authorities and institutions established according to the legislation. The Legislation also envisages right of the Accounting Chamber to obtain information while its functioning in response to its inquiries from the state and local authorities, enterprises, institutions and organizations regardless of the form of ownership.

Thus all the operations having fiscal consequences for the State Budget of Ukraine conducted by any institutions, organizations, business entities regardless of the form of ownership are subjected to control by the Accounting Chamber. According to terms of effectiveness of the Law No. 2222-IV amended article 98 of the Constitution came into force on January 1, 2006.

Besides, the Accounting Chamber is granted the right, in case of necessity, to involve the experts of any control bodies to its audits. Relations between the Accounting Chamber and audited objects are regulated by the applicable legislation.

In 1998 the Accounting Chamber of Ukraine joined International Organization of Supreme Auditing Institutions (INTOSAI) and in 1999 it was admitted to European Organization of Supreme Auditing Institutions (EUROSAI). Thus, the Accounting Chamber of Ukraine has been recognized [by the international community](#) as the supreme auditing body of Ukraine since 1998. Other supreme auditing bodies of foreign countries also cooperate actively with it. Today the Accounting Chamber of Ukraine has signed [agreements on cooperation](#) with supreme auditing bodies of Poland, Russian Federation, Republic of Bulgaria, Republic of Moldova, Republic of Belarus, Georgia, Republic of Lithuania, Slovak Republic, [Hungary](#), [Republic of Korea](#), [People Republic of China](#). It cooperates actively with the respective Committees of INTOSAI and EUROSAI.

Besides, the Accounting Chamber supports and pays much attention to the cooperation with supreme auditing bodies of CIS that established Board of Heads. Second session of this Board that took place in Kyiv in 2001 chaired by Mr. V. Symonenko approved Declaration of General Principles of Activity of Supreme Auditing Bodies of CIS and Address to the leaders of the countries and parliaments of CIS on formation and development of independent audit.

The Accounting Chamber has managed to solve main task for nearly ten years of its existence - to form as viable constitutional body, to create basis and elaborate new concept of public, independent external state audit in Ukraine. It managed to draw attention of society to the vicious system of budget funds management, to show that the state budget funds belong not to the Government and Ministry of Finance and taxpayers' money and community funds belong to each of us. Noteworthy, that it is the core of the Accounting Chamber as the body whose activity cannot be limited to auditing only. The Accounting Chamber is the body providing society and authorities with real information on the State Budget funds management.

Auditors of the Accounting Chamber apply systematic approach to [the organization of](#)

[audits and analysis of their results](#). Experts of the Accounting Chamber pay much attention in their routine work to analytical activity, appraisal of management effectiveness of the audited objects.

The Accounting Chamber launched new promising areas in response to nowadays challenges, such as audit of the state management informatization, audit of public procurements, ecologic audit, energy saving audit, international audits jointly with foreign partners etc.

The Accounting Chamber is guided in its activity by the principles of legitimacy, planning, objectiveness, independence and publicity considering the law of state budget as the concentrated expression of economic policy for the respective year.

Conclusions and proposals of the Accounting Chamber are oriented primarily to elimination of flaws of the budget process causing ineffective use of budget funds. Examining the draft laws on the state budget, developing proposals for Verkhovna Rada of Ukraine on the use of the funds of the State Budget of Ukraine the Accounting Chamber is directly involved in improvement of the budget process.

Legislative field of Ukraine undergoes permanent changes. Thus priority of the Accounting Chamber is to search for "black holes" in the financial system of the country that allow "leakage" of state resources. It not only detects violations but identifies causes and pinpoints ways of violation elimination and prevention.

The Accounting Chamber has detected many violations of misuse of the budget funds both in central and local authorities for the years of its functioning. Materials on the violations are submitted to the prosecutor's bodies to take appropriate measures. Various state authorities made many conclusions and proposals of the Accounting Chamber the basis of flaws elimination and took them into account in economy reforms, in financial and economic crisis management plans.

Inter alia, these are the proposals of the Accounting Chamber on the budget legislation improvement, effective use of the budget funds, eradication of the vicious netting practices, appraisal of the state debt of Ukraine and the debt management.

The Accounting Chamber informs regularly the President, headship of Verkhovna Rada of Ukraine and the government on the most important performance results. Information bulletins are issued in the follow-up to auditing, auditing and analytical and expert measures, which are disseminated among people deputies of Ukraine, central authorities; mass media announcements are issued.

Ten years of the Accounting Chamber activity proves growing interest of all branches of power and public to it and its rising authority.

International recognition of the Accounting Chamber also advanced, as being a full-fledged member of international organizations of supreme audit bodies INTOSAI and EUROSAI the Accounting Chamber is deeply involved in their activities.

In view of the flaws in the state financial resources management of Ukraine the Accounting Chamber should take higher profile in the nearest future in fulfilling the regulations set by the Constitution and Laws of Ukraine. Mr. V. Symonenko, the Chairman of the Accounting Chamber of Ukraine is convinced that today reform of the state finance control system is crucial and the Accounting Chamber should be leader in this process as independent state body accountable only to the Parliament of Ukraine. To raise the effectiveness of the use of the funds of the state budget of Ukraine, to ensure control functions of the Accounting Chamber imposed by the Constitution and laws of Ukraine territorial offices were set up on with the status of structural divisions of the Accounting Chamber in regions according to Resolution of Verkhovna Rada of Ukraine from June 15, 2004.

The Accounting Chamber is the chief advisor of society and state leadership on all issues concerning effective and transparent management of the budget resources including reduction or canceling of state activities unjustified under market economy as only the Accounting Chamber can make qualified audit of revenues and expenditures of the State Budget of Ukraine which secures the right of people to control transparent, appropriate and effective use of the community funds, i.e. taxpayers' funds.

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Public Procurements: Yesterday, Today and Tomorrow

On March 1, 2007 the working meeting of the First Deputy Chairman of the Accounting Chamber of Ukraine Mr. Volodymyr Pershyn and the Chief Inspector-Director of the Department Mr. Vyacheslav Pylypenko with the representative of the USAID/TIBA project Mr. Simeon Sahaydachny was held at the Accounting Chamber of Ukraine.

The purpose of the meeting was to discuss the issues concerning the system of public procurements in Ukraine. The expert of the project emphasized that the project task is to provide the technical support for signing of Ukraine the WTO Agreement on public procurements.

At the beginning of the meeting the participants discussed the amendments which were revised to the Ukrainian legislation regarding the public procurements during the last two years and noted on positive and negative results of these amendments.

Besides, the activity of the Special Control Commission on the Public Procurements was discussed. It was also mentioned that today this Commission is under the chairmanship of the Accounting Chamber, but from March 12 it will be transformed into the Interdepartmental Commission on the Public Procurements.

The participants also discussed the other amendments, which were revised according to the Law of Ukraine "About amendments to the legislative acts of Ukraine concerning the public procurements of the goods, works and services" dated 01.12.2006. These amendments will go into effect from March 12, 2007.

During the discussion the representatives of the Accounting Chamber also emphasized that the principal issue is to provide the transparent and the efficient system of the public procurements in our country. In general, the participants of the meeting came to the conclusion that there are a lot of problems on the legislative level, as well as on the level of ministries and local authorities, which take part in the process of public procurements.

At the end of the meeting the participants stressed on a readiness for the further cooperation with the purpose of improvement of the system of public procurements in Ukraine.

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Minutes Of I Meeting of the EUROSAI WGEA Special Subgroup on the Audit of Natural, Man-Caused Disasters Consequences and Radioactive Wastes Elimination

I Meeting of the EUROSAI WGEA Special Subgroup on the Audit of Natural, Man-Caused Disasters Consequences and Radioactive Wastes Elimination was held on March 16, 2007 in Kyiv, Ukraine.

The representatives of the Supreme Audit Institutions from 9 countries, in particular Azerbaijan, Germany, European Court of Audit, Netherlands, Poland, Russian Federation, Slovak Republic, France and Switzerland came to Kyiv.

In addition officials of Ministry of Environmental Protection of Ukraine, Ministry of Emergencies and Affairs of Population Protection from Consequences of Chernobyl Catastrophe of Ukraine and Parliamentary Committee on the Issues of Ecological Policy, Natural Management and Elimination of Consequences of Chernobyl Catastrophe took part in I Meeting as well.

Objectives of I Meeting were specified as follows:

- approval of the Work Plan of the Special Subgroup for 2007-2008;
- approval of the List of common issues for the International Co-ordinated Audit of the Chernobyl Shelter Fund;
- discussion of the date and place of II Meeting of the Special Subgroup.

The Chairman of the Accounting Chamber of Ukraine Dr. Valentyn Symonenko in his opening statement welcomed all Meeting participants and outlined **key milestones of establishment of the Special Subgroup, its overall goal and primary tasks.**

Representatives of Ukrainian authorities expressed their support of the initiative of the Accounting Chamber and stressed upon the extraordinary nature of the issues related to the consequences of the Chernobyl catastrophe and radioactive wastes elimination for European community.

Mr. Mykhailo Borysyuk, Head of Secretariat of Parliamentary Committee on the Issues of Ecological Policy, Natural Management and Elimination of Consequences of Chernobyl Catastrophe emphasized that Ukraine remained in the heart of the most global catastrophe of the 20th century - Chernobyl catastrophe.

Mr. M. Borysyuk also **covered legal fundamentals of the state policy on the Chernobyl issues**, amounts of the **State Budget funds allocated to these tasks, projects realized on the Chernobyl site**, progress of negotiations concerning construction of the new confinement.

The representative of Parliamentary Committee mentioned that there were several reasons for improper realization of the international projects, which had both objective nature due to originality of such works and subjective nature due to project management's shortcomings.

Mr. M. Borysyuk also underscored that Parliamentary Committee welcomed conducting independent internal and international co-ordinated audits in accordance with regulations followed by respective funds and accounts of the international assistance with the aim of legal collisions' avoidance.

In conclusion, the representative of Parliamentary Committee noted that during last year some positive changes occurred concerning preparatory works on decommissioning the Chernobyl NPP and transforming the Shelter Object into an environmentally safe system. In Committee's opinion, under such circumstances it will be possible to begin decommissioning works till 2010.

After approval of I Meeting Agenda the participants considered its Theme I - **Work Plan of**

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the EUROSAT WGEA Special Subgroup on the Audit of Natural, Man-Caused Disasters Consequences and Radioactive Wastes Elimination for 2007-2008.

Presenting the Work Plan the Chairman of the Accounting Chamber of Ukraine **Dr. V.Symonenko** outlined **basic issues incorporated into the Plan** for current and following years. Chairman also suggested Meeting participants should exchange their views and submit motions to the Plan's contents.

Within the framework of cooperation with **the Netherlands Court of Audit** - Chairman of the Task Force on the Accountability and Audit of Disaster-Related Aid - **Mr. Egbert Jongsma, Project Manager Tsunami** took part in I Meeting of the Special Subgroup.

Mr. E. Jongsma gave a short overview of INTOSAI Tsunami Task Force, specifying its **objectives**, primary **tasks** and **initial achievements**, specific activities. The representative of the Netherlands also introduced **web site** of the Tsunami Task Force and expressed keen interest in placing Special Subgroup's **relevant materials** and **information** on this site.

The presentation included some issues regarding specificity of auditing aid provided to elimination of natural disasters. In particular Mr. E. Jongsma mentioned on the one hand about complex web of given aid and on the other hand about existing mandate restrictions of concerned SAIs.

Netherlands auditor gave special attention to conducting pilot studies of the possibility of **using Geographic Information System for auditing disaster-related aid.**

Mr. E. Jongsma finished his presentation with the statement that Tsunami Task Force was planning **to provide illustrative examples** of the added value of using geographical information for auditing at **INCOSAI 2007 in Mexico**. They also aim to convince INCOSAI to **make auditing disaster-related aid a Sub-theme for the next INCOSAI 2010.**

Mr. E. Jongsma suggested a possibility of combining efforts of both INTOSAI Tsunami Task Force and the Special Subgroup and **incorporation of latter materials to the agenda of INCOSAI 2010.**

After presentation of the Netherlands representative the Chairman of the Accounting Chamber **Dr. Valentyn Symonenko** suggested the Meeting participants should return to **discussion of Agenda Theme I - Work Plan of the EUROSAT WGEA Special Subgroup for 2007-2008.**

Chief Inspector of the Inspection for control over Federal Budget expenditures on conversion **of the Accounts Chamber of the Russian Federation Mr. Nikolay Laskin** introduced a motion to consider the time frames of conducting national audits after receiving additional information about mandates of SAIs while auditing the Chernobyl Shelter Fund.

In addition, **Ms. Ewa Borkowska-Domańska**, main expert from the **Supreme Chamber of Control of Poland** specified the dates of the EUROSAT WGEA Meeting in Bratislava that would take place in October 2007 and procedure of informing INTOSAI and EUROSAT community about the progress of the Special Subgroup in relevant publications.

After break the meeting was renewed under the chair of the **First Deputy Chairman** of the Accounting Chamber of Ukraine **Mr. Volodymyr Pershyn** who gave the floor to the Deputy **Minister of Emergencies and Affairs of Population Protection from Consequences of Chernobyl Catastrophe of Ukraine Mr. Volodymyr Kholosha.**

Mr. V. Kholosha gave an **overview of the projects** financed from the Chernobyl Shelter Fund, Nuclear Safety Account and by the European Commission. These projects are realized to transform the Shelter Object into an environmentally safe system.

In addition, Deputy Minister mentioned that due to delay in construction of the new confinement it was decided to carry out stabilization measures aimed at strengthening existing Shelter Object. These measures were financed from the Chernobyl Shelter Fund. Mr. V. Kholosha also informed about placing into operation Liquid Radioactive Wastes Treatment Plant.

In conclusion, Mr. V. Kholosha emphasized that the Ministry of Emergencies and Affairs of Population Protection from Consequences of Chernobyl Catastrophe considered increasing the efficiency of utilization of international aid funds aimed at transformation of the Shelter Object into an environmentally safe system as the objective of the International Co-ordinated Audit of the Chernobyl Shelter Fund. The Ministry laid hope that this audit would be conducted in compliance with guiding regulations of the Chernobyl Shelter Fund.

Then the floor was given to Mr. Stepan Lizun, Deputy Minister of Environmental Protection of Ukraine.

Reporter focused his attention to **Basel Convention Audit** that is one of the issues of the Work Plan of the EUROSAL WGEA Special Subgroup for 2007-2008.

Mr. S. Lizun gave some examples about transportation of hazardous chemical wastes to Ukraine from Hungary and other European countries. Deputy Minister emphasized that storage of such wastes on the territory of Ukraine affected current ecological situation.

In conclusion of his presentation Mr. S. Lizun suggested that Meeting participants should cooperate with the Ministry of Environmental Protection while conducting Basel Convention Audit.

The next question, which was discussed within the Meeting Agenda, was the **approval of the List of common audit issues for the International Co-ordinated Audit of the Chernobyl Shelter Fund.**

First Deputy Chairman of the Accounting Chamber Mr. V. Pershyn expressed his gratitude to all SAIs participated in elaboration of the Co-ordinated Audit Program Assumptions, provided their suggestions and confirmed their involvement in this audit.

Mr. V. Pershyn informed about the results of previous audits of the Accounting Chamber of Ukraine on the issues of utilization of Chernobyl Shelter Fund's resources. Reporter outlined that **international measures** regarding elaboration of the ecologically acceptable solutions to the problem of Shelter Object **in the beginning of 2007 were financed only at 25 % of their readiness**; delay in realization of different projects amounted from 3 to 7 years; at that time none facility had been completed in fact and **design solution of the new confinement was absent.**

First Deputy Chairman noted that due to repeated threat of a new catastrophe the Accounting Chamber of Ukraine raised an initiative regarding conducting the International Co-ordinated Audit of the Chernobyl Shelter Fund.

Chairman of the Donor Assembly of the Chernobyl Shelter Fund, Chairman of the Parliament of Ukraine, Prime-Minister of Ukraine and Secretary of the National Security and Defence Council of Ukraine were informed about this audit.

After overview presentation of the First Deputy Chairman Mr. Volodymyr Pershyn the floor was given to the **Director of the EBRD Nuclear Safety Department Mr. Vince Novak.**

Mr. Vince Novak covered basic **institutional practices of the Bank**, including operations of the Chernobyl Shelter Fund in his presentation.

Invited guest reported that so far 3 so called management audits had been conducted in Chernobyl and the third final audit report was expected in the end of April.

EBRD representative finished his presentation with the **procedure of money disbursement from the Fund**, which is allocated solely to contractors under Grant Agreements and only after the recipient - Chernobyl NPP - and the Western management consultants have confirmed actual performance of the works. Currently more than 80 projects within SIP framework have been completed.

Following Mr. Novak's statements, the Chernobyl Shelter Fund is rather controlled and very transparent entity. Thus, **in the opinion of the EBRD Department Director**, the participants of the International Co-ordinated Audit of the Chernobyl Shelter Fund should **decide themselves what indeed is the audit purpose and anticipated results.** Informing the Donor Assembly about the planned audit, its objectives and tasks is seen as the first step in this regard.

The information on conducting the International Co-ordinated Audit of the Chernobyl Shelter Fund was further detailed in the presentation of the Chief Controller - **Director of the Department for Agro-Industrial Complex, Nature Conservation and Emergencies Issues** of the Accounting Chamber of Ukraine **Ms. Mariya Shulezhko.**

Ukrainian Chief Controller informed the Meeting participants about **peculiarities** while preparing the **Audit, its objectives, tasks and criteria.** The reporter called attention to the **Common Audit Issues** for participating SAIs, agreed upon the results of the meeting in November 2006 in Luxembourg, and existing audit mandates.

Director of the Department shared the matter of the Audit problem, need for elaboration of comprehensive approach towards solution of the problem of transforming the Shelter Object into an environmentally safe system by the international community and possible reasons for

non-execution of scheduled measures at the Chernobyl NPP.

Ms. Shulezhko emphasized **two stages of the International Audit conducting** by the Accounting Chamber of Ukraine and other participating SAIs in I half of 2007, as well as drawing the Joint Report by SAI of Ukraine as the Audit Co-ordinator in 2008.

Mr. Jacek Kolasinski, Head of the Cabinet, from the **European Court of Auditors** was the next presenter who gave an overview on the audit on the use of the EU funds in making the Chernobyl site environmentally safe which was commenced in autumn 2006 by the Court.

European auditor specified the issues of **audit justification, audit scope, risk assessment, approach and last developments** in his presentation.

One of the biggest TACIS projects on construction of the Solid Wastes Facility, having been financed by the Commission since 2001, as well as the Nuclear Safety Account and the Chernobyl Shelter Fund, having been administered by the EBRD since 1994, are going to be checked in the course of the audit.

It will be a combined audit encompassing performance audit, regularity and legality audits.

Mr. Jacek Kolasinski concluded his presentation with some information about audit suspension by the European Court of Auditors due to investigation officially launched by OLAF (European Anti-Fraud Office) in January 2007 on the case of bribing one of TACIS contractor's employee. The Court will not resume commenced audit until the investigation is closed.

In European auditor's opinion, only audit of real projects performed on the Chernobyl site will bring some added value of the results.

According to Agenda Theme II on the Common Audit Issues of the International Co-ordinated Audit, auditor of the **German Federal Court of Audit Mr. Thomas Weidmann** made a presentation on preliminary results of national audit initiated in January 2007.

Mr. Thomas Weidmann informed his colleagues about German Work Plan, audit scope, performed activities and arisen problems, as well as possible ways of their solution.

Thus, German auditors plan to check efficiency of utilizing German contribution to the Chernobyl Shelter Fund, procedure of awarding the contracts with companies-winners and final payments hereunder. SAI of Germany will also look at the activities of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety at the Donor Assembly, in particular level of representation of national interests.

Federal Ministry is active in this regard and in February 2007 forwarded its requirements to the EBRD concerning improving cost and risk management and providing solid and transparent procurement procedures.

Mr. Thomas Weidmann drew attention to **existing conflict of interest between Project Management Unit (PMU, Western consultants) and Chernobyl NPP management**, when the latter refused to accept tender decision and award the contract to the French Company Novarka.

The reporter also mentioned about current mandate restrictions of the German SAI in part of auditing executed contracts under Grant Agreements and Management audit of the PMU/ChNPP.

National audit report is going to be finalized by the Federal Court of Audit in the end of May.

The presentation of the **Chief Inspector of the Inspection for control over Federal Budget expenditures on conversion of the Accounts Chamber of the Russian Federation Mr. Nikolay Laskin** was also incorporated into I Meeting Agenda. Mr. Nikolay Laskin made a presentation on the vision of the Russian auditors regarding conducting the Chernobyl audit.

The problem of eliminating consequences of the Chernobyl accident is given special consideration both on governmental and public organizations' level in the Russian Federation.

In the Russian auditor's opinion, it is necessary first to **receive appropriate authority** from the EBRD and Donor Assembly to conduct such audit activities.

Mr. Nikolay Laskin believes that participants of the International Audit, possessing approved authorities, should **audit the entities where financial resources are located**, decisions on disbursements and their volumes are made and **selection** of SIP executors is performed.

Accounts Chamber of the Russian Federation could review, in particular, works performed by the Russian Atomic Energy Agency, as the representative of the Russian Federation in the

Donor Assembly, in situ Atomstroyexport Company, forming the Stabilization Consortium. SAI of the Russian Federation could also assess activities carried out by Kurchatov Institute participating in this project as well.

Mr. Werner Tschopp, auditor from the Swiss Federal Audit Office was the last to make presentation within Theme II of the Meeting Agenda. The auditor elaborated **two practical documents** to be used while conducting the Chernobyl Shelter Fund Audit.

The first document is the Inventory List of the Projects realized on the Chernobyl site within the SIP, which account for more than 80 projects. This List contains some basic information on projects names, their period of realization, estimated costs and achieved per cent of performed activities. In addition, while completing this List key persons and organizations, involved into decision-making, financing, realizing and auditing, including Supreme Audit Institutions, will be specified.

After this Inventory List being completed by the audit participants, it will be possible to define the projects, which have the highest risks and are critical to attain strategic goal - transforming the Shelter Object into an environmentally safe system.

Such work will be logically extended by filling in another document - **Checklist for Public Procurement Projects**, in which on one hand we have the mentioned Inventory List of Projects and on the other hand the author asks various questions usually emerging in the course of the audit.

In Mr. Werner Tschopp's opinion, **the outcome of planned Audit is to realize what is necessary to make secure environment** for suffered population living in Ukraine, Russian Federation and Belarus.

After the presentation of the Swiss SAI's representative the Chair of Theme II **Mr. Volodymyr Pershyn suggested including above said Inventory List of Projects into the List of common audit issues of the International Audit**. The participants approved this suggestion.

Following discussions of I Meeting of the Special Subgroup on the Audit of Natural, Man-Caused Disasters Consequences and Radioactive Wastes Elimination, the Meeting participants **agreed** on the following:

1. Taking into account tabled suggestions, **Special Subgroup Secretariat** should **update the Work Plan** of the Special Subgroup for 2007-2008 and the **List of common audit issues** for the SAIs participating in the International Co-ordinated Audit of the Chernobyl Shelter Fund and submit revised documents to Meeting participants for consideration.

2. **To prepare** relevant information on the Special Subgroup activities and progress of the International Co-ordinated Audit of the Chernobyl Shelter Fund **to be presented during XI INTOSAI WGEA Meeting** in Tanzania in June 2007.

3. **To hold** a separate **working meeting on the International Co-ordinated Audit** of the Chernobyl Shelter Fund **within V EUROSAI WGEA Seminar** in the Slovak Republic in October 2007.

4. **To conduct II Meeting** of the Special Subgroup in IV Quarter of the year 2007 in Kyiv.

Participants of I Meeting of the Special Subgroup March 16, 2007 Kyiv, Ukraine

SAIs - participants of the Special Subgroup:

Azerbaijan:

- Mr. Jafar Hasanov - Auditor;
- Ms. Fargana Aliyeva - Consultant

European Court of Auditors:

- Mr. Jacek Kolasinski - Head of the Member Cabinet

Poland:

- Mr. Andrzej Kubiak - Legal advisor;
- Ms. Ewa Borkowska-Domańska - Main expert

Russian Federation:

- Mr. Nikolay Laskin - Inspector;
- Mr. Vladimir Kuleshov - Consultant

Slovak Republic:

- Ms. Annamária Viziková - Auditor

Ukraine:

- Dr. Valentyn Symonenko - Chairman;
- Mr. Volodymyr Pershyn - First Deputy Chairman;
- Ms. Mariya Shulezhko - Chief Controller - Director of the Department

Switzerland:

- Mr. Werner Tschopp - Auditor

Invited SAIs:**Netherlands:**

- Mr. Egbert Jongsma - Project Manager Tsunami

Germany:

- Mr. Bernd Rose - Auditor;
- Mr. Thomas Weidmann - Auditor

France:

- Mr. Michel Babeau - Conseiller référendaire

Invited Ministries and Organizations:**Ministry of Environmental Protection of Ukraine:**

- Mr. Stepan Lizun - Deputy Minister

Ministry of Emergencies and Affairs of Population Protection from Consequences of Chernobyl Catastrophe of Ukraine:

- Mr. Volodymyr Kholosha - Deputy Minister

Parliamentary Committee on the Issues of Ecological Policy, Natural Management and Elimination of Consequences of Chernobyl Catastrophe:

- Mr. Mykhailo Borysyuk - Head of Secretariat

European Bank for Reconstruction and Development:

- Mr. Vince Novak - Director of the Nuclear Safety Department

Chernobyl Shelter Fund:

- Mr. Alexander Slavis - Representative of the Chernobyl Shelter Fund in Ukraine

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Considered by the Accounting Chamber Board

23.03.2007

Administrative disability of the authorities - losses for community

Volyn Regional State Administration, local authorities did not provide for effective management of the state budget subvention in 2005-2006, which hindered achieving of the subvention goal - to solve social issues of the region population - it was the conclusion of the Accounting Chamber Board made in the follow-up to the effectiveness audit of the state budget subvention use for investment project realization in Volyn Region.

Education, health care, housing construction facilities were not put into operation in due time, which hampered providing medical and educational services to the region population and providing housing for military officers. Taking into account that nearly half of uncompleted construction is gasification sites, lack of proper financing and halting of construction does not ultimately improve living conditions in rural areas and deepen social tension.

Planning and formation of list of the sites financed from the state budget subventions for investment projects were held by Volyn Regional State Administration and local authorities under lack of substantiated approach and with violation of legislation.

Many new sites and sites with financing volumes to be several times less than their cost estimate value included in the list, lack of financing for completing sites with high level of construction readiness are the prerequisites for growing number of long-constructed sites in the region and uncompleted construction, dissipation of the funds.

Subvention administration was made by Volyn Regional State Administration and local authorities unsystematically that is caused by the lack of relevant state and regional programs.

Unsatisfactory management of the available financial resources led to violation of the applicable legislation in using of the subvention totally at 26.2 million UAH (or 35.1 % of financed assignments). 3.2 million UAH of the state budget subvention was used inappropriately, 2 million UAH out of it was used for routine repair of municipal road instead of capital outlays.

Local Self-government bodies of Lutsk and Volodymyr-Volynskiy contrary to the Law of Ukraine "On protection of cultural heritage" did not establish local bodies of historic heritage protection; there are no complex programs of preservation of this heritage with defined sites and regularity of works which led to the funds dissipation among sites, delays in works, performing of the works at 2 million UAH without proper licenses of the central authority for cultural heritage protection and without approved project and cost estimate documents.

Department for Capital Construction of Volyn Regional State Administration and Lutsk City Executive Committee and other funds administrators in violation of the Law of Ukraine "On procurement of goods, works and services for the state funds" used subvention without tender procedures at 9.1 million UAH and with violation of procurement procedures at 4.6 million UAH.

Contrary to the Budget Code of Ukraine regarding co-financing of the investment projects from the local budgets, co-financing volumes were in some cases formal and did not become effective instrument in construction completing. Only 8% of the state budget subvention was allocated from the local budgets of Volyn Region to co-finance sites. In many cases funds were allocated under lack of co-financing or up to 100 UAH per site. It led to ineffective use of 3.6 million UAH of subventions for financing of the sites not put into operation in due time.

In addition, due to ineffective management of the subvention 1.2 million UAH of unused allocations was returned to the state budget at the end of 2005-2006 that could have been used to solve social issues of Volyn Region.

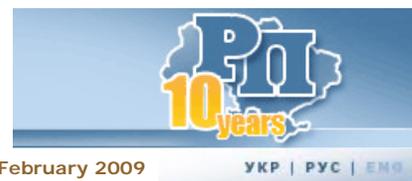
Untimely approval of the regulatory documents on formation and use of subvention and underfinancing of planned subventions by the Cabinet of Ministers of Ukraine also had negative impact on solving of social issues in towns of Volyn Region.

So, Procedures of subvention granting for investment project realization and lists of sites financed in 2005-2006 from subventions were approved by the Cabinet of Ministers of Ukraine with much delay; due to it subventions from the state budget were not granted to the local budgets of Volyn Region during five months of 2005 and financing started only in August of 2005 and July of 2006.

Conclusion made in the follow-up to the audit was forwarded to Volyn Regional State Administration for relevant responding. Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine were informed about the audit results.

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Considered by the Accounting Chamber Board

16.05.2007

The report of the Antimonopoly Committee does not reflect its activities in full

According to the functions provided for by the Law of Ukraine "On the Accounting Chamber", the Accounting Chamber carried out the preliminary analysis of the Report of Antimonopoly Committee of Ukraine (ACU) on its activities in 2006.

The analysis demonstrated the continuing trend of providing limited and fragmentary information in the reports of the AMC. This does not provide a full view of the situation in the commodity and services markets and does not allow evaluating the impact of the Committee on the processes going on in these markets.

The report of the Antimonopoly Committee of Ukraine for 2006 does not provide full information as to the exercise by the Committee of its powers regarding the control over the compliance with the law on the protection of economic competition. The low efficiency of measures undertaken by the AMC, which were aimed at actual elimination of the breaches of the law on competition, did not allow preventing or eliminating the causes of such breaches in the markets of commodities and services that took place in Ukraine during 2006. First of all, this concerns the AMC's inability to protect the Ukrainian economy from the imposition of prices for gas. The absence of reaction to the situation that arose in this market does not make for the protection of the national interests regarding the procurement of energy carriers on a competitive basis.

The Committee has been taking a passive stand towards the merger of enterprises-monopolists for a long time, which results in an unjustified concentration of business entities, and this, in its turn, entails a significant increase of economic dependence of each specific consumer, who has to get the services from one business entity. The pro-forma approach of the Antimonopoly Committee of Ukraine to the issue of granting the permits for the concentration of business entities may evidence the granting of illegal advantages to some market players.

In the opinion of the Accounting Chamber experts, during the reporting period the Committee did not pay due attention to the protection against unfair competition. The indicators of the results achieved in this area are not provided in the Report, despite the statements on the violation of fair practices and rules in business activities.

The Committee's report also fails to reveal the actual state of competition and monopolism in Ukraine, its impact on the formation and the implementation of competitive policy. There were numerous cases of purely formal approach of the AMC to the preparation of claim papers for the court proceedings, a weak evidence base of the offences, which was not enough to protect the Committee's position in public and competitive court proceedings. The ignoring of such means of protecting the interests of the state, consumers and business entities as the legal recourse, on one's own initiative, to receive the compensation of losses, deprives the Antimonopoly Committee of the opportunity to exercise its powers in full.

The Accounting Chamber Board made the conclusion that the Report does not fully reveal the activities of the Antimonopoly Committee of Ukraine relating to the objectives stipulated in article 3 "The objectives of anti-monopoly committee of Ukraine" of the Law of Ukraine "On Antimonopoly Committee of Ukraine".

The analysis of the Report of the AMC of Ukraine, pursuant to the resolution of the Accounting Chamber Board, was sent to the Verkhovna Rada of Ukraine.

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Considered by the Accounting Chamber Board

24.09.2007

Insured person can get recreation tour voucher once in 50 years in the Fund of Social Insurance for Temporary Working Disability

Unsatisfactory working conditions, lack of financing of health care system, unfavourable environmental situation lead to deterioration of health of Ukrainian people. According to statistics, index of conditional health of people plummeted from **62.6%** in 1990 to **26.1%** in 2006.

It is known that one of instruments to preserve and recreate health is sanatorium and resort treatment and recreation. Recreation of the insured persons and their family members was imposed on the Fund of Social Insurance for Temporary Working Disability.

In 2006 the Fund did not ensure proper realization of tasks related to recreation of the insured persons and effective management of the funds for this purpose - it was the conclusion of the Accounting Chamber Board having considered "Report effectiveness results of the funds use of the Fund of Social Insurance for Temporary Working Disability for recreation measures".

One of the reasons of ineffective use of insurance funds was improper follow-up to preliminary conclusions of the Accounting Chamber Board and failure of comprehensive and timely measures to eliminate detected violations and drawbacks. Consequently, legal regulation of recreation services still has many drawbacks and permits allocation of the funds to directions not related to tasks of this insurance type (sustaining of children sport schools, purchase of new year presents). Such situation in 2006 prevented from recreating 80 thousand people.

According to the Budget Code of Ukraine execution of expenditures for sustaining of state specialized sanatoriums for children and teenagers is imposed on the state budget and realization of state programs of extra-curriculum children services and sustaining of children and teenager sport schools on the local budgets. It means that budget obligations of all levels are imposed on the Fund.

The Accounting Chamber auditors note that functioning recreation system on account of Fund of Social Insurance for Temporary Working Disability is ineffective and can not ensure realization of right of insured persons for sanatorium and resort treatment and recreation according to their need. Judging by the funds allocated by the Fund annually to sanatorium and resort treatment insured person can get recreation tour voucher once in 50 years, i.e. majority of insured persons can not get recreation tour voucher within workable age.

In 2006 only 3.1% of the insured and 2.4% of their children underwent treatment and recreation in sanatorium and resort centers and their rehabilitation divisions.

Rate of the fund expenditures growth is incompatible with recreation tour voucher price growth. So, in 2006 average price of 1 day of recreation in sanatorium and resort centers on account of the Fund was 101.8 UAH and grew nearly by one third if compared with 2004 while expenditures for purchase of sanatorium and resort vouchers increased by only 22%.

Reforming of Ukrainian economy caused changes of organizational and legal forms of property of sanatorium and resort centers. More than two third of them are in private property today which was one of the reasons of service price growing. Recreation of insured persons is practically halted in sanatoriums. To provide the insured persons with quality and effective treatment their logistic base needs renovation. Creation of price reasonable recreation and improvement of its quality is an urgent issue of sanatorium and resort sector development.

The Accounting Chamber experts note that the Board and executive board of the Fund did not provide proper organizational support of recreation measures in 2006 and the Ministry of

Labour - proper state supervision over the Fund. It caused low-quality services of sanatorium and resort treatment, returning of vouchers and unused funds of the Fund. In 2006 the Fund offices returned 14.7 thousand tour vouchers to sanatoriums totally at 31.3 million UAH.

Long-lasting process of procedure of procurement of services of sanatorium and resort treatment led to more than one month delay of recreation commencement. Procurement of vouchers was held without preliminary study of recreation center network and their logistic base. Some centers, winning bidders, were not ready to provide quality services.

To satisfy needs of the insured persons procurement of services of sanatorium and resort treatment need special procedure of increased quality criteria and considered season character of the service.

Conclusions of the Accounting Chamber Board with proposals on elimination of the detected violations and drawbacks were submitted to the Ministry of Labour and Board of the Fund of Social Insurance for Temporary Working Disability. The audit results were submitted to the Committee of Verkhovna Rada of Ukraine for Social Policy and Labour and the Cabinet of Ministers of Ukraine.

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Considered by the Accounting Chamber Board

28.11.2007

Some Ukrainian teens don't notice summer

Caring about children's health is a major factor of the country's attitude to the issue of the younger generation. The UN convention on children's rights ratified by the Parliament in 1991 proclaims that children do not only have personal needs, but also civil, political, social, cultural and economic rights. One of the most important issues of our state in caring for the social security of childhood is providing children with the right for recuperation, while statistics say that the general health status of Ukrainian children is deteriorating. In particular, if in 2000 the new onset incidence rate was 114.4 diseases per 100 thousand children, in 2006 it was already 128.1 thousand.

The Clearing House Planning Collegium reviewed the results of the audit as to the efficiency of spending the national budget funds allocated for children's recuperation in the summer 2007, and concluded that the children's summer recreation worsened on almost all items, which is due to the absence of a single holistic system of children's healthcare and recreation which would address the issues comprehensively.

Compared to 2006, the number of children recuperating decreased by 40.9 thousand. In the summer 2007, 2003.2 thousand children, or 39.9% of the total number of school age children holidayed in children's recreation facilities.

In 2007, the most common recreation type was day-stay camps, but, at the same time, the capacity of countryside recreation facilities decreased more than by 5 thousand vacancies.

A negative impact on the healthcare and recreation process was produced by Ukrzaliznytsa's cancellation of discounted fares for children who are Chernobyl victims. In 2007, this resulted in additional budget costs of over 7 million hryvnas, which deprived 6 thousand such children of a care opportunity.

The Ministry of Education, the Ministry for Family, Youth and Sport Affairs, the Ministry of Agrarian Policy, and the Ministry of Labour as the major national budget funds managers did not provide for efficient use of these funds in 2007. Despite an increase in recreation prices, the services quality remained rather poor. The national hygienic regulations and norms were broken during the children's stay at recuperation and recreation facilities. The total amount of funds inefficiently spent, according to the audit, was over 4 million hryvnas, that spent with a breach of the budget legislation - 9 million hryvnas.

The regulatory framework addressing the issues of children's recuperation and recreation has not taken shape. No legislation stipulates the major legal, economic and organizing provisions of children's recuperation and recreation. No state standards and norms are approved, the absence of which was announced by the Clearing House after the previous check. The Ministry for Family, Youth and Sport Affairs, the Ministry of Education and other authorities did not submit a draft law "On Recuperation of Children" within the timeframe indicated in the Parliament's regulation as of 08.02.2007.

The allocation of national budget funds for children's recuperation remains unsystematic. The dispersal of budget recuperation money for socially vulnerable groups of children amongst the four ministries lead to the involvement of different national and local authorities, while the delays at the national level made it impossible to take due measures locally and procure quality services.

Through lack of regulation in recuperation activities at extra-school facilities of the Ministry of Education, this work is only performed after a proper instruction by the Cabinet, instruction issued behind time (in 2006 - 26 June, in 2007 - 20 June).

The Ministry of Education and Science spent some national budget funds for recuperation

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and recreation of children on events having nothing to do with recuperation. In particular, the Ministry's subordinate facilities carried out short-term (3 to 5 days) sport competitions, meets, festivals, colloquiums on which they spent 359 thousand hryvnas.

The Ministry of Agrarian Policy did not provide equal opportunities for the recuperation of children of agroindustrial workers in all regions. The distribution of recreation referral vouchers amongst students of countryside comprehensive schools fluctuated 0.2% in the Lviv oblast to 3% in the Lugansk oblast. No such vouchers were distributed in some regions.

The procurement of vouchers to Artek International Children's Centre was made unsystematically, due to the absence of a national program for the Centre's development, while such a program was recommended to the Cabinet by a Parliament's regulation as early as in 2004, another barrier was the poor solution of the issue of the Ministry for Family, Youth and Sport Affairs supposed to take over and engage in the program.

The Ministry itself did not account for the decrease in budget allocations for the procurement of vouchers to Artek, which resulted in a roughly 41% decrease in 2007 vs. 2006, in the number of recuperating children hosted by the Centre. The decrease in the number of vouchers procured is taking place at the expense of regular financial assistance the state provides to the Centre. Over 2004-2006, 57.7 million hryvnas was allocated to strengthen the Centre's material base, while only 10 million was stipulated for 2007.

Insufficient funds are allocated to children who are Chernobyl victims. The allocations in 2007 only by 12% meet the need for money for recuperation of such children. The above gives the opportunity to take care of only a sixth such child. The Ministry of Labour spent this money in the condition of a poor regulatory framework with a number of drawbacks in the procurement of services and organisation of the recuperation.

The conclusions and proposals on the audit are submitted to the Parliament, Cabinet, the Ministry for Family, Youth and Sport Affairs, the Ministry of Labour, the Ministry of Education and Science, the Ministry of Agrarian Policy.

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Considered by the Accounting Chamber Board

11.01.2008

The country's food reserves: attitude entails results

To a great extent, the effectiveness of agro-industrial production and rural area development in market economy conditions depends on the state control as well as these strategic issues depend on the state regulation and support. Highly developed agricultural produce grower countries use the system of direct and indirect leverage mechanisms such as price regulation and farmers' income adjustment, budget financing, crediting, taxation, market stabilization, etc. for agricultural produce stabilization and enhancement of agricultural market functional efficiency. Ukraine makes attempts to take some steps in this direction.

In particular, three years have passed since the Law of Ukraine "On State Support for Agriculture in Ukraine" was put into operation. In furtherance of the Law the special Agricultural fund (the Fund) was established in July 2005 by the resolution of the Cabinet of Ministers of Ukraine. The state food reserve formation for ware and finance intervention of the formal agricultural market was determined as one of the Fund's basic objectives. However, the level of the Fund's performance efficiency was discussed by the Board of the Accounting Chamber of Ukraine after having inspected the audit results of the Agricultural Fund's state budget means appropriation for Ukraine's food reserve formation in 2007.

The auditors concluded that the state food reserve formation funds had been misused because of lacking system approach of the Ministry of Agrarian policy of Ukraine as the head fund administrator. Against the Law of Ukraine "On State Support for Agriculture in Ukraine" the Agricultural Fund failed to perform the assigned duties despite being influential with price policies in agricultural sector of economy by means of ware and finance intervention of the formal agricultural market and state budget assignments. The reserve formation was carried out with no financial interventions but as wheat and rye procurement irrelevant to the state price regulation.

Noneffective practices of the Ministry of Agrarian policy of Ukraine in 2007 turned the Agricultural Fund into an ordinary wheat market trader. Consequently, the state food reserve formation plan was not fulfilled although the budget funds according to the relevant budget program amounting to 528 million hryvnas had been almost completely used. In particular, the wheat and rye reserve was formed only be 66.5 % making up 472 thousand tons.

One of the main causes of the Fund's non-performance of the state wheat and rye procurement in the amounts estimated by the Cabinet of Ministers of Ukraine in 2007 was inadequate procurement management. Disposing over 131 million hryvnas of budget funds at the harvest time beginning the Agricultural Fund started intense wheat and rye procurement 3 month behind schedule. Therefore, the reserve grain allocation was being run at maximum prices. As the result of the Agricultural Fund's unprofessional actions the state budget means equal to 110 million hryvnas or 21% of overall appropriation were allocated ineffectively. Seasonable fund use could make the state food reserve additional 100 thousand-ton grain procurement possible.

In 2007 the state food reserve sugar procurement was not practiced by the Fund at all. Despite the Fund's appeal to the Ministry of Agrarian policy of Ukraine, the Cabinet of Ministers of Ukraine adopted no relevant resolution. Thus, sugar stocks remained unchanged and, by 1 January 2008 figures, made up 14 per cent or only 25.2 thousand tons of the amounts determined by the Law of Ukraine "On State Support for Agriculture in Ukraine".

The Accounting Chamber auditors say that lacking legal state food and trade security criteria predetermine this notion misinterpretations, speculations and illegal references when holding activities that are out of the state policy determined lines.

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Considered by the Accounting Chamber Board

15.01.2008

Delays in financing the reconstruction projects make them of gold value

In 2006-2007 the Artemivsk City Council, Donetsk Region, directed state budget subvention of 21 million UAH allocated to social and economic city development to reconstruction of two sites: city culture and leisure center and Metalurg stadium. Reconstruction of the center was launched in 2003 and of stadium that is base of olympic and paraolympic training in 2004; however, lack of the funds made these reconstruction projects long term.

The Accounting Chamber Board having considered the audit results of the subvention use made up by the territory office of the Accounting Chamber in Donetsk and Lugansk regions stated that local authorities did not ensure fully effective management and proper control over their use which is proved by the detected facts of violations of the applicable legislation amounting to 10.8 million UAH or 52% of the allocated subvention.

In particular, culture department of the city council used 3.2 million UAH for reconstruction of the city culture and leisure center with violation of procurement procedures. This department did not take any measures to conduct tender procedures in due time and consequently 1.5 million UAH of the subvention had not been used during 4 months.

Noteworthy, that untimely allocation of the state budget funds and irregular financing along with permanent price and salary growing led to increase of estimated cost of Metalurg stadium reconstruction by 2.5 times: from 29.6 million UAH in 2004 to 75.7 million UAH in 2007, and cost of city culture and leisure center doubled: from 6.2 million UAH in 2003 to 13.7 million UAH in 2007. Therefore, additional costs of the state budget were 53.6 million UAH.

However, despite untimely and insufficient works financing the city authorities put into operation the city culture and leisure center, which allows organizing cultural public arrangements. But it happened in 2007, one year later than it was planned which prevented people from timely and full getting the expected social services and reduced effect of invested budget funds.

Moreover, today there is real threat of breaking the deadlines set for reconstruction of Metalurg stadium, which, respectively, will lead to further cost increase. Nevertheless, the State Budget of Ukraine for 2008 does not envisage allocations for the stadium reconstruction.

In the follow-up to the audit the Accounting Chamber informed the Ministry of Regional Development and Construction of Ukraine and proposed to initiate allocation of the state budget funds in 2008 to reconstruction of Metalurg stadium.

Besides, the information was submitted to the Donetsk Regional State Administration and conclusions of the Accounting Chamber Board to Artemovsk City Council for proper responding.

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Considered by the Accounting Chamber Board

15.01.2008

Starobeshevo TPP Loss Anniversary

Thermal power plants (TPP) are one of the major sources of heat and power generation in Ukraine. In 2006, TPP produced 47% of all electric power. Although, it should be mentioned that the existing TPP equipment was commissioned as long ago as in 1960-70s, designed to meet the norms of the 1950s. Now that their service life is over, they are outdated and worn. Due to this, Ukraine's issue is full-scale re-equipment of TPP units, increasing their efficiency and environmental safety, which should be based on present-day technologies. The first object chosen for overhauling was Ukraine's typical boiler unit of Unit 4 at Starobeshevo TPP which is a division of the open joint-stock company Donbassenergo. To do this work, an EBRD loan was used.

In January 2008, the Clearing House Collegium reviewed the results of the audit on efficient use of the EBRD loan for the implementation of the Project for Starobeshevo TPP reconstruction. It has been more than a decade since the work began. The implementation deadline of 1997-2000 indicated in the international agreements for the accomplishing of which 116 million Euros is not complied with. As the Clearing House experts say, this is first of all because the Government, acting as the Guarantor for Donbassenergo's EBRD loan, did not arrange for a system of its management, did not appoint a person responsible, nor did it set up an interagency project taskforce.

As a result, the relevant authorities - the Ministry of Fuel and Energy, the Ministry of Economy, the Ministry of Finance over the period of project implementation did not maintain it properly, nor did they exert due implementation monitoring. This led to delays in financing the project, untimely use of the foreign loan, and breaking the deadlines according to the international agreements.

The Ministry of Fuel and Energy did not provide quality development of the Project's feasibility study, which, by the way, was conducted by foreign experts without Ukrainian specialists. No recommendations and precautions issued by the Ukrainian company Ukrimpeks were taken into account.

In addition, the Currency and Credit Council of the Cabinet, according to the Clearing House, issued an approval of the Government's guarantee on the loan, since no expert view and the borrower's [Donbassenergo's] difficult financial situation were taken into account.

During the project implementation, Donbassenergo and EBRD made substantial changes to the terms of the loan (in particular, as to its amount, currency, maturity and date of project completion), of which they did not inform in time and in full the Ministry of Fuel and Energy, the Ministry of Economy, the Ministry of Finance. Provided this, the ministries did not initiate necessary changes to the guarantee agreement between Ukraine and EBRD.

The poor quality of the settlements in the financial part of the Project during its preparation lead to making substantial changes as to its sources of funding and costs.

Donbassenergo initiated the annulment of 20.94 million US dollars of foreign credits, and part of the EBRD loan of 38 million Euros. At the same time, not taking into consideration customs costs and VAT of 6.5 million Euros made them raise additional funds from a Ukrainian party. And the US dollar to Euro transition in the settlements during the project implementation, as was agreed with the Ministry of Finance, resulted in Ukrainians' extra costs of 143 millions hrivnas on loan repayment and maintenance.

Out of four contracts of the total value of 100 million Euros Donbassenergo concluded, it completed only one late in 2007 - for procurement of foreign expert advice. However, this influenced neither the timely implementation, nor the quality - while the costs on services were the double amount of those initially planned. And the three major contracts as to object

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construction are not implemented, objects not commissioned and, subsequently, their value was not put on Donbassenergo's balance sheet.

The reason for the non-compliance with the construction contracts, according to the Clearing House experts, is the untimely decisions made by authorities as to the elimination of obstacles on the stage of tendering and concluding co-financing contracts with the Ukrainian party, untimely cargo customs clearance, Ukrainian suppliers not meeting delivery deadlines, and violations in the terms of the Credit agreement as to Donbassenergo's asset stripping, and technical failures by the subcontractor during boiler startup works, which resulted in an accident and damaged the equipment.

As a result, the overhaul of the unit exceeded the scheduled timeframe by over 7 years, while the losses sustained due to its overscheduled overhauling are estimated 200 million hrvnas.

The Clearing House Collegium came to the conclusion that the Ministry of Fuel and Energy, the Ministry of Finance, the State Tax Administration did not provide for due execution of the Cabinet's decisions control over budget accruals to a special current account of Donbassenergo, and scheduled use of the money. As a result, the accruals were untimely, not in full, irregularly, part of the amount - 65.7 million hrvnas - was spent in an unscheduled way. Only 16.6 million hrvnas was reimbursed at the moment of the audit.

As was found by the audit, almost 80% of the loan is already repaid to EBRD, with a charge of nearly 12 million Euros, however the Project is not over yet. Because of this, today the direct costs of the Ukrainian party amount to 68 million hrvnas, while those indirect aimed at the overscheduled overhauling of the unit and the Euro vs. Hrivna rate increase - 343 millions hrvnas.

The results of the audit were communicated to the Parliament and Cabinet of Ministers. The Collegium's conclusions were sent to the Ministry of Fuel and Energy for taking regulatory measures.

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Considered by the Accounting Chamber Board

28.02.2008

Ammunition disposed, social tension intensified

Public has been glued to the situation at ammunition store located near Novobohdanovka of Zaporizhzhia region. Caring about the region the state released over UAH 77 million to eliminate the disaster consequences in 2004-2007.

Despite available financial resources the Ministry of Ukraine for Emergencies and People Protection against Consequences of Chernobyl Disaster and Zaporizhzhia Regional State Administration did not take measures to ensure technogenic and environmental security and social protection of people living in the areas which suffered from disaster in full scope. It was the conclusion of the Accounting Chamber Board made in the follow-up to the efficiency audit of the budget funds use allocated to the measures.

In line with the audit, over UAH 29 million or 38% of the overall financing was used inefficiently and with violation of the budget legislation and almost UAH 6 million (7.5%) was unused and returned to the budget due to non-taken measures.

Termination of all ammunitions is held on the site of store through explosion in accordance with technical resolution of the Ministry which in violation of the laws did not underwent state review and can not guarantee technogenic and environmental security of adjacent residential areas. Questioning of people, among which 341 residents of Novobohdanivka and Spaske, held during the audit revealed that people's attitude towards the above procedure was controversial. Almost one third respondents did not feel safe, half respondents was not sure of correct choice of ammunition termination method and more than 60% respondents did not know about the final date of this action.

The auditors also noted that the Ministry of Ukraine for Emergencies did not fulfill the schedule of ammunition termination in 2006 and 2007. While 27 thousand mt of ammunition was to be terminated according to the program, only a bit more than 23 thousand mt or less than 86% was actually terminated.

According to the auditors, the Ministry and local authorities produced non-transparent procurement system which excluded procurement on competitive basis. Works and services totally at UAH 30 million was procured from one supplier. Due to procurement of fuel at overstated prices from two suppliers by the Ministry of Ukraine for Emergencies, UAH 1.8 million of the budget funds was used illegitimately and inefficiently. Improper claim and complaint work of the Ministry with such suppliers caused budget losses of UAH 0.4 million from contractual penalty charges.

Heads of Zaporizhzhia Regional Council and Regional State Administration did not care enough about social issues settlement of Melitopol area in 2007. While the state budget subsidy of UAH 24 million was allocated from the state budget in due time and in full scope, it was used inefficiently.

Since Zaporizhzhia Regional State Administration delayed introduction of amendments to Action Plan on Elimination of Disaster Consequences, works costing UAH 3.3. million at six projects of social importance were not completed as for the end 2007. In addition, the regional administration did not use UAH 1.7 million of the subsidy and returned it to the budget. As a result, social tension in the residential areas was not relieved but exacerbated as the ammunition termination continues.

The auditors noted that logistic support of the Cabinet of Ministers of Ukraine to eliminate the disaster was insufficient. The program of elimination of the disaster consequences was not brought in conformity with the Law of Ukraine "On the State Earmarked Programs". As a result, the Program does not contain any figures or performance results to be achieved as a whole and on each stage, i.e. tasks which the state funds are spent on were not specified.

Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine and the National Security and Defense Council of Ukraine were informed about the audit findings. Conclusion of the Accounting Chamber Board was forwarded to the Ministry of Ukraine for Emergencies and People Protection against Consequences of Chornobyl Disaster and Zaporizhzhia Regional State Administration.

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Considered by the Accounting Chamber Board

28.02.2008

State order needs changing

According to the results of control and analytic measures taken by the Accounting Chamber experts, the Accounting Chamber Board regular assembly analyzed formation, placement and execution of the government order for production of state demand in 2004-2007.

The auditors' conclusion is disappointing - Ukraine enjoys no clear and transparent state policies in the sphere of higher-priority national needs under the state order for the country's most important social and economic task performance. The state order lost its effect as such because the state budget formation and execution must be performed in terms of purpose-oriented programs. At the same time, the Ministry of Economy of Ukraine as the authorized executive body is supposed to determine strategies of development, formation and execution of the state order as well as top-priority directions for financing. Nevertheless, the Ministry performed just formal duties so the results of the activities were proportional. In addition, existing state order execution mechanism appears to be ineffective and makes the efficient use of specially assigned state budget funds impossible.

To the Accounting Chamber experts' opinion, the state order competitive environment, transparent procurement execution and control procedure framing conditions as well as optimal and rational state fund allocation require the procedures of appointment of state order executives and suppliers of goods and services maximum simplified through vesting the respective body with special authorities to fix the state order execution mechanism that would be different from the procurement procedures foreseen by the Law of Ukraine "On Government Procurement of Goods, Works and Services".

The auditors state that almost 80% of the overall state order is invariably assigned to scientific, pedagogic and working personnel training and professional development whereas other sectors are assigned from 0.6 to 4.2 per cent only. The Ukraine's state order is actually turned into financing of personnel training which is carried out regardless of competitive principles and adds up to maintenance of educational establishments. This system does not favour priority economic development as the state order formation basis. In the course of the order size formation the Ministry of Economy does not apply unified approach to personnel training cost determination. The Ministry corrects financing sizes of their numbers by hand. These practices lead to one-specialist training constructed value rise and ineffective use of the state budget funds. Moreover, the Ministry of Economy ascertained the state order volumes at its own discretion, formally and with no sufficient grounds present.

Numerous violations of the current legislation in the field of the state order have assumed a systematic character. In particular, the absence of actually determined requirements for the state order formation and execution in 2004-2007 led to ineffective use of the state budget funds amounting 52.2 million hryvnas.

The auditors declare that over the aforesaid period, priority national demands in the sphere of employment of high school graduates in the state economy sector and national film production were neither determined nor met by the client state. Consequently, the state budget funds amounting more than 36 million hryvnas were misused.

In addition, the existing practice of order placement out of competitive terms through making contracts between state clients and executives against the Law of Ukraine "On Deliveries of Products for Government Needs" led to the budget fund use violations to the amount of about 300 million hryvnas.

In its turn, the Ministry of Economy being the state order special executive body virtually declined its responsibilities for due and effective coordination of the state order formation and follow-up control. This can be proved by the fact that the state order lines had not been revised at all for 12 years. Concerning the state order execution mechanism, the Accounting Chamber

experts consider it to be cumbersome. Appropriate principles of competitiveness and transparency are disregarded and this makes systemic infringements and their initial cause elimination impossible.

The analysis results were reported to the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine. The analysis result Executive Summary was submitted to the Ministry of Economy of Ukraine to be the subject to due response.

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Considered by the Accounting Chamber Board

11.03.2008

UAH 100 million spent but regional development problems still unsolved

Administrative division of Ukraine is based on the principles of unity and integrity of the state territory, combination of centralization and de-centralization in exercising the state power, balance of social and economic development of the regions with due consideration of their historical, economic, environmental, geographic and demographic peculiarities, ethnic and cultural traditions. At the same time, irregular regional development and living standards hamper social and economic development, hinder market transformations and reduce their effectiveness. To level off the disparities the Law of Ukraine "On Stimulation of Regional Development" (the Law) was adopted in September of 2005, which was the first to determine underlying judicial, economic and logistic fundamentals of the state regional policy of regional development stimulation and eradication of regional stagnation, and to regulate relations between central and regional executive authorities.

The Accounting Chamber Board discussed the status of implementation of the Law while considering the findings of the efficiency audit of the state budget subsidy use granted to the local budgets to stimulate regional development including those in stagnation. According to the auditors, the Cabinet of Ministers of Ukraine, the Ministry of Finance of Ukraine in violation of the Law conducted planning of the subsidy for 2007 without having agreements between the Cabinet of Ministers of Ukraine and regional councils concerning regional development and programs of regional stagnation eradication, annual funding of which should be envisaged in the draft State Budget of Ukraine.

It caused subjective distribution approved by the Ministry of finance, allocation and use of the subsidy of UAH 100 million in four regions only. Principle of fair and impartial distribution of the common funds among the local communities laid down in the Budget Code of Ukraine was violated triggering distribution of the state budget funds solely among Donetsk (UAH 60 million), Luhansk (UAH 27.5 million), Zaporizhzhia (UAH 6.3 million) and Volyn (UAH 6.2 million) regions. Meanwhile, conclusions of the Interinstitutional Working Group (with participation of the Ministry of Economy, the Ministry of Regional Development and Construction) on feasibility of allocation of the subsidy also to Zhytomyr, Transcarpathian, Cherkasy regions and areas with cities and towns being near to stagnation were not implemented (there is no legal definition of the area in stagnation).

Donetsk, Luhansk, Zaporizhzhia and Volyn regional state administrations proposed that the Ministry of Finance distributed the subsidy among the measures not related directly to regional development stimulation, namely, on routine local needs of housing and domestic utilities sector and social welfare field. Thus, 29% of the subsidy was allocated to heat supply facilities, 21% to gas supply, 19% to water supply and drainage, 7.5% to special vehicles.

According to the Accounting Chamber experts, local executive authorities being main funds administrators in Donetsk, Luhansk and Volyn regions did not supervised the subsidy use properly. The audit found out that overall nearly UAH 35 million of the subsidy was used with violation of the Law of Ukraine "On Public Procurement of Goods, Works and Services", regulations of public financing of capital development projects and their state due diligence and other laws in the mentioned regions in 2007.

Subsidy-funded works within 55 projects approved for 2007 in Donetsk, Luhansk and Zaporizhzhia regions are not completed at 25%. The situation is caused by ineffective and misbalanced managerial decisions of the Ministry of Finance, local executive authorities on the stages of planning, financing and use of the subsidy, untimely elaboration of design estimate documents, bidding procedures, changes of contractual terms and conditions etc.

Works at two projects "Construction of Water Pipeline in Troyany of Berdyanskiy Area" and

"Water Supply of Kuybysheve of Zaporizhzhia Region - construction of pipelines in the Village" were not completed at UAH 2.1 million as for January 1, 2008 while the deadline was 2007 (the deadline was postponed to December of 2008). As a result, 1.2 thousand people in Troyany and 2 thousand people in Kuybysheve were not provided with high quality potable water.

The Accounting Chamber Board informed Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine and the Ministry of Economy of Ukraine about the audit findings.

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Considered by the Accounting Chamber Board

25.03.2008

Ukrainian people still unaware what EU and NATO mean

While politicians cross swords on Ukraine's integration to EU and North Atlantic Treaty Organization, ordinary people are slightly aware of places and objectives of Ukraine's integration. State programs of public informing and expert training on European and NATO integration of Ukraine for 2004-2007 were projected to raise awareness of Ukrainian people related to EU and NATO. However, these aims are not achieved. It was the key conclusion of the Accounting chamber Board having considered the efficiency audit results of the state budget funds use for the state programs on European and Euro-Atlantic integration of Ukraine for 2004-2007.

Results of the sociology surveys show that awareness of Ukrainian people on EU and NATO did not change after realization of the programs and more than half of respondents assess it as low.

According to the auditors, one of the main causes of the situation is improper preparation, organization, support and monitoring of the state programs by the Cabinet of Ministers of Ukraine. Secondly, they were not provided with necessary financial resources. Thirdly, attitude of executive bodies which are central and local state authorities was spiritless and formal.

Organization of preparation of the state programs by the Cabinet of Ministers of Ukraine, the State Committee for TV and Radio and the Ministry of Education and Science of Ukraine did not meet the requirements of the laws and methodical recommendations on their development, therefore, they lacked all necessary elements. Consequently, nearly UAH 25 million was spent inefficiently to finance the state and budget programs.

To implement the state programs the Cabinet of Ministers of Ukraine did not establish effective management system. Main coordination body which competence included organization and coordination of the state programs realization was the State Council for European and Euro-Atlantic Integration of Ukraine but it was liquidated with the decree of the President of Ukraine end 2005. The Cabinet of Ministers of Ukraine has shifted functions of organization of the program realization to different interinstitutional groups and authorities several times within the realization process.

According to the Accounting Chamber auditors, realization of the programs by executive authorities and reporting is characterized with incomplete data and formal attitude of reporting. Nearly each sixth out of 400 measures of the state programs of public informing on European and Euro-Atlantic integration defined by the Cabinet of Ministers of Ukraine was not realized. Executive authorities included measures to the reports which did not relate to the state program and realization of some measures was not confirmed by the reports.

The Ministry of Education and executive authorities do not possess information on employment of experts on European and Euro-Atlantic integration trained on account of the state budget and their further activity which hinders evaluating of the state training program efficiency.

The audit also found out that the State Committee for TV and Radio being the main state funds administrator did not ensure legitimate and efficient use of the funds of the state budget. Nearly half of UAH 10 million (UAH 4.4 million) of the state budget funds was used for one event - International Media Forum "Ukraine on Information Map of the World" according to the resolution of the Cabinet of Ministers of Ukraine in 2006. Its aims did not correspond with the state program objective as it was oriented not to informing Ukrainian people on EU and NATO but, vice versa, to informing of the world community on social and economic and political processes in Ukraine.

The State Committee for TV and Radio did not ensure observance of public procurement

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laws while using the budget fund. It provoked violations of tender laws amounting to UAH 4.5 million.

Considering the issue the Accounting Chamber Board noted that the Government had not finalized the strategy of the state policy on public informing and expert training on European and Euro-Atlantic integration as respective state programs had not been adopted. Instead, financing of these programs is projected in the State Budget of Ukraine for 2008.

The Accounting Chamber Board decided to inform the President of Ukraine, Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine on the audit results and to make proposals to eliminate shortcomings and violations.

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Considered by the Accounting Chamber Board

06.05.2008

Social infrastructure of mining plants of Lugansk region encumbering the budget

The Accounting Chamber Board considered the report on the efficiency audit of the state budget funds use in 2005-2007 to the measures related to transfer of social infrastructure facilities being on the balance of the mining plants of Lugansk region to communal ownership. According to the audit, respective requirements of the State Program "Ukrainian Coal" have not been implemented.

Nearly quarter (352 objects) to be transferred to communal ownership in 2005-2007 was not transferred. Consequently, mining plants incur supplementary losses to sustain them which increases cost price of mining and reduces performance effectiveness of the plants. Transferred objects are in unsatisfactory condition requiring overhaul. Allocations granted from the state budget to the overhaul did not improve their condition substantially.

According to the auditors, the Cabinet of Ministers of Ukraine adopting the Procedure of the Funds Use to Measures Related to Transfer of the Social Infrastructure Objects being on Mining Plants' Balance to Communal Ownership did not set deadlines of transfer and use of the funds of shareholding to overhauls and ordering agency of these works. As a result, transparent, effective and economical spending of the state budget funds was not achieved.

Moreover, the above Procedure did not envisage return of the budget funds to the state budget if the requirements are broken on transfer of 50 % of the costs necessary to the overhaul of the transferred objects by the central and local executive authorities. Due to the fact that local budgets are subsidy-dependent and incapable of overhaul financing and proper sustaining of the objects, the situation can subsequently cause additional encumbrance on the state budget following subvention or subsidy granting to the local budgets, the Accounting Chamber experts stated.

The audit proved that the Ministry of Coal Mining of Ukraine under the lack of control of the Ministry of Finance of Ukraine managed the state budget funds meant to transfer of the social infrastructure objects being on the balance of the mining plants to communal ownership inefficiently. In violation of the Budget Code of Ukraine, the Ministry of Coal Mining forming the budget inquiry for 2006-2007 did not submit respective feasibility studies to the Ministry of Finance on the budget financing volume, including to construction, reconstruction and technical re-equipment of the social infrastructure objects. The Ministry of Finance, in its turn, envisaged respective allocations in the draft State Budget of Ukraine without analyzing them. It caused overstatement of the need for the state budget funds more than by UAH 8.4 million.

The Accounting Chamber experts detected that the Ministry of Coal Industry and the State Company Sverdlovanratsit had made approval of transfer of the social infrastructure objects to communal ownership in undue time as well as they transferred funds to the central and local authorities in undue time. It resulted in inefficient management of the state budget funds of nearly UAH 21 million. In addition, the Ministry of Coal Industry (the Ministry of Fuel and Energy of Ukraine in 2005) did not determine the list of the social infrastructure objects subjected to transfer to communal ownership. Consequently, over UAH 4 million was returned to the state budget.

The audit revealed that the Ministry of coal Industry and its subordinate enterprises did not ensure effective organization and coordination of work on transfer of the social infrastructure objects to communal ownership in 2006 and 2007. In violation of the legislation without approval of the Ministry of Economy, the Ministry of Finance and the State Property Fund a number of objects was transferred to communal ownership which subsequently caused illegitimate expenditures of over UAH 6 million of the budget funds to their renovation and repair.



According to the Accounting Chamber experts, the Main Department of the State Treasury of Ukraine in Lugansk Region and its structural divisions did not control conformity with the laws on public procurements. It entailed illegitimate expenditures of totally UAH 16 million with the budget funds administrators.

The state mining companies Luganskvugillia, Sverdlovanratsit and Donbasanratsit delegated their powers on the budget funds use to the overhaul of objects transferred to communal ownership to the local executive and self-government authorities. The companies did not exercise control over realization of delegated powers. As a result, the state budget funds of over UAH 17 million were used with violation of the standing legislation and more than UAH 3 million inappropriately.

Materials on the cases of inappropriate state budget funds use by Krasnolutskyi Executive Committee (Mr. V. Smal, Director of Culture Department), Lugansk City Council (Mr. S. Sukach, Director of Housing and Domestic Utilities Department), Zorynsk City Council (Mr. V. Cherkasov, the Chairman), Artemivsk City Council (Mr. S. Kartashov, the Chairman), Fashchiv Village Council (Mrs. S. Kurbatova, the Chairwoman) were submitted to the Prosecutor's General Office of Ukraine.

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Considered by the Accounting Chamber Board

08.05.2008

State interests unprotected in public procurements

The Accounting Chamber Board considered Report "On Analysis of Public Procurement System Functioning and Results of Control Measures Held by the Accounting Chamber of Ukraine in 2007".

The analysis showed that public procurement system of Ukraine does not ensure protection of state interests and actually hinders legitimate and efficient use of the state funds. The main cause is improper Law of Ukraine "On Public Procurement of goods, works and services" (amended as the Laws of Ukraine dated from December, 15, 2005, No. 3205-IV and December 1, 2006, No. 424-V). In particular, the mentioned laws reduced significantly efficiency of control and coordination of public procurements and dissipate state functions and powers among different bodies. The law imposed only technical support of Interinstitutional Commission on Public Procurements on the competent authority which is the Antimonopoly Committee of Ukraine. Other functions of the competent authority did not make any impact on the public procurements. The law granted governing authorities to the Tender Chamber of Ukraine which is unnatural for NGO.

Extreme difficulty and impossibility of public procurements in line with competitive procedures, non-feasible expenditures for information publishing sparked numerous distortions of public procurements, illegitimate, non-transparent and inefficient use of the state funds. The procurement participants paid millions to private institutions for consulting, information and other services which produced extra financial burden on the budgets of all levels.

As a result of non-transparent and inefficient public procurement system one-source procurements based on non-competitive basis prevailed in 2007. According to the Antimonopoly Committee nearly 63% of the state funds was used for one-source procurements and according to the reporting of the State Statistics Committee nearly 51%.

Analysis of conclusions on possibility of one-source procurement in 2007 showed that in majority of cases customers had to recourse to such procedures since it was impossible to make competitive procedures efficient and the law covered those fields where competitive selection of suppliers is near to impossible. Representativeness of statistic reporting remained on the same level as in 2006-2007. Information was collected with lacking effective mechanism of statistic information collection which shall be established by the State Statistics Committee in accordance with part 2 of article 3 of the Law. Accordingly, reporting data of the Antimonopoly Committee based on statistic reporting are not comprehensive in terms of situation in public procurements.

Findings of the control and analytical measures held by the Accounting Chamber in 2007 showed that the state customers had not observed the Law of Ukraine "On Public Procurement of goods, works and services". The standing laws on procurements were violated at more than UAH 360 million.

Taking into account the aforesaid, the Accounting Chamber consider it necessary to change drastically the public procurement regulations. In particular, Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine were proposed to regulate the following crucial issues of public procurements: concentration of basic coordinating and supervising functions in one central authority which will cooperate with other state authorities, primarily, with the Antimonopoly Committee, the Accounting Chamber, law enforcement bodies; limitation of ground for applying of non-competitive, one-source procurement procedures and limitation of participation (actually, the only such ground should be lack of competition on the goods, works and services market); de-commercialization and simplification of the public procurement process through establishment of the state free specialized Internet-site and printing edition; reduction of time-limits of tender procedures etc.

Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine were informed about the analysis results. Report on the analysis results was forwarded to the Antimonopoly Committee of Ukraine to take remedial measures.

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Considered by the Accounting Chamber Board

21.05.2008

Judgments without enforcement

Ensuring of constitutional provisions on compulsory judgment enforcement and human right of respective information receiving were pre-requisites of emerging necessity for the Ministry of Justice to introduce information technologies which could accelerate data processing, information search, data systematization, access to information sources regardless of location. In particular, these information technologies include Single State Register of Enforcement Proceedings.

The Accounting Chamber conducted efficiency audit of the budget funds use allocated to the Ministry of Justice of Ukraine for elaboration, introduction and functioning of the register. The Accounting Chamber Board made conclusion that scientific and technical potential, logistic and budget financial resources of UAH 22.3 million being at the disposal of the Ministry of Justice of Ukraine in 2002-2008 were used inefficiently with numerous violations of the legislation on informatization and the Budget Code of Ukraine.

The audit results showed that violation of the standing legislation on informatization committed by the Ministry of Justice caused its losing ownership right for the software of the register. Introduction was held without analysis of automatization object and achievements of cutting-edge information technologies, feasibility study, technical requirements, approved operational documents and positive assessment. Subsequently, reliable maintenance of the system is not guaranteed and personnel were not trained to operate it. The register has substantial shortcomings both in technical terms and in software which prevents or hinders operation of the database. Measures of state-owned information protection are not taken; property rights and copyright being intangible rights are not recorded.

Operation of non-reliable system and purchased equipment, respectively, made an impact on enforcement discipline. Level of actual mandatory enforcement of court orders by law enforcement officers (per one law enforcement officer) deteriorated at the average of 8% annually starting from 2003. Thus, losses related to establishment and operation of the register incurred by the state, people and legal entities of Ukraine did not improve mandatory enforcement of court judgments and rulings of other bodies.

The Ministry of Justice of Ukraine did not fulfill resolution of the Cabinet of Ministers of Ukraine "On Introduction of Single Register of Laws and Legal Informatization of Ukraine" on elaboration of the strategy and program of law informatization being component of the National Informatization Program. Instead of establishing the register in accordance with informatization regulations the Ministry of Justice shifted these functions to ad hoc state company Informatization Center having determined the finance sources of the budget and physical and legal entities with its orders which violated budget legislation. Instead of receiving the funds for state functions i.e. for register information providing in the earmarked fund of the state budget the funds were transferred directly to the company. The same mechanism was applied by the Ministry of Justice to get the funds received by the State Company Informatization Center for introduction and operation of 17 software systems of consistent law informatization out of the state budget revenues.

The Ministry of Justice ignoring competitive basis and violating the standing procurement legislation connived the State Company Information Center at functioning as mediator for ordering services of introduction and operation of the registers. Cooperation of the Ministry of Justice of Ukraine with the company was profitable for the latter in terms of re-allocation of the earmarked funds of the state budget to the mediator which using labour and financial resources and information owned by the state provided paid services to its founding Ministry, physical and legal entities of Ukraine.

It enabled the Ministry to get income of over UAH 1 billion from sales of products during the

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last six years mainly at the cost of introduction and operation of 18 information analysis systems, major part of it being re-allocated to purchase of goods and services with other producers and suppliers.

In addition, the audit detected the cases when the Ministry of Justice of Ukraine purchased amortized software of network operation center, equipment bailed by the company from 2002 with amortization period expired in 2004, as well as paid for the services which ultimately turned out unnecessary. In general, such operations cost over UAH 3 million. These materials containing evidence of corruption, budget funds stealing, power abuse were forwarded to the Prosecutor's General Office to take remedial measures.

Relative information was executed in the follow-up to the audit and forwarded to Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine. Report on the audit results was forwarded to the Ministry of Justice of Ukraine to take measures to eliminate shortcomings and violations.

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Considered by the Accounting Chamber Board

24.06.2008

Aimless debt floating of the Ministry of Finance

The Cabinet of Ministers of Ukraine and the Ministry of Finance implementing the State Budget of Ukraine for 2007 did not ensure feasibility of planning and conducting of debt operations, their timely adjustment which resulted in failure of these operations. It was the conclusion of the Accounting Chamber Board in the follow-up to the audit of debt operation feasibility, completeness and authenticity of reporting on the state debt for 2007. Volume of the state debt was much less than limits (69%) and foreign debt, vice versa, exceeded them (107%). State borrowings amounted to 90%, among them only 48% to the earmarked fund. Expenditures of the state debt servicing amounted to 72% and state debt management to 37% of the plan.

The auditors found that the main root of such substantial deviation from the debt indexes was improper feasibility study provided by the Ministry of Finance to hold debt operations, significant overstatement of planned and limit indexes and as a result, accumulation of large financial reserves within the state budget. Thus, despite growing state direct debt at more than UAH 5 billion in 2007 its actual volume was lower than the limit at UAH 4 billion with "saving" of servicing costs, repayment and management of the state debt was UAH 1.5 billion.

The audit showed that such issues as the Government's adoption of the state borrowings program, centralized accounting of the debt of the local authorities and state companies by the Ministry of Finance were not regulated. Therefore, functioning national terminology on the state debt was not harmonized with the European standards. It makes negative impact on assessment of the actual debt situation in relation to basic macroeconomic indexes, comprehensiveness of information about all debt obligations of the state and the state debt components, expenditures related to its servicing and repayment.

The audit of the available reports of the Ministry of Finance and the State Treasury did not detect any signs of unauthenticity of information about the state debt.

The Accounting Chamber detected that the Government of Ukraine and the Ministry of Finance of Ukraine while planning and making state borrowings did not observe targets of improvement of the state debt structure and conformity with the volumes of the state debt repayment. Consequently, volumes of the state borrowings exceeded such payments by UAH 4 billion, which was one of the primary causes of the state debt growing in Ukraine.

Payments of servicing and repayment of the state debt were held by the Ministry of Finance in 2007 in full scope and in due time. However, the auditors detected that the Ministry of Finance had committed errors in debt operations followed by the losses of the state budget of UAH 650 thousand.

The Government and the Ministry of Finance did not realize proposals of Verkhovna Rada of Ukraine on extracting of expenditures of the state debt management to ensure transparency of these operations. Consequently, the Ministry of Finance used the state budget funds for the state debt management without proper and transparent planning of the state budget funds which entailed spending of extra USD 80 thousand for the services not obtained by the Ministry of Finance.

Moreover, in circumvention of the Law of Ukraine "On Public Procurement of the Goods, Works and Services" the Ministry of Finance used UAH 4.5 million of the budget funds without tender procedures.

Management of the state debt due to lack of detailed feasible calculations of planned expenditures was held by the Ministry of Finance manually. As a result, over UAH 200 thousand was used inefficiently to obtain credit rating of Ukraine not used in foreign state securities in 2007.

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Considered by the Accounting Chamber Board

08.07.2008

The Central Election Commission keeps committing the same errors

In 2007 the Central Election Commission faced two main tasks taking into account its new membership: preparation and organizing of extraordinary elections of Verkhovna Rada of Ukraine and ensuring of observance of the Law of Ukraine "On the State Voter Register". Over UAH 1 billion 152 million was spent on the extraordinary elections of the people's deputies of Ukraine, among it over UAH 347 million from the state budget and nearly UAH 805 million from the election funds of the parties (blocks of parties).

The Accounting Chamber Board having considered results of the efficiency audit of the state budget funds use by the Central Election Commission in 2007 came to the upshot that it applied a number of proposals of the Accounting Chamber made in the follow-up to the previous audits. It enabled partial ordering of the election funds and support of the Central Election Commission. At the same time, roots of inappropriate and ineffective use of the state budget funds were not removed fully which subsequently causes recurrent budget violations, some of them being persistent.

The Central Election Commission being main funds administrator with violation of the Budget Code of Ukraine planned the state budget expenditures for its support and fulfilling of powers in 2007 and proper internal control over budget funds spending by the inferior administrators. It overstated budget allocations to the extraordinary elections of the people's deputies of Ukraine nearly at UAH 46 million and to the Commission's support nearly at UAH 7 million and long-term diverting of the state budget funds. Over UAH 20 million was returned to the state budget. UAH 47 million was used inefficiently and UAH 3 million inappropriately.

Lack of integral approach to development and introduction of Integral Information Analysis System "Elections" emphasized repeatedly by the Accounting Chamber leads to application of temporary decisions on subsystem establishment which are not technically feasible. In 2001-2007 nearly UAH 12 million was used for updating and development of some subsystems of Integral Information Analysis System "Elections".

Results of the audit show that the Commission could re-distribute the budget allocations within the budget program "Administration and management of election and referendum process" to allocate the funds to the partial modification of Integral Information Analysis System "Elections". Instead, UAH 3 million was allocated to this purpose from the funds intended to extraordinary elections of the people's deputies of Ukraine. It was inappropriate use of the state budget funds. At the same time, released funds in the budget program "Administration and management of election and referendum process" were used for used for incentives of the Commission staff in the form of increased bonuses and creation of jobs with higher salaries.

The Accounting chamber experts noted that with the purpose of the Law of Ukraine adopted in February of 2007 "On the State Voters Register" the state authorities and local authorities created bodies of keeping and administration of the Register. Besides, nearly UAH 68 million was allocated from the state budget to support these bodies and form information telecommunication system of the Register. However, the Central Election Commission being the Register administrator did not provide for proper realization of the powers related to logistic and technical measures for its production. Consequently, initial content filling of the Register did not start in 2007.

The audit found that Register projecting was made by the Central Election Commission with violations of the standing legislation on IT. As a result, tender documents adopted under lack of feasibility studies of the system establishment and project cost estimates elaborated in line with the state standards. It was on e of the grounds for lawsuits on procurement procedure

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halting. Due to failure to observe the state standards on technical documents the Ministry of Finance did not approve passport of the budget program "Initial formation and initial specification of the State Voters Register". Thus, the Commission could not spent UAH 14 million allocated to the program implementation.

Due to the aforesaid and failure to establish information telecommunication system Register, the bodies of the Register keeping did not fulfill their functions and the budget funds of UAH 47 million was spent inefficiently.

Conclusions and proposals of the Accounting Chamber Board were forwarded to Verkhovna Rada of Ukraine to be taken into account in improvement of the laws regarding elections and referendums as well as to the Ministry of Finance of Ukraine and the Central election Commission to take measures to eliminate the shortcomings.

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Considered by the Accounting Chamber Board

21.08.2008

Wheelchair at the car's price

Increased number of disabled people is gradually evolving into one of the most urgent social issues. The number of disabled people has grown by 73% if compared with 1991, from 1.5 million to 2.6 million people amounting to 6% of the total population of Ukraine. Many of them need technical rehabilitation devices. The state budget for 2007 planned UAH 43 million for purchase of the modern equipment to produce wheelchairs at Lviv State Experimental Plant of Vehicles and Prosthesis Means. However, this plant and the Ministry of Labour and Social Policy of Ukraine did not provide for substantiated planning, effective and legitimate use of the funds of the State Budget Funds allocated in 2007-2008 to the state plant to implement investment and innovative technologies in production of technical rehabilitation means for disabled people. It was the conclusion of the Accounting Chamber Board made in the follow-up to the audit.

As a result, objective of the budget program was not achieved and the purchased equipment for production of wheelchairs priced UAH 43 million was not put into operation and used in 2007. It was kept at the storage house of the plant as for June of 2008. According to the audit, when the state budget funds were used, violations of the laws were committed totally at UAH 43 million which account for 100% of the allocations.

Carrying out public procurements in 2007 the state plant violated laws having granted procurement award valued at UAH 43 million to the private company whose authorized capital was UAH 100. The auditors detected that due to engagement of the intermediaries the plant purchased equipment at the cost of the state budget funds at the prices exceeding the prices of producers and their representatives from twofold to 1300 times or nearly by UAH 32 million. Wheelchair manufactured at such overvalued equipment will cost as a car for the budget.

At the same time, wheelchair production volume at the plant has halved last year if compared with 2001. Capacities of the plant were occupied only at 11% in January-June of 2008. Consequently, the plant is loosing its human resources and production potential. Thus, these facts spur ineffective use of the purchased equipment without sufficient number of orders.

In general, the Ministry of Labour did not provide wheelchairs to 6 thousand disabled people or 21% of the registered people. Since among them were 417 disabled children their rights guaranteed by the Constitution of Ukraine remains declarative which arouses justified blames of people.

At the same time, rest of wheelchairs unused by the social welfare authorities (over 12 thousand as for January 1, 2008, and over 10 thousand as for April 1, 2008, proves that a lot of opportunities of wheelchair supply to disabled people were lost. Thus, the Ministry of Labour escalates social tension among the disabled people who were not provided with wheelchairs.

Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine were notified about the audit results. Materials of the audit were communicated to the Prosecutor's General Office of Ukraine.

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Considered by the Accounting Chamber Board

09.09.2008

Millions of the budget funds drowned in the Danube-Black Sea Channel

After Ukrainian section of the international transportation corridor along the Prorva Channel in the Danube delta stopped functioning due to silting in 1998, Ukraine has lost practically all transition cargo traffic in river-sea nexus. Lack of deep-water shipping route prevents the state from receiving substantial financial revenues from the cargo flows in the form of channel dues and pilotage. Ukrainian ship owners have to pay large channel tolls annually to use Romanian channels. Decision on reinstatement of the deepwater shipping route and operation of the Ukrainian section of the international transportation corridor was made at the end of 1999. However, the decision and launch of the works were split by more than four years.

Results of the efficiency audit of the budget funds use for creation of the Danube-Black Sea deepwater shipping route considered by the Accounting Chamber Board proved that the Cabinet of Ministers of Ukraine, the Ministry of Transportation and Communication of Ukraine and the State Department for Marine and River Transportation (Ukrmorrichflot) had not ensured establishment of the mentioned channel. Actions of the government and the Ministry of Transportation and Communication of Ukraine on its reinstatement were inconsistent. All the deadlines of putting the deepwater shipping channel into operation were broken. For example, degree of completion of the channel dam is below 6%. Technical parameters of the working project were not achieved at any construction sites.

The auditors detected that the Ministry of Transportation and Communication of Ukraine, Ukrmorrichflot and the State Company "Delta-Lotsman" assigned the ordering agency of creation of the shipping safety system at the Danube-Black Sea Channel had not provided for timely financing of the deepwater channel establishment. Work financing burden is gradually shifted to the state budget. Along with it, need for capital investments for work accomplishment was met at 27% only.

Finalized project of the Danube-Black Sea Channel construction has been investigated by the State Ecological Inspection for more than 20 months. As the consequence of the delayed ecological peer review the cost of the facilities grew by about UAH 200 million.

The Accounting Chamber Board stated that unclear financing mechanisms applied by the State Company "Delta-Lotsman" with the knowledge and order of the Ministry of Transportation and Communication of Ukraine could result in forfeiting of public ownership right of the strategic hydrotechnical facilities which is the Danube-Black Sea Channel. The state incurred direct losses of UAH 6.4 million due to their transfer by the Ukrainian Company Delta-Lotsman to the Limited Liability Company "Ukrainian Farvater" in 2004-2005. The latter failed to fulfill the agreement on joint activities and its location is unknown today.

Generally, nearly UAH 64 million from the state budget was used by Delta-Lotsman in January-June of 2008, over UAH 46 million being used with violation of the Law of Ukraine "on Public Procurement of Goods, Works and Services" and over UAH 9 million being used inefficiently. The state incurred losses of nearly UAH 1.3 million which has to be indemnified.

The Accounting Chamber Board notified Verkhovna Rada of Ukraine and the State Security and Defense Council of Ukraine about the audit results. The conclusions were forwarded to the Ministry of Transportation and Communication of Ukraine to eliminate shortcomings and violations.

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Considered by the Accounting Chamber Board

03.10.2008

Resident of Sevastopol suffer from of ineffective management of officials

Sevastopol City State Administration and departments accountable to it did not ensure effective management and legitimacy of the state budget funds use for social and economic development of Sevastopol. Consequently, Program of Sustainable Social and Economic, Ecological and Cultural Development of Sevastopol till 2015 and Program of Social and Economic Development of Sevastopol for 2007 were realized by 49% only. Such conclusion was made by the Accounting Chamber Board in the follow-up to the audit. Out of 59 start-up facilities 29 facilities were not put into operation which hampered providing of respective social services to the residents of the city. Thus, 16.3 km of the outer gas pipeline network was not put into operation and 260 flats were not supplied with gas, 1.9 km of heat supply network and 9.6 km of water supply and drainage network was not put into operation. Violations of legislation by the state budget funds amounted to more than 66 million UAH.

The Accounting Chamber experts detected that capital construction department of Sevastopol City State Administration committed violations of legislation on capital construction financing, procedures of construction works, public procurements by the state budget funds using totally at UAH 40.2 million. Among it, UAH 17.4 million was written -off as expenditures at five facilities illegitimately without deeds of acceptance of contracting works in 2007. The Department for Capital construction filed claims to the Economic Court of the Autonomous Republic of the Crimea in February-March of 2008 to charge UAH 9.6 million for uncompleted or low-quality works.

The Sevastopol City State Administration did not take measures to provide proper maintenance and planned accomplishment of the works at the facilities that supply the city with potable water. Such actions made central authorities take urgent measures to settle the problems of the city. Thus, January of 2007 was marked with emergency in water supply network and necessity to allocate reserve fund of the state budget to eliminate the aftermath. Capital Construction Department despite obtaining these funds of around UAH 9 million did not put any of four facilities. In particular, works at sewage collector in the villages Orlyne and Ozerne, filtration station of the main site of water treatment utilities of Sevastopol - hydrostation No.3 as well as renovation of bypassing ferroconcrete channel from Baydarka river to Chorna river were not completed as for the beginning of 2008. Due to violations committed by using of the reserve fund of the state budget and failure of completing the planned works in 2007 there is still jeopardy of potable water supply halting to 230 thousand residents of Sevastopol.

Besides, reserve funds of over UAH 2 million allocated in accordance with the order of the Cabinet of Ministers of Ukraine to priority works of the disaster aftermath elimination in Sevastopol were unused and returned to the state budget due to ineffective management of the Sevastopol City State Administration.

The materials of the audit were submitted to the Prosecutor General Office of Ukraine to take measures to bring to justice persons who are guilty of legislation violations.

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Considered by the Accounting Chamber Board

14.10.2008

Ukrainian officials reluctant to go to EU ... even if paid for

After Ukraine has entered WTO relations with EU become crucial. Since it was cooperation with EU that has opened free access to the international markets, new information technologies, international investment processes, improvement of transport and telecommunication systems. Besides, cooperation with EU contributed to affluence of the country economies. Noteworthy, that not only financial affluence but international corporate management, introduction of international quality and accounting standards etc.

However, Ukraine's EU membership process is hindered. It is proved by the efficiency audit of the use of the funds of the State Budget of Ukraine for the State Program of Harmonization of the Legislation of Ukraine and EU Legislation considered by the Accounting Chamber Board.

The auditors detected that realization the first stage of the State Program of Harmonization of the Legislation of Ukraine and EU Legislation has been completed by 27% only. In fact, it is caused by the ignored State Program of Obligatory Consideration of the Conclusion of the Laws of Ukraine with the Acts of EU, lack of joint with EU charter of the regulations of Ukraine to be harmonized with European laws. Much influence is made also by open lack of interest and refuses of some officials of the central authorities to implement the State Program. The process is impeded by the fact that the treaty between Ukraine and European Union does not envisage any prospects for Ukraine to become a full-fledged member of EU.

The Accounting Chamber experts noted that in spite of the State Program the Ministry of Justice of Ukraine prolonged it for 2008 without respective decision of Verkhovna Rada of Ukraine. Besides, it was made without defining actual purposes and tasks of the following phases which is gross violation of the budget violation of the budget legislation and legislation on the earmarked programs.

The auditors detected that under lack of specified size of allocations the Ministry of Justice with approval of the Ministry of Finance of Ukraine held their annual planning (in 2005-2008) without legislative definition of the size. It was made in own discretion of the Ministry of Justice.

In addition, the Ministry of Justice of Ukraine and the State Department for Legislation Harmonization has not used funds adopted by the State Budget of Ukraine for implementation of the State Program in full scope. The audit revealed illegitimate use of the state funds by the Ministry of Justice of Ukraine which were allocated to implementation of the State Program of Harmonization of the Legislation of Ukraine and EU Legislation for more than UAH 6 million. Besides, the Ministry of Justice used about UAH 30 million ineffectively. Violating the Law of Ukraine "On Public Procurement of Goods, Works and Services" the Ministry also spent nearly UAH 7 million.

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Considered by the Accounting Chamber Board

30.10.2008

Money spent but hospitals stay without equipment

The Ministry of Health Care has got over UAH 1.5 billion from the state budget to purchase medical equipment for the last five years. Despite the significant funds problem of modern medical equipment is one of the most pressing for the health care institutions. It is proved by the routine effectiveness audit of the funds use of the State Budget of Ukraine to centralized purchase of equipment for health care institutions which results were considered by the Accounting Chamber Board.

According to the auditors, the Ministry of Health Care throughout these years has built non-transparent and uncontrollable system of medical equipment procurement. In particular, there is no clear-cut hierarchy of health care institutions by levels of medical assistance. Individual standards of their logistic support were not elaborated and respectively, tables of equipping depending on medical field and taking into account modern technologies were not approved. As a result, health care institutions are equipped in chaotic way and budget resources are dissipated.

The Ministry of Health Care and the Ministry of Finance included over UAH 815 million for centralized procurement of medical equipment to the draft Laws on the State Budget for 2007 and 2008. It was done under lack of approved measures or state earmarked programs which could pinpoint indices and volumes and sources of financing. Such use of the budget funds does not only circumvents the laws but could not serve a solution of priorities of medicine on integral supply of equipment to medical centers or hospitals of the certain level but is actually boiled down to inconsistent and ineffective procurement of medical equipment.

In particular, equipment and ambulance cars purchased for rural health care institutions were transferred to other medical institutions by the Ministry for unknown reasons. As a result, medical assistant and obstetrics stations, rural ambulance stations, district hospitals are supplied with medical equipment by only 48%.

The Ministry did not notify medical institutions on the future supplies of equipment and special conditions in the premises for its assembling. Now, 205 pieces of equipment purchased on their own discretion in 2007 costing nearly UAH 83 million as for the audit in September of 2008 were not put into operation due to unprepared premises. According to the Accounting Chamber auditors, such practice is persistent in the Ministry since the audits had revealed medical equipment costing over UAH 5 million at the medical institutions purchased in 2004 and 2006 and not put into operation yet.

Due to non-professionalism of the Permanent Tender Committee the Ministry purchased X-ray equipment at nearly UAH 2 million in 2007 without proper spare parts, therefore, its operation is impossible.

Equipment at more than UAH 110 million was supplied to the medical institutions with violations of the deadline of 3 to 8 months set by the law which has signs of interest-free loan granted to commercial bodies.

The audit detected that in circumvention of the law the Ministry purchased medical equipment at the prices exceeding ex-works price to wholesalers even with discounts and market price by about 7 times. It was the root of extra expenses of the budget at more than UAH 30 million.

Overall, the Ministry of Health Care of Ukraine used nearly 64% of the state budget funds for equipment of the medical institutions of Ukraine ineffectively or with violation of the applicable legislation in 2007-2008.

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Considered by the Accounting Chamber Board

13.11.2008

Donetsk airport: flights to nowhere

The Ministry of Transportation and Communication of Ukraine and the Donetsk Regional Council did not provide for effective use of the state budget funds meant for integral reconstruction, extension and technical refitting of the municipal enterprise "International Airport Donetsk". As a result, over UAH 26 million was used with violations of the legislation in 2007 and 2008. Also, about UAH 13 million was used ineffectively. Besides, management of the budget funds was related to numerous violations of the legislation and provoked broken deadlines of construction works, illegitimate expenditures and losses of the state. It was the conclusion of the Accounting Chamber Board made in the follow-up to the audit of use of subvention granted from the state budget to the local budget of Donetsk Region in 2007 and January-June of 2008 for integral reconstruction, extension and technical refitting of the municipal enterprise "International Airport Donetsk".

According to the Accounting Chamber experts, violations of use of the state budget funds were persistent. Thus, provision of the agreement between the Ministry of Transportation and Communication of Ukraine (the Minister is Mr. Yosyp Vinskiy) and the Donetsk Regional Council (the Chairman is Mr. Anatloiy Bliznyuk) could be construed in different ways in terms of the pieces of property to be reassigned to the state ownership. The agreement expired before the construction had to be accomplished. In fact, from the very beginning the situation had hidden risk that the pieces of property with the state budget funds spent on them would escape state ownership.

The auditors also revealed that the general project developer of construction of runway Donetsk Regional Association of Capital Construction had neither permission of project development of airdromes nor experience of project development of the airdrome installations. The consequence of the shortage of experience of the project developer was improper project approval which required further improvement and re-approval. Therefore, due to the change of project solutions growth of the construction costs if compared with original project amounted to more than UAH 127 million. Direction for Capital Construction and Reconstruction of International Airport Donetsk selected supplementary contractors (not envisaged by the cost estimate of the project work) without tender procedure which is violation of the Law of Ukraine "On Public Procurement of the Goods, Works and Services". Consequently, over UAH 25 million received for construction was used with violation of the applicable legislation.

In addition, Direction for Capital Construction and Reconstruction of International Airport Donetsk conducted technical field supervision of the construction works of integral reconstruction, extension and technical refitting of the municipal enterprise "International Airport Donetsk" without having experts with qualification certificates. Consequently, over UAH 500 thousand of the state budget funds was used ineffectively.

Also, today it is obvious that in circumvention of the resolution of the Government on preparation and conducting of final of Europe Football Championship 2012 in Ukraine, the Ministry of Transportation and Communication will not attract UAH 45 million of investments to the construction in 2008.

The Accounting Chamber experts came to the conclusion that deadlines of accomplishment of integral reconstruction, extension and technical refitting of the municipal enterprise "International Airport Donetsk" were on the verge of being broken.

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Audits in the field of education performed

DR. VALENTYN SYMONENKO

Chairman of the Accounting Chamber of Ukraine

The state policy in Ukraine in the field of education covers all levels of the education - primary, secondary (obligatory), vocational and higher education. According to the article 53 of the Constitution of Ukraine the State guarantees the accessibility and free primary, secondary, vocational and higher education in the public and municipal educational institutions; development of the primary, secondary, nonschool, vocational, higher and postgraduate education, different types of training; grants public scholarships and privileges for the pupils and students.

The state policy in Ukraine in the field of education covers all levels of the education - primary, secondary (obligatory), vocational and higher education.

According to the article 53 of the Constitution of Ukraine the State guarantees the accessibility and free primary, secondary, vocational and higher education in the public and municipal educational institutions; development of the primary, secondary, non-school, vocational, higher and postgraduate education, different types of training; grants public scholarships and privileges for the pupils and students. The financing of the primary and secondary education mainly relates to the local budget expenditures. But at the same time only some Public Programs and measures of the abovementioned educational levels are financed from the State Budget.

For the last five years the expenditures on education in Ukraine reach annually about 6 percent of the GDP. According to the Law of Ukraine "On the State Budget of Ukraine for 2008" funds equivalent to 3 billion Euro are provided for the rendering services on obtaining primary, secondary, vocational, higher, non-school and postgraduate education. This amounts 9 percent from the total amount of Ukrainian State Budget expenditures.

The social importance of realizing one of the main State function which is ensuring the sufficient level of the education for the young growing generation and training of the highly educated specialists that is considered as the foundation of the state development in all spheres (economic, social, cultural and scientific). Taking into account aforesaid as well as the amount of the budgetary funds assigned annually for this function the Accounting Chamber of Ukraine as the constitutional independent Supreme Audit Institution in Ukraine executes the permanent control over the funds expenditures on this purposes mainly in respect to effectiveness, economy and legality.

The Accounting Chamber of Ukraine while conducting performance audit in the field of education at the same time performs financial audit, compliance audit as well as researches problems of the administrative activity, audit object internal control organization and in this field as a whole, social effects of the administration decision-making.

The Annual Collegium Working Plan foresees conducting control and analytical measures on different themes in the field of education,

The Accounting Chamber of Ukraine while conducting performance audit in the field of education at the same time performs financial audit, compliance audit as well as researches problems of the administrative activity, audit object internal control organization and in this field as a whole, social effects of the administration decision making.

permanent monitoring and control over the implementation of the ACU proposals and recommendations on audit findings conducted earlier.

Over the last years Accounting Chamber has conducted the number of audits related to the State Budget funds utilization in the field of education.

As the result of performance of the **Audit on the Provision of Educational Institutions with the Manuals** we have come to conclusion that the acting system established by the Ministry of Education and Science of Ukraine is not perfect. First, the monopoly of publishing and manuals delivery by the Ministry of Education and Science of Ukraine, without taking into account the demands of the educational process participants and the market economy conditions, prevents from obtaining the necessary results. Secondly, existing system doesn't foresee the responsibility of the officials of the regional educational authorities for the timeliness and completeness of the providing students' with the manuals.

During the audit there was found out that the Ministry of Education and Science of Ukraine doesn't coordinate the activity of the methodical centers that elaborate and publish the manuals for the secondary, vocational and higher educational institutions. This fact had negative impact on the immediate decision-making.

Due to the lack of the necessary efficiency and flexibility the timeliness of manuals publishing and delivery to the consumers haven't been provided. As a result the numbers of new manuals have been kept at the storehouses and have not been used during the educational process. Moreover, the part of the pupils remained without manuals according to the new programs (*Ukraine should transfer for 12 year education period until 2010*).

The Ministry of Education and Science of Ukraine didn't ensure the transparency of the copies selection that assisted the lobbying of interests of particular authors and publishing houses including those which received negative references while approbation and use of corresponding publications. The results of the audit on the provision the educational institutions with the manuals conducted by the Accounting Chamber of Ukraine have attracted attention of the public, the Parliament, the Government and the Ministry of Education and Science. As a result of the audit the amendments were made to the legislative in this field. Particularly, the Government Decree "On the improvement of the work related to the provision of the pupils and students of the educational institutions with the manuals and training appliances" was passed; the amendments to the acting procedures on the pupils and students provision with the manuals were made; the system of the institutions responsible for this direction was reorganized.

The Accounting Chamber of Ukraine carries out the monitoring over the measures taken following the audit results. However, revealed problems that had to be solved by the Ministry of Education and Science of Ukraine haven't been eliminated completely.

The other audit on the Implementation of the **Public Program on Informatization of the Secondary Educational Institutions and Computerization of the Rural Schools** was conducted by the Accounting Chamber of Ukraine. The Program goal was providing the teachers and pupils of the rural schools with the access to the domestic and world informational resources by equipping computer classes and Internet networking.

The audit revealed that the Program hasn't provided the creation of equal conditions for the schools in the rural area. This Program covered only 38 percent (2,5 thousands of schools) of the total number of 6,6 thousands of schools in Ukraine.

The Accounting Chamber of Ukraine also emphasized that the Program implementation management was not efficient. The measures on the provision the rural schools with the dedicated connection's channels weren't coordinated with the available and necessary resources for their creation. As the result the technical problems with the Internet access in the distant regions have appeared and this problem has not been solved.

The auditors of the Accounting Chamber of Ukraine have also investigated the problem regarding the efficiency of the State Budget funds

Within the Program implementation only the computer software was purchased, moreover the computer software of different configuration. The Accounting Chamber of Ukraine has concluded that the Ministry of Education and Science of Ukraine created the non-transparent, uncontrolled and inefficient system of the development and implementation of the Program on Informatization of the Secondary Educational Institutions and Computerization of the Rural Schools. As the result - the main task of this Program to increase the number of schools with the dedicated connection's channels and the Internet networking as well as the teachers' and pupils' access to the Internet and other domestic and world informational resources was not realized.

Taking into consideration the Accounting Chamber's recommendations the Program on Informatization of the Secondary Educational Institutions and Computerization of the Rural Schools was brought in conformity with the National Program on Informatization that has provided additional control over its implementation. So the monitoring system over the targeted procurements of the computer classes was implemented; the legal frames on the elaboration and implementation of the software tools to the educational process were developed and adopted; the system of IT teachers retraining was implemented.

The auditors of the Accounting Chamber of Ukraine have also investigated the problem regarding the efficiency of the State Budget funds utilization assigned for the vocational education.

Along with unemployment problem in the country there is a lack of qualified working staff in Ukraine. By solving this problem the economic and industrial potential of the country could be strengthened significantly.

Since the function of the training the above mentioned specialists based on the funds of the employers is at the initial development stage in Ukraine. Such training in the vocational educational institutions is realized for the state budgetary funds based on the public needs.

Taking into consideration the above mentioned problems the Accounting Chamber of Ukraine has carried out **the Audit on the utilization by the Ministry of Education and Science the State Budget Funds assigned for the training the working staff in the vocational educational institutions at the base of the public needs.**

The auditors of the Accounting Chamber of Ukraine have revealed the main problems in the sphere of working staff training. These problems are the low level of training; lack of the connections with the enterprises; the outmoded material resources base of the educational institutions and the state incapacity to realize training using complex technological equipment; the non-perfect structure of the institutions financing oriented at the ensuring of the social component of the expenditure (wages, scholarship and lack of the capital investments); the psychological stereotypes of the young persons who consider the career of the qualified worker non-perspective; the deficit of the working staff which can work with the high-technology equipment; inconsistency between the working staff training and the regional needs and needs of the particular employers. These facts lead to the disproportion at the labour market due to the lack of the demands for the trained staff of the mentioned qualification. At the same time, taking into consideration the demand for the high-qualified workers who able to work with the complex technology equipment, the Ministry of Education and Science of Ukraine assigns only 27,4 percent of the total volume of the public needs for their training.

The increased of the different types of the modern working professions doesn't assist to the elaboration of the corresponding standards for the training of the working staff. For the 5 years the only one new specialization was implemented.

The audits conducted by the Accounting Chamber of Ukraine has defined that the vocational institutions doesn't execute their main function - training of the qualified working staff. Moreover, they are used for the social protection of the unprotected youth groups. Within the structure of the budget expenditures for the professional training the expenditures for

utilization assigned for the vocational education. Since the function of the training the above mentioned specialists based on the funds of the employers is at the initial development stage in Ukraine. Such training in the vocational educational institutions is realized for the state budgetary funds based on the public needs.

The ensuring of the public needs in high qualified specialists' training for the State Budget funds by the way of annual forming, allocation and implementation of the public order for specialists' training with higher education. For these purposes more than 5 percent of the State Budget expenditures are assigned annually.

the assistance, scholarship, food etc. are prevailed. The assignments for purchasing the training equipment are not foreseen and as the result the training is conducted for simple and no prestige professions.

Based on the audit findings the Accounting Chamber of Ukraine has put forward the proposals most part of which was realized. Particularly, the Ministry of Education and Science of Ukraine has made amendments to the procedure on forming the public needs in the working staff training taking into account regional and employers needs; 51 new specializations oriented at the modern technologies were introduced during 2006; the cooperation with the employers was established that has led to the increased number of students who were employed under the labour contract with the enterprises and organizations.

At the same time some problems have to be solved by the way of legislative control and change the state policy in this sphere. We conduct permanent monitoring over our recommendations implementation.

The use of the State Budget funds assigned for the higher education is under the constant control of the Accounting Chamber of Ukraine. During last years the number of audits in this sphere was carried out in the Ministry of Education and Science and other central executives authorities. The ensuring of the public needs in high-qualified specialists is realizing for the State Budget funds by the way of annual forming, allocation and implementation of the public order for specialists' training with higher education. For these purposes more than 5 percent of the State Budget expenditures are assigned annually.

For the period from 2000 to 2008 the number of students which study in the higher educational institutions has increased more by one and a half and has consisted more than 2,8 million persons (Diagram 1).

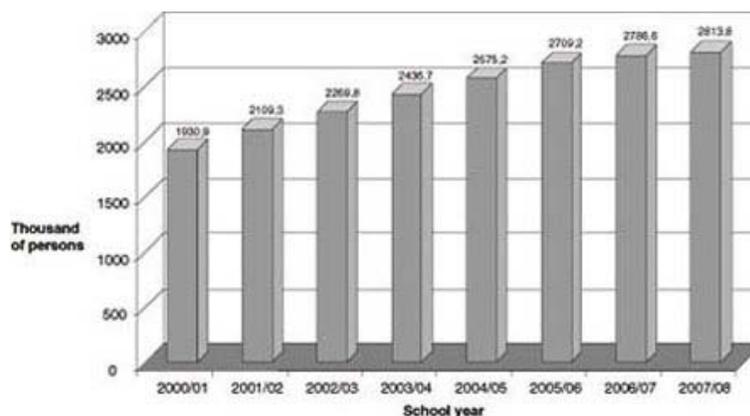


Diagram 1. The dynamic of students in the higher educational institutions

The effectiveness and efficiency of all control measures, including in the sphere of education, were achieved due to the transparent activity of the Accounting Chamber of Ukraine.

The main problems related to forming and realizing the public order for the training specialists with higher education are:

- low level of the study of public needs in the specialists taking into account the long-term perspective by the public customers;
- lack of the coordination between the customers, higher educational institutions and employers concerning the young specialists employment;
- some questions related to higher education and public needs in specialists training are not regulated by legislative;
- lack of the control over the quality of the specialists training in the higher educational institutions as well as lack of the responsibility of the public customers for improper forming and realization of the public order.

As the result the internal labour market on some popular specializations (lawyers, economists, some types of the physicians) is oversaturated that lead to increased number of unemployed in these

spheres. The demand in the engineering specialists is not satisfied. But the Ministry of Education and Science of Ukraine continued to increase the scope of license for the higher educational institutions that train specialists who can not find a job in future. This situation testifies to irrational and inefficient budget funds utilization.

During the audits the facts of violations of the license provisions concerning the enrolment and graduation of the specialists in the higher educational institutions are revealed regularly.

As the result of the audit conducted timely and qualitatively we could attract the attention of the government officials to defining the appropriate needs in the specialists from the point of view of specializations as well as to decrease the scope of the public order for the specialists training with the higher economic education (at 10 percent more in 2007 than in 2006). The Ministry of Education and Science has strengthened the control over licensing the higher educational institutions and realization of the license provisions from their side. As the result, more than 75 higher educational institutions and their branches (7,7 % from the total number of higher educational institutions) have stopped their activity. The control over the job placement of the graduated students has been strengthened. Establishment of the job placement centers subordinated to the higher educational institutions has been introduced on a regular basis.

The effectiveness and efficiency of all control measures, including in the sphere of education, were achieved due to the transparent activity of the Accounting Chamber of Ukraine.

The information on the audit findings including conclusions, proposals and recommendations were sent to the Parliament, the President of Ukraine, the Cabinet of the Ministers, to the audit objects with the aim to eliminate the revealed infringements and defects as well to the mass-media, placed in the Internet and published in the informational bulletins. The constant monitoring of the implementation of the Accounting Chamber of Ukraine proposals and recommendations by the audit objects are realized permanently.

Taking into account the urgency of issues related to the utilization of the budget funds assigned for granting the education for all levels of population, the Accounting Chamber plans to conduct regularly the performance audits on different problems in the sphere of education and to elaborate the proposals and recommendations for the improvement the effectiveness and efficiency of the budgetary funds expenditures.

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Report by the Chairman of the Accounting Chamber of Ukraine Dr. Valentyn Symonenko at the EUROSAI International Conference "The Role of Supreme Audit Institutions in Fighting Against Fraud and Corruption"

**Dear participants of the conference!
 Dear guests, colleagues, friends!**

I am honored to speak before you and represent for discussion a number of ideas related to the problem of corruption and the role of Supreme Audit Institutions in fighting against this negative phenomenon.

Increasing comprehension of this problem (which is witnessed by the number of conferences held worldwide) by the independent public financial control in modern democratic society is induced by the **new content of basic dominants of the modern world financial and economic system and understanding that corruption is one of the major obstacles for its development.**

Corruption exists in all regiments, both at the level of government and in all spheres of social life. It is a social phenomenon of a global character. It is more or less inherent to most countries of the world and becomes quite general. This was addressed in the resolution of VIII UN Congress on "Corruption in the State Management" in 1990.

However historic development testifies that the **most awful forms of violations in the sphere of finance take place in those countries, which undergo political, economic and social changes.**

Ukrainian society over the last 15 years undergoes such development. Evolution of this process resulted in the fact that in various international surveys Ukraine is repeatedly mentioned as one of the most corrupt country in the world. According to our assessments, nowadays corruption represents a real threat to the national security of Ukraine.

Surveys of the Accounting Chamber of Ukraine, based on its expert examinations, analyses, audits reveal consolidation of different types of relations which are burdensome or do not comply with the principles of competitive market economy and legal community. There are gaps in actual practice between the effective legislation and real economic environment. "The rule of law" is still observed to the extent where it is **politically and economically convenient.** An active part of the population continues to operate in **"conventional" economy**, disregarding laws and official regulations and governed by dealings with those, who posses real power and authority.

In our opinion the main problem here consists in the necessity to create and maintain in our country the socially responsible and oriented on public objectives **state administration mechanism.**

Today it is not clear who and in what manner is responsible for resolving key issues of social and economic development. There is still overlapping of functions for different bodies of executive power, whose activity is characterized by weak responsibility, executive discipline in exercising of their obligations, legal regulations and resolutions.

Furthermore we should also take into consideration the constant fluctuation of economic course, seeking new ways to achieve vaguely defined objectives.

In confirmation of these conclusions I would like to quote the Nobel laureate in economics Mr. J. Tobin: "Unfortunately, professional advisers in administration of transition of post-communist countries to market capitalism - economists, financial experts, business managers, politicians encouraged the emergence of false expectations. The advices simply suggested:

dismount instruments of communist control and regulation, privatize enterprises, stabilize finances, remove governments and watch market economy grow from ashes. This turned out to be more complicated. In euphoria these advisors often disregarded that economic victory in a war of systems was achieved not by ideologically pure free market regimes, but by "mixed economies", where state played the significant if not the decisive role. They also left out of account that rather complicated structure of legislation, institutions and customs, which were formed through many ages in the capitalist states provide most firm grounds for modern economic systems".

We believe that in these specific conditions the objective of the Accounting Chamber of Ukraine in approaching the whole complex of issues to fight fraud and corruption is to provide total financial control in all spheres and at all stages of budgetary processes and application of public funds, public property, which should significantly scale down opportunities for unlawful activities of officials in the process of public financial resources disbursement; ensure maximum transparency in the process of formation and application of public funds, due informing of public and respective governmental authorities concerning proper and effective usage of public property as well as inefficient administrative decisions.

Resolving objectives assigned the Accounting Chamber of Ukraine, in our vision, quite efficiently interacts with governmental agencies in two directions - regulatory and organizational.

Ukraine *de jure* has the system of anti-corruption legislation. It contains a number of regulations both basic, for all spheres of social life, and those dealing with specific spheres of economy or public relations. However all of them were adopted in different times by different authorities, in some cases unsystematically, without proper scientific substantiation resulting in conflicts and inconsistencies. Taking this fact into consideration in each our report based on the results audit we make proposals to our Parliament and the Cabinet of Ministers suggesting the necessity of more balanced approach to this issue and reconsideration of certain provisions of the effective national anti-corruption legislation in accordance with the norms of the international law and bringing into practice the compulsory mechanism of anti-corruption expert examination of legal instruments and their projects.

Besides, our analysis of the regulatory framework taking into account the results of control measures testifies that many legal acts are focused on the elimination of corruption and shadow economy consequences instead of its causes prevention.

Among basic factors impeding to resolve the problem of corruption we deem necessary to point out the following:

1. Unclear, inconsistent, contradictory legislation and bylaws, regulating economic relations. In most cases it provides fertile ground for corruption both in relations within governmental agencies and between them and business environment, as well as within business environment itself.
2. The lack of the unified, approved anti-corruption strategy.
3. Incomplete system of taxation for both physical and legal entities, inducing shadow economy and corruption.
4. Actual lack of real political will in determined and overall fight against corruption. Mostly it results in declarations, slogans and small, unsystematic actions against separate cases of bribery.
5. Actual lack of real measures and actions taken by mass media, government agencies, reputable nation representatives towards establishment of irreconcilable public attitude to the very phenomenon of corruption, towards normal attitude to corruption as unavoidable occurrence of everyday life existent on the level of mentality.

These factors are systematic and therefore require comprehensive resolution.

Still there is one if not the main, fundamental, inherent to the very human nature and mentality, personal factor. Its occurrence depends on the historic and economic customs of each country.

In countries with transitional economy personal factor plays almost dominant role in the system of state government. This occurs when officials provide benefits to the commercial entities in order to obtain personal profit; use their official status to "pump" public funds to commercial entities using counterfeiteres and relatives.

In this case corruption cases at the level of governmental agencies are "measured" by the authority of an official in accordance with duties regulating management of public funds. Such

opportunities appear predominantly when "encountering" most potentially profitable from the point of view of corruption privatization services, licensing and assignment of quotas for export transactions, budget transfers in regions, bank crediting, granting of government subsidies and government procurements.

I hope you will agree that this determines the nature of the integrated phenomenon for the countries with transitional economy: use of public funds and property as one of the ways for accumulation of initial capital by civil servants and related commercial entities. In order to address this problem a number of all-national measures were elaborated, a number of laws were adopted providing advanced training of civil servants; delimitation of functions, updating the range of duties and decreasing the influence of personal, subjective factor; enforcing internal financial control, which mainly became the instrument of pressure at business and citizens; increasing the role of public control over civil servants' activities. This work is absolutely crucial. However we see the resolving of this problem in establishment and maintenance of the unified system of public financial and economic control, as a subsystem of government. And the key role here should rest upon the constitutional, independent external supervising agency.

In terms of the place and role of the Supreme Audit Institutions, we think that the main task for us should not consist in detecting general violations of specific agencies (having their own intra-departmental control) but study of state mechanism penalties character in the course of implementation of all-national programs, resolving of nationwide problems through effective usage of all public resources. This task requires determination of fundamental, causal factors resulting in violations, infringements and inconsistencies of the national legislation.

An important sphere of cooperation of the Verkhovna Rada of Ukraine and the Accounting Chamber of Ukraine is the improvement of legislation. Provisions of the acting Law of Ukraine On the Accounting Chamber of Ukraine empowers the Accounting Chamber, exercising which, under commission of the Verkhovna Rada of Ukraine, to perform expert examination and provide conclusions on various draft laws, for instance, covering fiscal and monetary spheres, specific all-nation programs. This function is essential especially in the period of formation of the unified public financial audit system. In our propositions to the Parliament we reflect our vision of ways for improvement of fiscal and monetary legislation, placing emphasis onto specific updates to the legislation related to fighting against fraud and corruption.

New positive impulse in this effort became the decree of the Chairman of the Verkhovna Rada of Ukraine Mr. Oleksandr Moroz recently adopted by the Parliament, stating that reports of the Accounting Chamber based upon the results of control measures uncovering significant violations of law and improper resource management, suggestions on the updating the legislative base should be considered by the relevant Committees of the Verkhovna Rada of Ukraine, and most urgent ones - at sessions of the Parliament of Ukraine including mandatory hearings of the chief executives from ministries and agencies, being the subject of such control measures. In our opinion this should increase the productivity and efficiency of work of the Accounting Chamber.

An integral part of conclusions and propositions implementation process based on audit results is close collaboration with law enforcement bodies. Prompt remuneration of damages inflicted to the nation, prevention of corruption-related crimes, misappropriations and "money laundering", as well as implementation of other conclusions of the audit institution based on the results of specific inspections, fully depends on the reaction to the materials provided by the Accounting Chamber.

According to the Law of Ukraine On the Accounting Chamber of Ukraine we are entitled to refer the results of audits, expert examinations and investigations uncovering cases of embezzlement or other law infringements to law enforcement bodies.

In 2006 33 cases based on the results of control and analysis measures, and 17 cases of them by the decision of the Collegium of the Accounting Chamber, were referred to the General Prosecutor's Office of Ukraine. Most uncovered violations in these cases clearly had facts of corruption. This concerns the audits of the application of public funds from the State Budget of Ukraine for replenishment of tangible assets in the state material reserve; construction of housing for military staff; audit of the Ministry of Defense of Ukraine covering issues of usage and management of real estate property as well as application of public funds obtained from its disposal; audit of the efficiency of application of funds from the State Budget of Ukraine appropriated to the Ministry of Health of Ukraine for the centralized procurement of equipment, medical products and ambulance vehicles etc.

At the same time quite often the referred cases were lost when processed by such agencies, or we were receiving mere formal answers. In order to avoid such situations and to enforce supervision by the Accounting Chamber over implementation of referred cases it was

agreed and adopted proper Procedure of collaboration between the General Prosecutor's Office of Ukraine, the Ministry of Internal Affairs, the Security Service and the Accounting Chamber, regulating the referral and processing of cases based on the results of audits and detected violations.

Adoption of this document somewhat improved the situation with execution efficiency. However it did not solve the problem fundamentally. We are confident that this issue should be resolved in a lawful way. We need law instead of bylaws. Only this approach may insure the unavoidable prosecution of corruption, in full measure implement the conclusion of the Accounting Chamber. We have to break the existing stereotype that corruption exists while no one is corrupted.

And here, in the first place, we require, complete openness, transparency at all stages of performed audits, complete change of the public conscience towards uncompromising attitude to all cases of corruption.

And in conclusion I would like to emphasize that such conferences, which took place and will be held in future are supposed to determine the correct operational methods for the Supreme Audit Institutions in regard of prevention and eliciting cases of fraud and corruption as it was figuratively written about the importance of right choice by famous philosopher of XVI century Francis Bacon: "Lame cripple following the right path can outfoot a steed running in wrong direction. Moreover the faster gallops the steed astray the further is he left behind by the cripple". So let me express my confidence that we will manage to choose correct system of measures and recommend to apply them in our practical activities.

I once again wish all the participants of our forum fruitful and successful work for improvement of public funds' supervision system in order to fight against fraud and corruption.

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05/07/2003

Ukraine Gets World Bank Aid for Information Technology
\$5 million to improve online services, transactions

The World Bank on May 6 approved a \$5 million E-development project (information and communication technologies) to support Ukraine's long-term efforts to modernize its public administration, and increase public access to online services and local content as well as accessibility to the Internet.

The use of these technologies is still in an early stage of development in Ukraine and is characterized by a lack of an appropriate legal and regulatory framework, undeveloped infrastructure, expensive Internet access, and poor local content development, according to a World Bank press release.

This project "will create essential fundamentals to bridge the digital divide and advance Ukraine towards the knowledge-based economy," said project manager Andrei Mikhnev.

Following is a World Bank news release:

(begin text)

World Bank
Washington, D.C.
www.worldbank.org

UKRAINE: WORLD BANK SUPPORTS E-DEVELOPMENT

WASHINGTON, May 6, 2003 - The World Bank today approved a US\$5 million E-Development Project for Ukraine, which will assist the Government of Ukraine to enhance efficiency of the decision-making process, foster private sector development, and strengthen civil society in Ukraine by introducing innovative models of Information and Communication Technologies (ICT) solutions.

In Ukraine, the use of ICTs in everyday life, especially relating to the Internet, is still in an early stage of development. Currently, the ICT sector in Ukraine is characterized by a lack of an appropriate legal and regulatory framework, which validates online transactions; undeveloped infrastructure and logistical systems; comparatively expensive access to the Internet; and poor local content development.

"The project will promote a market-driven approach, which will foster development of the ICT industry, infrastructure building, access to online services and local content, and extend Internet penetration in Ukraine," says Luca Barbone, World Bank Director for Ukraine, Belarus and Moldova. "The implementation of the E-Government, E-Business and E-Dialogue models at national and regional levels will strongly demonstrate how innovative ICT solutions can contribute to sustainable, accelerated and broad-based economic growth."

The project will provide a wider, deeper and longer-term perspective by assessing the overall impact of the E-Government, E-Business and E-Dialogue elements on the functioning and operation of the government and public. It also will facilitate private sector development by introducing more competition in the public procurement of goods and services, and by enabling on-line business transactions through the appropriate legislative framework.

"Although the project will focus on only a few critical areas of E-Development, its outcome lays far beyond the Project framework since it will create essential fundamentals to bridge the digital divide and advance Ukraine towards the knowledge-based economy," says Andrei Mikhnev, Project Team Leader.

[Tell us what you think about this article.](#)

The E-Development Project has three main components. The first component, E-Government, will introduce e-procurement and e-documentation flow models that aim to substantially improve efficiency in Ukraine's public administration at central and regional levels. The E-Business Environment component will create a legal and regulatory framework, which will allow on-line transactions in Ukraine to be recognized as legally binding. This legal framework will be based on best practices and compatible with EU standards. The third component, Public-Private E-Dialogue, will develop on-line models and tools for enhancing public involvement in governance processes through active participation in the development of public policies and regulatory decision-making.

By supporting the Government's long-term public administration reform efforts, the project will benefit the entire population. A wider application of ICT will encourage a dialogue among policy makers and NGOs about best practices for incorporating the views, concerns and priorities of more vulnerable groups into Government projects and programs. It will also improve the legal environment in the e-business area, thus helping to form and enhance a wide range of development applications -- from e-commerce and e-government to assisting small and medium entrepreneurs, and providing on-line tools to different communities to better access to knowledge and information.

The loan will be at the Bank's standard interest rate for LIBOR-based, single currency dollar loans, repayable in 20 years, including a 5-year grace period. Since Ukraine joined the World Bank in 1992, commitments to the country total more than US\$3.4 billion [\$3,400 million] for 26 operations.

For more information on the Bank's work in Ukraine, visit: www.worldbank.org.ua

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(end text)

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Ukraine: new public procurement procedures

Law-Now Ukraine
28.10.2008

On 17 October 2008, new public procurement procedures were introduced by a Cabinet of Ministers resolution.

The resolution enables the completion of all procurements initiated under the temporary procedure adopted in March 2008, which was recently declared to be unconstitutional by the Constitutional Court.

It also sets out new cost thresholds of UAH 300,000 (US\$ 60,000) for public works and UAH 100,000 (US\$ 20,000) for goods and services procured on or after 17 October 2008. However, this does not affect international procurement agreements as these are already governed by separate provisions relating to international contracts.

Responsibility for coordinating and controlling public procurement has been given to a new Advisory and Methodological Council established within the Ministry of Economy.

Law: Resolution No.921 on Approving the Procedure for Public Procurement of Goods, Works and Services replacing Temporary Procedure for Public Procurement No. 274 dated 28 March 2008

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Summary of the
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Support to Dialogue on Public Procurement

The Ukraine EU FTA is likely to involve progressive approximation of Ukraine's legislation with the EC acquis and the introduction of mutual access to their respective markets at all levels on the basis of national treatment.

The main benefits of this to Ukraine will be to increase efficiency of public investment in Ukraine (lower, more competitive bids) leading to increased government investment (from procurement savings) and increased trade in goods and services from Ukrainian business as they win EU public procurement contracts.

The key issues, which stakeholders and negotiators need to address are:

[How much and how quickly to adopt EU public procurement laws, practises and mutual access](#)

Stakeholders in Ukraine should adopt a position on these key issues based on analysis of a number of factors which will determine how these potential changes will affect them.

Opportunities: The level of integration will depend on the benefits to Ukraine (perceived and actual).
Laws: The legislative changes needed will depend on the difference between the current legislative framework and that of the EU.
Institutions: Compliance with public procurement legislation requires an effective institutional framework.
Capacity: Implementation will require capacity of government and politicians to effect the changes required and implement the rules effectively.

Related documents can be downloaded by clicking on the links below:

[ISSUES PAPER 1: PUBLIC PROCUREMENT](#)

Useful Documents for Download

[EU Procurement Directive 17 \(Utilities\)](#)
[EU Procurement Directive 18 \(Classic Sector\)](#)
[EC Guidelines for Public Supplies Contracts](#)
[EC Guidelines for Public Services Contracts](#)
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Support to Dialogue on the EU-Ukraine Free Trade Agreement

ISSUES PAPER 1: PUBLIC PROCUREMENT



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Report Prepared by

Chris Cosgrove, Mark Hellyer, Serghei Nerpil & Yuri Muzika

The findings and opinions expressed in this report remain those of the authors and do not necessarily reflect those of the Government of Ukraine, Ministry of Economy or British Government

Executive Summary

The Ukraine EU FTA is likely to involve progressive approximation of Ukraine's legislation with the EC acquis and the introduction of mutual access to their respective markets at all levels on the basis of national treatment.

The main benefits of this to Ukraine will be to increase efficiency of public investment in Ukraine (lower, more competitive bids) leading to increased government investment (from procurement savings) and increased trade in goods and services from Ukrainian business as they win EU public procurement contracts.

The key issues, which stakeholders and negotiators need to address are:

How much and how quickly to adopt EU public procurement laws, practises and mutual access

Stakeholders in Ukraine should adopt a position on these key issues based on analysis of a number of factors which will determine how these potential changes will affect them.

Opportunities: The level of integration will depend on the benefits to Ukraine (perceived and actual).

Assess what supplies, services and works Ukrainian business could realistically provide to public authorities in the EU and estimate their value.

Evaluate the efficiency gains in public spending

Laws: The legislative changes needed will depend on the difference between the current legislative framework and that of the EU.

Assess the changes in Ukrainian legislation required to comply with EU legislation on public procurement

Based on the analysis of steps to be taken and level of compliance, evaluate the ease of achieving each step in terms of political realities

Institutions: Compliance with public procurement legislation requires an effective institutional framework.

Assess the differences between the existing institutional framework in Ukraine and that required by the EU Directives

Based on the above analysis, list the changes required to the existing institutional framework, including creation of any new bodies

Assessment of the institutional legislation required to ensure effective implementation

Capacity: Implementation will require capacity of government and politicians to effect the changes required and implement the rules effectively.

Assess the pool of technical experts able to develop and implement EU style rules

Training needs assessment across all government and state owned enterprises

The level of political commitment and understanding

Context

Government procurement negotiations involve access of each party to government contracts and can include central government, regional government and state owned enterprises. However, the coverage of procurement on a sector-by-sector basis can be negotiated, as can the thresholds where national treatment is applied and type of contract (works, supply and services).

Scope of negotiations

The FTA is likely to involve progressive approximation of Ukraine's legislation with the EC acquis and the introduction of mutual access to their respective markets at all levels on the basis of national treatment. This could apply to public contracts, concessions and supply, service and works contracts awarded by utilities, state-owned enterprises and private undertakings over which the state retains effective control or utilities that operate with exclusive rights. Furthermore, it is likely that the EC would require independent and effective domestic review mechanisms and reform of the institutions involved in procurement.

Economic benefit

The economic impact of approximation of procurement laws and practices to those of the EU will be:

- to increase efficiency of public investment in Ukraine (lower, more competitive bids) leading to increased government investment (from procurement savings);
- reallocation of resources from public tendering to more efficient companies, particularly SMEs, which would grow and reinvest in the economy;
- lower costs from cheaper EU companies and potentially increased quality of public works, supplies and services;
- increased trade in goods and services from Ukrainian business as they win EU public procurement contracts.

The potential benefits of increased efficiency (through greater transparency) in Ukraine of adopting the acquis have been estimated as follows:

- Public procurement is estimated to be between 5 and 20 per cent¹ of GDP;
- The existing level of participation in open tenders is relatively low, on average², only 2.6 firms per bid (2005). The number of single participant bids represented 15.3 per cent³ of total value of procurement;
- 11.4 per cent⁴ of bids by value are requests for price proposals;
- 99.8 per cent⁵ of all contracts by value are awarded to domestic firms;
- Over US\$ 14 million⁶ of budgetary funds are still spent without any procurement procedures, despite the law.

Key Issues

In light of the scope and implications of these negotiations, the key issues, which stakeholders and negotiators need to address, are:

How quickly can or should Ukraine adopt the EU public procurement laws and practices?

How much of the EU legislation/practices should Ukraine adopt (all or part)?

What timeframe should be allowed for Ukraine to open up its procurement market to full EU participation with national treatment?

Are any sectors to be excluded? On what basis?

¹ Studies by the ECORYS (2008) Trade Sustainability Impact Assessment for the FTA between the EU and Ukraine within the Enhanced Agreement ; Centre for Social and Economic Research (CASE) (2006) Prospects for EU-Ukraine Economic Relations; CEPS, IFW & ICPS (2006) The Prospects of deep free trade between the European Union and Ukraine.

² Centre for Social and Economic Research (CASE) (2006) Prospects for EU-Ukraine Economic Relations

³ ECORYS (2008) Trade Sustainability Impact Assessment for the FTA between the EU and Ukraine within the Enhanced Agreement

⁴ Ibid.

⁵ Ibid.

⁶ Centre for Social and Economic Research (CASE) (2006) Prospects for EU-Ukraine Economic Relations

Existing Regime in the EU

The EU public procurement regime is based on core principals of transparency, equal treatment, free competition and non-discrimination. This ensures that government resources in the EU are allocated more effectively and promotes trade and growth.

Legislative Framework

The award of public contracts in the EU (public works, public supply and public service contracts) is governed by two specific directives regarding the classical sector (traditional contracting authorities) and utilities sector (covering the authorities and entities operating in the fields of water, energy, transport and postal services).

The scope of application of these directives depends on the type of contracting authorities/entities, contracts covered, thresholds and exclusions. To ensure the procurement process follows the general principles these directives dictate specifications for contract documents, different types of procurement procedures, advertising and transparency, selection criteria and rules on contract award.

The directives also provide for electronic procurement including electronic communication, dynamic purchasing systems and electronic auctions. The rules on the contracts covered and on advertising are detailed by separate regulations on the Common Procurement Vocabulary (CPV) and standard forms for publication.

Compliance with the procurement directives requires adequate implementation capacity including the appropriate administrative structures at a central level to ensure the key functions of policy-making, drafting of primary and secondary legislation, provision of operational tools, help-desk, monitoring and statistics and controls for all aspects of public procurement. Moreover, purchasers at all levels have to possess the necessary administrative capacities to allow for effective implementation of these rules.

There are three further directives addressing remedies for both sectors, which contain requirements for the establishment of effective review procedures against any action or inaction of contracting authorities/entities liable to produce legal effects. The procedures need to guarantee access to independent review, including the powers to adopt interim measures and award damages. These review bodies require adequate capacity to guarantee the effectiveness of the system as a whole.

EU Public Procurement Legislation

Directive 2004/17/EC [Utilities Directive] of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (30.04.2004).

Directive 2004/18/EC [Traditional Sector Directive] of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (30.04.2004).

Commission Regulation (EC) No 2151/2003 of 16 December 2003 amending Regulation (EC) No 2195/2002 of the European Parliament and of the Council on the Common Procurement Vocabulary (CPV)

Commission Regulation (EC) No 1564/2005 of 7 September 2005 establishing standard forms for the publication of notices in the framework of public procurement procedures pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council

Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts

Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (to be implemented by Member States into national law before 20 December 2009)

Overview of the Public Procurement Regime in the EU

Scope of Application

The public procurement rules apply when three main pre-conditions are met:

1. The procuring body is a "contracting authority" as defined in the rules:

Contracting authority	
Classic Sector	'Contracting authorities' are the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or one or several of such bodies governed by public law.
Utilities Sector	'Contracting entities' are contracting authorities, public undertakings, or any other body (including private organisations) granted special or exclusive rights, that undertake any of the following activities: <ul style="list-style-type: none">- <u>Gas, heat and electricity</u>: the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat; or the supply of gas or heat to such networks.- <u>Water</u>: the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water; or the supply of drinking water to such networks.- <u>Transport services</u>: provision or operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.- <u>Postal services</u>: services consisting of the clearance, sorting, routing and delivery of postal items.

- **Solid Fuels:** Exploration for, or extraction of, oil, gas, coal or other solid fuels.
- **Ports and airports:** the provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway.

Note: public undertakings are defined as any undertaking over which a contracting authority exercises a dominant influence by ownership, financial participation or through the rules which govern it.

2. The contract is a public works, services or supplies contract. In the case of mixed contracts (e.g. for supply and maintenance), the rules applicable will relate to the predominant element of the contract, as set out by the directive;

3. The estimated value of the contract (net of VAT) equals or exceeds the relevant financial threshold (Euro).

	Supplies	Services	Works
Classic Sector	133,000	133,000	5,150,000
Utilities Sector	412,000	412,000	5,150,000

The rules expressly prohibit deliberately splitting contracts to bring them below the thresholds.

There are a number of specific exclusions to the application of the public procurement directives:

Specific exclusions for contracts:	
Classic Sector	<ul style="list-style-type: none"> • for the purpose of permitting the contracting authorities to provide or exploit public telecommunications networks or to provide to the public one or more telecommunications services; • contracts when they are declared to be secret, when their performance must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned, or when the protection of the essential interests of that Member State so requires; • the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon; • the acquisition, development, production or co-production of programme material intended for broadcasting by broadcasters and contracts for broadcasting time; • arbitration and conciliation services; • financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, in particular transactions by the contracting authorities to raise money or capital, and central bank services; • employment contracts; • research and development services other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting authority.
Utilities Sector	<p>Works and services contracts:</p> <ul style="list-style-type: none"> • awarded for purposes of resale or lease to third parties; • awarded for purposes other than the pursuit of an activity

- covered or for the pursuit of such an activity in a third country;
- which are secret or require special security measures;
- awarded pursuant to international rules;
- awarded to an affiliated undertaking, to a joint venture or to a contracting entity forming part of a joint venture.

Services contracts:

- the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon;
- arbitration and conciliation services;
- financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, in particular transactions by the contracting entities to raise money or capital;
- employment contracts;
- research and development services other than those where the benefits accrue exclusively to the contracting entity for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting entity.

Procurement Procedures

In tendering, the contracting authority or entity must use one of the proscribed procedures:

Open - There are no restrictions as to when this procedure can be used. All interested parties can submit a tender in response to a notice, subject to meeting the contracting authority's selection criteria, if any. No negotiation with the bidders is permitted.

Restricted - There are no restrictions as to when this procedure can be used. All interested parties may express interest but only those meeting the contracting authority's selection criteria will be invited to tender. No negotiation with the bidders is permitted.

Competitive Dialogue - This procedure can only be used in limited circumstances, principally for complex contracts where:

- an open or restricted procedures will not allow the award of the contract;
- an Authority is not objectively able to define the technical means of satisfying its needs and/or it is not objectively able to specify the legal/financial structure of a project;
- an Authority is concentrating on the outputs of the contract and allows innovation from the market as to the methods of delivery through a dialogue process.

All interested parties may express an interest but only those meeting the contracting authority's selection criteria will be invited to tender. During the "dialogue" phase, tenderers are able to discuss all aspects of the contract individually with the contracting authority. Once the dialogue has generated

solutions to the agreed requirements, final tenders are invited based on each tenderer's individual solution. The best tender can then be selected, but there is very limited room for any further changes to be made once submitted.

Negotiated - There are two types of negotiated procedure:

- without prior advert, the contracting authority is not required to issue a notice and may negotiate directly with the supplier of its choice;
- with prior advert, the contracting authority must publish a notice. All interested parties may express an interest but only those meeting the selection criteria will be invited to negotiate the terms of the contract.

The Regulations do not set out any rules to govern the conduct of negotiations, which means that the contracting authority can, within certain parameters, establish its own procedures for the negotiation and tender stage.

Advertising and Transparency

Contracts covered by these Regulations must be published in a contract notice in the Official Journal of the EU (OJEU) using the EU standard forms and with minimum lead time periods (52 days for open procedures, 37 days for Expressions of Interest, 40 days for tender submission for restricted procedures and 37 days for both competitive dialogue and negotiated procedures).

If a candidate is excluded or its bid unsuccessful at any stage of the tender process it is entitled to receive an explanation within 15 days of a written request, providing reasons why the candidate was unsuccessful and, if it submitted a compliant tender, also the characteristics and relative advantages of the successful tenderer and the name of the successful tenderer.

Award Criteria

Contracting authorities/entities must award a contract on the basis of either:

1. Lowest price: The lowest priced tender wins. No other element of the tender may be taken into account; or
2. The most economically advantageous tender (MEAT): Factors other than or in addition to price, like quality, technical merit and running costs can be taken into account. If MEAT is being used:

- the headline contract award criteria (e.g. "price, quality of services, risk to contracting authority etc.") must be set out either in the notice or the tender documents; and
- the weighting of each criterion must also normally be given, either as an exact number or as a meaningful range (e.g. 'price: 30%-40%').

Institutional Framework

To implement the Public Procurement directives, a range of procurement tasks and functions are required to be implemented by governments, including:

1. Primary policy and legislative functions
2. Secondary policy and regulatory functions
3. International co-ordination functions
4. Monitoring and control functions
5. Advisory and operations' support functions
6. Publication and information functions
7. Professionalisation and capacity-strengthening functions
8. Development and procurement co-ordination functions
9. Enforcement and remedies
10. Central purchasing functions (not a necessity or requirement)

The organisational structures of the EU Member States to undertake these tasks are not proscribed by the Directives (except to some extent, Remedies) but most Member States have central public procurement bodies, although their respective responsibilities, functions and tasks differ. For the new Member States, central public procurement bodies have been shown⁷ to have been highly successful in developing procurement systems and this has become the preferred model for implementation.

The remedies directive requires that in each Member State, aggrieved bidders should have access to rapid, effective, transparent, and non-discriminatory review and remedies.

⁷ Central Public Procurement Structures and Capacity in Member States of the European Union, SIGMA PAPER No. 40 (2007)

There is substantial common ground amongst Member States but also considerable differences between the public procurement review and remedies systems:⁸

“most Member States provide for direct complaints to the contracting entity that committed the alleged breach of public procurement law as a direct or indirect first stage of review. However, this possibility is not regarded as a first stage of the review process required by the relevant EC Directives. Therefore differences can be found in terms of whether such a complaint is set as a compulsory first stage of review and whether tenderers actually use this possibility in practice, and with regard to procedural details, such as time limits. All Member States operate a first-instance judicial or quasi-judicial review of procurement decisions.”

⁸ Public Procurement Review and Remedies Systems in The European Union SIGMA PAPER NO. 41 (2007)

Existing Regime in Ukraine

Public procurement in Ukraine amounts to US\$ 3-5 billion or 5-7 per cent of GDP. However, studies have shown that much of the procurement lacks effective competition and therefore, is likely to be allocated inefficiently.

Legislative Framework

The framework law 'On Public Procurement of Goods, Services and Works' was adopted in February 2000 and subsequently amended many times. However, it was eventually cancelled by a Law adopted by the Verkhovna Rada of Ukraine in March 2008.

It has been replaced by the Cabinet of Ministers Regulation N921 dated 7.10.2008 "On Approval of Rules of Procurement of Goods, Works and Services from State Funds" (PPR).

Unlike the EU, Ukraine has no special rules for utilities, therefore the utilities sector must apply and be governed by the PPR.

Overview of the Public Procurement Regime in Ukraine

Scope of Application

The PPR applies to supplies and services contracts of a minimum of UAH 100,000 and works contracts of a minimum of UAH 300,000 by all state and local governments, public enterprises, and private enterprises in which the public share is more than 50%.

There are a number of exclusions concerning secret contracts and defense procurement. In addition, there is also a clause which designates that special goods, works and services are not covered by the PPR and that the Cabinet of Ministers will define, on a case by case basis, those which are "special".

The Regulation does not apply to a range of specific supplies, works and services:

Exempt supplies, works and services:

- blank sheets for valuable papers and forgery – proof documents;
- Ukrainian government awards;
- government standard education certificates;
- bank services relating to processing of housing and utility payments, servicing current accounts and payment processing
- services relating to transportation by air, automobile transportation, food, housing, use of sports facilities and special – purpose equipment designated for sports training sessions, sports competitions and events of national and international levels, purchases of fuel, lubricants and pharmaceutical goods for Ukraine's national teams;
- services relating to ensuring the fire safety of facilities by units of the state fire-fighting service;
- supplies, works and services provided by Ukraine as humanitarian aid to other states;
- supplies, works and services related to the elimination of emergency situations under specific decisions of the Cabinet of ministers of Ukraine;
- electrical energy, its transportation and distribution;
- supplies, works and services procured by enterprises for emergency repair of equipment directly used for production of thermo-energy;
- nuclear fuel and fuel elements for nuclear reactors;
- supplies, works and services relating to the organization and performance of official state and international events under specific decisions of the Government;

- supplies, works and services for carrying out events and official receptions involving the President of Ukraine, Speaker of the Parliament of Ukraine and management of the Cabinet of Ministers of Ukraine
- supplies, works and services relating to supporting activities of individuals protected by the state and operation of special regime facilities;
- air transportation services for official delegations of members of the State, parliamentary, government, diplomatic delegations;
- services relating to servicing the official delegations of members of the state, parliamentary, government, diplomatic delegations and officials of the government authorities;
- administrative services provided exclusively by the executive government authorities in accordance with legislation;
- services and goods prices (tariffs) which are set by the executive government agencies, by the Council of ministers of the Autonomous Republic of Crimea, executive agencies of village, town and city councils as required by law;
- leasing of immovable property;
- purchase of immovable property;
- railroad transportation services;
- services relating to the training of specialists, science and instruction workers, qualification improvement, re-training (post-diploma education) and training of workers under government order;
- postal services, postage stamps and stamped envelopes;
- natural gas transportation, distribution and delivery services;
- natural gas;
- prosthetic and orthopedic goods;
- orthopedic footwear;
- technical appliances for rehabilitation of invalids, maintenance services and parts thereof;
- prosthetic and orthopedic services and services relating to rehabilitation and treatment of invalids (including those with spinal problems);
- visual art creations: paintings, graphics, sculpture, as well as decorative - applied and folk art objects, for purposes of replenishment of the State museum fund;
- books, periodicals and other documents fixed on paper, magnetic, cinema and photo film, optical disks or other media for purposes of replenishment of library funds;
- supplies and services for creation of new shows (concerts), production of movies and audio-visual works;
- telecommunication services, including radio and television broadcasting (excluding mobile communication and Internet providers' services);
- supplies and services relating to designing and producing forgery-proof paper, bank notes and coins;
- services procured to ensure implementation of the state budget involving government borrowing and government debt servicing and redemption;
- supplies, works and services procured by customers located outside Ukraine;
- supplies and services procured directly for purposes of carrying out tour events by artistic collectives and performers;
- supplies, works and services procured by the bodies, agencies, educational establishments and enterprises of the criminal-executive system and from the enterprises of the criminal-executive system;
- centralized supply of water, water drainage and maintenance of sewage systems;
- centralized supply of thermo-energy;
- legal services relating to protection of the rights and interests of Ukraine in the course of case trials in agencies of foreign jurisdictions;
- procurement of scientific and technical, research and design and development services that have passed the competitive procedure for selection of scientific projects.

Procurement Procedures

In tendering, the contracting authority must use one of the following procedures:

Open - The open procedure is the main procedure to be used unless specific circumstances justify other procedures;

Restricted - This procedure may only be used where, due to the complex or specialised nature of the contract, there are a limited number of potential tenderers. If this procedure is to be used for contracts above UAH 500,000 (EUR 100,000) prior approval from the authorised agency is required. Only the invited tenderers – at least two – are entitled to submit tenders;

Two-stage tender – This procedure may only be used in cases where:

- the goods, services and works cannot be sufficiently specified in advance;
- all tender proposals delivered by the tenderers in an open tender were declined by the client due to either price or the bids did not meet the tenders documentary qualifications;

- for the execution of construction works, which are the repetition of previous work which was conducted under restricted tender;
- scientific research, experiments or development work, the provision of consultancy and other special services.

The first step consists of the submission of preliminary offers without any price indication. Negotiations are then conducted with the tenderers, and technical specifications and award criteria are developed. The tenderers whose preliminary proposals were not rejected are then invited to submit a final tender, with an indication of price.

Open tender with price reduction – This procedure may only be used for standard goods and services when the contract is above UAH 200,000. The tender proceeds as an open tender, with the difference being that the submission of proposals takes place in two stages. In the first stage, preliminary tenders are submitted without any indication of price. In the second stage, the preliminary tenders selected in the first stage are invited to submit a final tender, with an indication of price. This is followed by a reverse auction, where tenderers are invited to adjust their prices downwards.

Request for quotations - This procedure may only be used for standard goods and services when the contract does not exceed UAH 200,000. At least three tenderers must be invited to bid, and the lowest price is the only award criteria.

Single-source procurement - There are no funding limits specified for this procedure but it may only be used in following situations:

- procurement of arts and procurements related to Intellectual Property;
- absence of competition;
- need for additional procurement of goods or services when changing the supplier would lead to a change of specification of the goods or services;
- construction works where some of the works were not originally envisaged. The additional contract should not be more than 50% of the initial contract;
- procurement contract with the winner of an architects competition;

- immediate needs procurements in relation to special economic or social circumstances, including emergency situations.

Advertising and Transparency

The PPR requires authorities to publish annual notices of planned procurement procedures and to publish individual tenders based on a set outline and with minimum lead time periods (45 days for open, 30 days for restricted, 30 days for 2 stage, 15 days for open with price reduction and 5 days for request for quotations).

These notices must be published in the official Public Procurement Bulletin (“Visnyk Derzhavnyh Zakupivel”) produced by the Ministry of Economy and be placed on the web-portal for public procurement – www.tender.me.gov.ua

The tender procedure is not to be started until the announcement is published in the Public Procurement Bulletin and placed on the public procurement web-portal, except in the case of restricted tenders, requests for quotations and single-source procurement award procedures.

For larger contracts (Supplies – above Euro 200,000, Services – above Euro 300,000 and Works – above euro 500,000) that are presumed to be of international interest, the notices must also be published in relevant international bulletins and websites.

Award Criteria

The award criteria for all contracts must be based on:

- price;
- time of delivery of goods, work and services;
- quality and functional characteristics, ecological purity;
- after-sales services;
- payments modalities;
- operational costs;
- transfer of technologies and training of managerial, scientific and manufacturing personnel with the use of local resources, including means of production, labour and materials for the output of goods, performance of works and provision of services proposed by the bidder.

When criteria other than price are used, for the purpose of the evaluation process they must be either priced or otherwise weighted to indicate their relative importance. The price factor may not be weighted at less than 70% of the evaluation.

Evaluation of tenders and decision making must be undertaken within 30 days of the official opening of tender documents.

Review Procedures

Both the choice of procedure and decision not to accept any tender proposal are not eligible for review of complaint. All other complaints have to be brought within 15 days of the date on which the grounds for bringing the proceedings were established. Receipt of the complaint will result in a suspension of the procurement procedure for a period up to 15 working days. All tenderers must be notified within three days.

Where the alleged breaches are found after tender process, the Ministry of Economy can take a decision to cancel the results of the tender and restart the tender process.

Institutional Framework

The Public Procurement Department (PPD)

The functions of a public procurement office are carried out by the Public Procurement Department (PPD) in the Ministry of Economy. This department was designated as the authorised central agency for co-ordination of the procurement of goods, works and services. It is not an independent authority.

The functions of the PPD include the development of public procurement:

- Reporting - preparation and submission of various reports to the Cabinet of Ministers, Parliament and the Accounting Chamber; provision of explanations of the PPR procedures; organisation of training in the area of procurement; international co-operation and; support to the participation of domestic manufacturers in procurement tenders outside Ukraine;
- Control - responsible for collecting information on planned procurement procedures and tenders, is actively involved in the approval of procurement procedures other than the open

tenders, and reviews complaints submitted by participants prior to the conclusion of a procurement process;

- Compliance with procurement legislation - inspections of the spending units and in the event of the discovery of actionable breaches of the PPR has the power to work with law enforcement agencies. It also co-operates closely with the Antimonopoly Committee in the detection of violations of the legislation to protect economic competition in the area of procurement. It also co-operates with state authorities involved in the prevention of corruption in state procurement.

The Procurement Bulletin

The Procurement Bulletin Enterprise (PBE) is a self-financing enterprise owned by the Ministry of Economy. Its main activities are the publication of the Public Procurement Bulletin and of methodological guidelines. The Bulletin is a weekly publication containing procurement notices, which number approximately 1,000 per week. The PBE also operates a web-based advertising vehicle, which reproduces the paper notices. There are in approximately 10,000 combined subscribers to the paper (also available in public libraries) and web-based versions.

Consultative and Methodological Council on Public Procurement

The Consultative and Methodological Council on Public Procurement (MC) was created by the PPD and is mainly a consultative and methodological body. MC is staffed with the Deputy Ministers of Economy, Finance, Justice, Head of State Control and Audit Service, State Treasury, Antimonopoly Committee, State Price Inspection, and if agreed, Deputies of the Accounting Chamber, Members of the Verkhovna Rada Committee on Economic Issues and Committee on Corruption. Its main responsibilities are to review documents related to any disputes that occur before contract signature, as well as agree on procedures relating to the use of single source procurement or restricted tenders.

Bodies responsible in the case of infringement of PPR

1. State Control and Audit Service: Control of the implementation of the PPR by contracting entities. Additionally they conduct execution of the protocols regarding administrative breaches that are presented to law enforcement agencies as well as other functions designated by the Legislation of Ukraine.

2. State Treasury: Control of procurement contract eligibility and ensuring that this corresponds to the protocol of the Tender. It also has the right to present corresponding materials to law enforcement agencies as well as other functions designated by the Legislation of Ukraine.
3. State Committee for Statistics: Collects information regarding the results of public procurement and approves the forms that are needed to fulfill this task, as well as other functions designated by the Legislation of Ukraine.
4. Antimonopoly Committee: Creation and organization of activities to develop a competitive public procurement environment. It is also responsible for enforcing legislation related to fair economic competition in PP area.
5. Law enforcement agencies: Enforce the PPR within the framework of their competence.

Discussion Points

In order to address the key issues, stakeholders and negotiators need to analyse the current differences between the regime in Ukraine and that of the EU. Only when they have analysed this, will they be able to form an individual position for national debate on:

- *How quickly can or should Ukraine adopt the EU public procurement laws and practices?*
- *How much of the EU legislation/practices should it adopt (all or part)?*
- *What timeframe should be allowed for Ukraine to open up its procurement market to full EU participation with national treatment?*
- *Are any sectors to be excluded? On what basis?*

Opportunities

One of the major considerations in addressing the key issues of how much and how quickly to adopt EU public procurement laws, practises and mutual access will be the benefits that will be derived. Stakeholders may support deeper integration if the benefits to them are significant. To assess the benefits, each stakeholder group should consider a range of benefits and costs:

Assess what supplies, services and works Ukrainian business could realistically provide to public authorities in the EU and estimate their value.

EU public procurement is valued at Euro 382 billion (2006)⁹ and could provide a new avenue for Ukrainian trade. Stakeholders need to assess precisely which sectors in Ukraine would be able to take advantage of procurement opportunities in which countries, if national treatment was accorded. Combined with this, the impact of mutual access would also affect Ukrainian business that currently win national contracts and would face new competitors from the EU. An assessment of where EU firms are likely to be able to compete and the impact on Ukraine is also needed.

Evaluate the efficiency gains in public spending

Given that only an average of 2.6 firms submit proposals for each open contract in Ukraine, 26 per cent of all bids are single participant or request for proposals and that more than US\$ 14 million are contracted without any procurement procedure, the level of competition in Ukrainian public procurement is limited. Stakeholders need to assess the impact of adopting EU laws and practises on efficiency (both price and quality) in public spending.

Laws

Another factor in determining how much and how quickly to adopt EU public procurement laws will be the difference between the current legislative framework

⁹ Eurostat Database 2008

in Ukraine and that of the EU, as well as likely ease of developing and adopting the necessary legislation:

Assess the changes in Ukrainian legislation required to comply with EU legislation on public procurement

Whilst it would appear from the overview of the EU legislation and the current Ukrainian legislation that the structure and content of Regulation N921 and EU Directives 2004/17/EC and 2004/18/EC are similar, a more detailed assessment of the precise changes needed should be made. Also, an assessment of the actions needed to ensure Ukrainian legislation complied with the other EU directives is needed to provide a list of clear steps which could be taken and the level of compliance that would be achieved with each step.

Based on the analysis of steps to be taken and level of compliance, evaluate the ease of achieving each step in terms of political realities

Given that the last law on Public Procurement (February 2000) in Ukraine was amended nine times by the Verkhovna Rada until it became unworkable and was cancelled in 2008, the ease to which the range of legislation needed would be passed by the Rada needs to be evaluated. In addition, the political commitment by various Ministries and government agencies also needs to be assessed as their willingness to present and defend legislation will also affect the legislative process.

Institutions

Compliance with public procurement legislation requires an effective institutional framework. How much and how quickly Ukraine can adopt EU public procurement laws will depend on the institutional development required to establish effective institutions. This in turn depends on the existing institutional framework and the further development of it that may be required by EU legislation:

Assess the differences between the existing institutional framework in Ukraine and that required by the EU Directives

Although EU legislation does not proscribe precisely the institutional framework for public procurement (in fact the framework differs amongst some EU member States), studies have shown that “best practise” approach by newly acceded members have not only guaranteed the requirements of the directives, but also provided the greatest gains in efficiency in public procurement. Moreover, there is a need to study the relationship between current institutions to ensure requirements of the Directives regarding independence, ensuring no conflict of interest and ensuring sufficient review and recourse in the case of complaints.

Based on the above analysis, list the changes required to the existing institutional framework, including creation of any new bodies

The speed and depth of adoption of EU public procurement legislation will also depend on the institutional development required to comply and fulfil all obligations, especially if new institutions are required to be created.

Assessment of the institutional legislation required to ensure effective implementation

Once the institutions are in place, they must have the powers and structures which enable them to undertake their tasks effectively. This requires that each of the institutions and bodies involved in the process have the legal backing to undertake their tasks. Therefore, an assessment of the legal mandate and powers of these institutions is required. The political will to adopt these powers and mandates will also need to be assessed to determine how realistic these objectives are.

Capacity

The final consideration in addressing the key issues of how much and how quickly to adopt EU public procurement laws, practises and mutual access will be the capacity of government and politicians to not only effect the changes required, but to also implement the rules and take advantage of the benefits derived. To assess the capacity requirements, each stakeholder group should consider:

Assess the pool of technical experts able to develop and implement EU style rules

The ability and understanding of both government and non-government stakeholders in developing the legislation, implementing the rules and monitoring compliance will affect the scope and speed of adoption of EU rules. This can only be assessed in light of the legislative and institutional requirements detailed above.

Training needs assessment across all government and state owned enterprises

The rules for public procurement have to applied across a wide range of central, regional and local governments, as well as state owned enterprises. All of these authorities will require in depth training on how to apply these new rules. The size of this task will depend on current practises and understanding of the core principles of open procurement.

The level of political commitment and understanding

Adoption of EU legislation will require funding to improve both the capacity and to establish an effective administrative and institutional structure. The costs of this can be estimated but the realistic depth and speed of adoption will depend on the money available from government and the political commitment to allocate funds to this task. Much of this is based on both political will and the understanding of the politicians as to the benefits of adopting the new approach.



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Legal Mechanisms for NGO-Government Partnership in Ukraine

By [Alexander Vinnikov*](#)

Background: Cooperation in the 1990s

In the 1990s the Ukrainian government cooperated with a few nationwide quasi-non-governmental organizations (QUANGOs), mostly established in previous decades. Traditionally, they included associations dealing with, for example, disabled people and foreign relations, as well as such new umbrella organizations as the National Committee for Youth Organisations. Each year the law on the national budget included special funds for subsidizing those organizations.

Local governments either cooperated with the branches of these QUANGOs or set up their own institutions, generally for the purposes of political patronage. Many businesses took legal action against forced contributions to such institutions, and usually they gave tax-deductible donations to QUANGOs such as foundations supporting the local fire services or district zoning instead of giving to private institutions or NGOs.

However, Ukraine was marked by relatively low public funding for NGOs in the 1990s. The share of budget funds in the declared income of NGOs was in the range of 10-15 million euros. It never exceeded 12-13 percent of total NGO income, or 0.1 percent of Gross National Product. "Partnerships in kind" were more common and quite efficient in providing specific social services. For instance, many local governments allowed operating NGOs to use or rent public premises and facilities for a token fee. But even this form of partnership was unstable and based on unilateral decisions of local governments.

Positive Legal Changes

In 2000-2001, important legislation on NGO-government partnership was passed, mainly due to the strengthening of service delivery by advanced NGOs, which took the lead in many important areas (e.g., HIV prevention and support for the homeless and victims of domestic violence).

The new budget code has banned the setting up of any quasi-government funds except those within the national or local budgets. Government agencies have been legally excluded from setting up and funding charities as well. Thus, discretionary powers of local governments and specific agencies in NGO partnership have been substantially reduced and legal mechanisms introduced incrementally.

Many government bodies are still suspicious about NGOs' objectives, institutional capacity, and supposed political affiliations. A fairly common perception remains that NGOs are entities that should simply implement government policy. NGOs seeking to influence policymaking, provide expertise, or monitor public policy are widely considered agents of social instability. This trend can be changed only through practical cooperation and initiatives by NGOs.

Government Initiatives

Nevertheless, the national government has supported some important partnership programs. In 2000, the Fund for Social Investments was set up by the Cabinet of Ministers in cooperation with the World Bank in order to involve NGOs in setting priorities and funding community facilities for social purposes.

Currently, the Cabinet of Ministers is setting up advisory boards involving NGO

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representatives in all national executive agencies. This represents an important step forward in policymaking procedures, though complicated by the lack of reliable databases of operating NGOs and the lack of recruitment procedures. Accordingly, it is possible that members of these advisory boards will end up being selected on a political basis, notwithstanding the actual needs and expertise of the broader NGO community.

The extensive powers of local governments made possible the implementation of helpful models of NGO partnership on the basis of local regulations in some cities (e.g., Odessa, Kamyanets, and Boyarka). In the capital city, Kyiv, the special program of grants for social purposes is large enough to fund even long-term projects (over 5 million euros), but is still underused. However, the vast majority of local officials prefer to wait for new laws, in part because they lack their own funds and badly need transfers from the national budget.

Partnership Mechanisms

At present, there are three principal legal mechanisms for government-NGO partnership:

Procurement Regulations

First, since January 2003 the Law on Procurement has allowed all legal entities to take part in procedures for public procurement at the national or local levels. Under Ukrainian law, five procedures may be applied to procurement:

- open tenders on goods, facilities or services;
- tenders with a limited number of participants;
- two-step negotiations;
- quotations; and
- single-supplier bargaining.

Local governments are free to choose procurement procedures up to 5,000 euros per supplier in a fiscal year. Such an amount is effective for many small local NGOs in Ukraine. Subsidiaries of NGOs serving the disabled benefit from preferential terms enumerated in the law and in resolutions of the Cabinet of Ministers. Of course, private companies usually have advantages in most areas, but some NGOs

have already won large contracts for, among others, media coverage of pension reform and training for unemployed people starting their own businesses. In keeping with Presidential Decree 637/2001, "On a Strategy for Poverty Relief," a focus on competition and tenders prevails in the allocation of public funds to social service NGOs.

Social Services

Second, the controversial new Law on Social Services provides legal mechanisms for funding NGO-run institutions for orphans, the disabled, and the elderly. However, the procedures for accreditation of such institutions and training for social workers and volunteers have not been developed yet.

Though Ukrainian legislation still precludes the privatization of social facilities, it is already evident that the government cannot afford to fund the existing network of clinics, community centers, childcare facilities, etc. As simply cutting back funds and institutions would not be effective, local governments promote conditionally renting some facilities to operating NGOs with similar purposes.

Assigned/Programmatic Subsidies

Third, the Law on Social Programs 1602 (2000) promotes partnerships aimed at meeting public social standards. It allows NGOs to be agents, partners, or subcontractors of government agencies in implementing programs approved under the budget code and this law. The primary aims of such programs are to set the specific objectives and priorities of social development for one to five years, as well as to secure minimum social standards and guarantees provided under Special Law 2017 (2000). The law specifies mechanisms of NGO involvement in development and implementation of these programs. The sources for program funding are assigned (or programmatic) subsidies from the relevant budgets.

Currently most active in subsidizing specific programs via partnerships with NGOs are the Ministry of Labour and Social Welfare, the Ministry of Health, and the State Committee for Youth and Family Affairs.

Since 2003, subsidies from national or local budgets as well as from special government funds have been tax-exempt

income for NGOs except churches and cooperatives. Further, services subject to licensing may be provided by NGOs if the activities are enumerated in their articles and related to their statutory activities (Article 7.11.13 of the Law on Corporate Income Tax). This is especially favorable for charities, as providing services for reimbursement of costs only is a charitable activity under the Law on Charities and the new Civil Code.

However, many NGOs believe the reporting requirements and other paperwork related to these subsidies are excessive and the terms non-transparent, so they prefer to solicit private funds.

Conclusion

Legal mechanisms for effective NGO-government partnership in Ukraine can be considerably improved if the NGO community becomes more active in drafting and lobbying for specific regulations instead of taking a reactive approach to casual government initiatives.

Notes

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