



On approval of the Rules for holding an open tender to appoint the grain receipts' registrar

Unofficial translation

Order of the Deputy Prime Minister of the Republic of Kazakhstan - Minister of Agriculture of the Republic of Kazakhstan No. 33 as of January 25, 2019. Registered with the Ministry of Justice of the Republic of Kazakhstan on January 29, 2019, No. 18249.

Unofficial translation

In accordance with subparagraph 32-5) of Article 6 of the Law of the Republic of Kazakhstan “On Grain” as of January 19, 2001, I hereby **ORDER:**

1. To approve the appended Rules for holding an open tender to appoint the grain receipts' registrar.

2. In accordance with the procedure established by the legislation, the Department of Production and Processing of Plant Products of the Ministry of Agriculture of the Republic of Kazakhstan shall:

1) ensure state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) within 10 (ten) calendar days of the state registration of this order, send it in Kazakh and Russian to the Republican State Enterprise with the Right of Economic Management “Republican Center of Legal Information” of the Ministry of Justice of the Republic of Kazakhstan for its official publication and inclusion into the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3) within 10 (ten) calendar days of the state registration of this order, send its copy to print periodicals for its official publication;

4) place this order on the website of the Ministry of Agriculture of the Republic of Kazakhstan;

5) within 10 (ten) working days of the state registration of this order, submit information on the implementation of measures, provided for in subparagraphs 1), 2), 3) and 4) of this paragraph, to the Legal Service Department of the Ministry of Agriculture of the Republic of Kazakhstan.

3. The control over the execution of this order shall be assigned to the supervising vice-minister of agriculture of the Republic of Kazakhstan.

4. This order shall take effect 21 (twenty-one) calendar days after its first official publication.

*Deputy Prime-Minister of
the Republic of Kazakhstan -
Minister of Agriculture of
the Republic of Kazakhstan*

U.Shukeev

Rules for holding an open tender to appoint the grain receipts' registrar

Chapter 1. General provisions

1. The Rules for holding an open tender to appoint the grain receipts' registrar (hereinafter referred to as the Rules) are developed in accordance with subparagraph 32-5) of Article 6 of the Law of the Republic of Kazakhstan as of January 19, 2001 "On Grain" (hereinafter referred to as the Law on Grain) and establish the procedure for arranging and holding an open tender to appoint the grain receipts' registrar (hereinafter referred to as the registrar).

2. The following concepts are used in these Rules:

1) the information system of grain receipts (hereinafter referred to as the information system) - an automated system for maintaining the state electronic register of grain receipt holders, which is designed to store, process, search, distribute, transmit and provide information on grain receipts and their holders;

2) grain receipt - a warehouse certificate in the form of a book-entry non-issue security, confirming the ownership of a certain amount of grain;

3) potential supplier of registrar services (hereinafter referred to as the supplier) - a legal entity participating in an open tender to appoint the registrar and claiming this appointment;

4) authorized body – the central executive body coordinating and regulating the activities of grain market participants, within its competence.

Chapter 2. The procedure for holding an open tender to appoint the registrar

3. To appoint the registrar, the authorized body sets up a commission for the registrar's selection (hereinafter referred to as the commission).

The commission includes the chairman, its members and secretary.

The chairman of the Commission is a representative of the authorized body.

The commission includes: representatives of public associations and organizations operating in the field of the agro-industrial complex of Kazakhstan and the authorized body. The total number of the commission members shall be odd. A meeting of the commission is competent if attended by at least its five members.

The duties of the Commission's secretary are entrusted to a specialist of the authorized body.

4. The chairman of the commission shall:

1) plan the work and manage the activities of the commission;

2) preside at meetings of the commission;

3) carry out other functions provided for by these Rules.

5. The secretary of the commission shall:

1) form the agenda of a meeting of the commission, provide the commission with necessary documents, organize the meeting of the commission;

2) draw up and sign, together with the commission members, a protocol on opening envelopes with suppliers' proposals, a protocol on the results of an open tender for appointing the registrar;

3) ensure the safety of documents and materials relating to the appointment of the registrar from the moment of opening the envelopes with suppliers' proposals;

4) at least fifteen calendar days before the final date for the submission of suppliers' proposals, ensure the publication of an open tender notice for the appointment of the registrar on the website of the authorized body (hereinafter referred to as the tender).

6. The supplier willing to participate in the open tender must comply with the requirements provided for in Appendix 1 to these Rules.

7. The authorized body accepts suppliers' proposals within fifteen calendar days of the notice's publication.

8. The package of documents submitted by the supplier to participate in the tender shall contain:

1) an application for participating in the tender in accordance with the form in Appendix 2 to these Rules, which shall be signed by the chief executive officer of the supplier;

2) a notarized copy of the charter (if any) approved in the manner prescribed by the law, except for cases of a legal entity's operation on the basis of the Model Articles approved by Order of the Minister of Justice of the Republic of Kazakhstan No. 106 as of February 24, 2015 "On approval of model articles of legal entities classified as small, medium and large business entities" (hereinafter referred to as the Model Articles) (registered in the State Registration Register of Regulatory Legal Acts under No. 10563);

3) notarized copies of documents from the information system owned by the supplier such as:

the information system commissioning certificate;

the test certificate with a positive result of testing the information system for compliance with information security requirements;

the report of examination of software documentation for the information system;

the certificate of the information system's compliance with information security requirements;

4) the certificate of the supplier's state registration (re-registration). If the supplier operates on the basis of the Model Articles, a notarized copy of the supplier's application for state registration;

5) the original certificate issued by a bank or branch of a bank servicing the supplier, which shall be signed by an authorized person and stamped, confirming the absence of the

supplier's arrears of all types of his/her/its obligations, overdue more than three months as of the date of the certificate's issue, to the bank or branch of the bank (if the supplier is a client of several second-tier banks or branches, as well as a foreign bank, it is required that this certificate is issued by each of these banks). The certificate must be issued no earlier than one month prior to the date of envelopes' opening;

6) data about the absence (presence) of tax debts and arrears of compulsory pension contributions, compulsory professional pension contributions, allocations and (or) contributions to compulsory social health insurance and social contributions provided no earlier than one month prior to the date of envelopes' opening in forms approved by Order of the Minister of Finance of the Republic of Kazakhstan No. 306 as of February 27, 2018 "On approval of the Rules for maintaining personal accounts" (registered in the State Registration Register of Regulatory Legal Acts under No. 16601);

7) a power of attorney of the supplier's representative confirming his/her authority to sign the application for participating in the tender, except for the chief executive officer of the supplier;

8) the price list of the supplier's services to the grain market participants. The registrar provides electronic services to the information system users on a paid basis with account of its expenses for the development and maintenance of the information system. The price list for the services of the winner of the tender (registrar) is approved by its internal document (decision of the sole participant, minutes of the general meeting of participants).

9. Envelopes with suppliers' proposals submitted within the time frames specified in the notice shall be opened by the commission.

The protocol on opening envelopes with suppliers' proposals in accordance with the form in Appendix 3 to these Rules shall be signed and initialed by all members of the commission present at the meeting, including its secretary.

10. Within two working days of the commission's meeting, the protocol on opening envelopes with suppliers' proposals shall be published on the website of the authorized body.

11. Within one working day of opening the envelopes with suppliers' proposals, the secretary of the commission shall:

1) finalize with the chairman of the commission the date and time of the meeting of the commission to consider suppliers' proposals;

2) notify the commission members and suppliers of the date and time of the meeting of the commission to consider suppliers' proposals;

3) provide for the commission's consideration documents confirming the supplier's compliance with the requirements specified in Appendix 1 to these Rules.

12. The commission members shall ensure the safety of the supplier's documents during their consideration until they are returned to the secretary of the commission.

13. The commission shall:

1) consider packages of documents that make up the suppliers' proposals in terms of their completeness and proper execution;

2) identify suppliers who failed to submit all the documents required by the list and (or) submitted improperly executed documents;

3) identify suppliers meeting the requirements specified in Appendix 1 to these Rules.

To confirm the information system's integration interactions with the state systems and databases specified in paragraph 3 of the Rules for the formation and maintenance of the state electronic register of grain receipt holders approved by Order of the acting Minister of Agriculture of the Republic of Kazakhstan No. 4-1/699 as of July 28, 2015 (registered in the State Registration Register of Regulatory Legal Acts under No. 12016), as well as the possibility of making operations with grain receipts in the information system, also using blockchain technology, the supplier shall show the commission the customer's operations in the information system.

14. If only one supplier's proposal was submitted by the deadline for proposals' submission, the commission shall declare the tender failed and decide on its re-holding.

If the commission recognizes the next tender as failed because of admitting only one supplier to participation in the tender, the commission takes a decision to recommend it for the appointment as the registrar in case of compliance of the documents submitted by the supplier.

If the tender is recognized successful, since applications from suppliers, meeting the requirements specified in Appendix 1 to this Order and the requirements of the tender documentation, are admitted to the tender, the commission shall take a decision to recommend the supplier proceeding from the lowest annual subscription fee for annual servicing of the personal account of a client (a grain receipt holder, a grain owner, a pledge holder, a grain receiving station and other persons).

In this case, the annual subscription fee for providing a grain receiving station with access to the state electronic register of grain receipt holders is thirty-six times the monthly calculation index, and the annual subscription fee for annual servicing of the personal account of a client (a grain receipt holder, a grain owner, a pledge holder, a grain receiving station and other persons) is determined by the supplier its own.

15. The meeting of the commission must be recorded by means of audio and video recordings. The commission meeting is recorded by means of audio and video recordings by the authorized body.

16. The commission takes a decision on issues under consideration by a majority vote of its attending members that shall be at least two-thirds of those present. The commission members who were present at the meeting of the commission and disagreed with the decision can express their dissenting opinion in writing, which is attached to the protocol, and a relevant entry is made in the protocol.

17. The commission's protocol decision may be appealed in court. The submission of an application to the court suspends the execution of the protocol decision of the commission.

18. The protocol on the results of the commission's meeting regarding the development of a recommendation to appoint the registrar in accordance with the form in Appendix 4 to these Rules shall be signed by the chairman and all members of the commission present at the meeting, as well as the secretary of the commission, within fifteen calendar days of opening the suppliers' proposals, and sent to the authorized body.

19. Based on the protocol on the results of the commission's meeting regarding the development of a recommendation to appoint the registrar, the authorized body submits a draft decree of the Government of the Republic of Kazakhstan "On appointment of the grain receipts' registrar" to the Office of the Prime Minister of the Republic of Kazakhstan in accordance with subparagraph 4-1) of Article 5 of the Law on Grain.

Appendix 1 to the Rules for holding an open tender to appoint the grain receipts' registrar
Requirements for a potential supplier of the services of the grain receipts' registrar

1. The supplier must have technical equipment (including hardware, software, communication channels) and full-time specialists, including those with technical education, having qualifications necessary for the development and maintenance of information systems.

2. The supplier shall provide services using an information system that:

1) has a web portal solution;

2) uses a free, open source database management system;

3) uses a free, open source operating system;

4) has an information system commissioning certificate in accordance with the legislation on informatization;

5) has a test certificate with a positive result of testing the information system for compliance with information security requirements in accordance with the legislation on informatization;

6) has a report of examination of software documentation for the information system in accordance with the legislation on informatization;

7) has a certificate of information system's compliance with information security requirements in accordance with the legislation on informatization;

8) uses a blockchain platform for storing information system's data about operations with grain receipts;

9) can perform operations with grain receipts in accordance with the Rules for the formation and maintenance of the state electronic register of grain receipt holders approved by Order of the acting Minister of Agriculture of the Republic of Kazakhstan No. 4-1/699 as of July 28, 2015 (registered in the State Registration Register of Regulatory Legal Acts under No. 12016);

10) has integrations with state systems and databases, such as:

the state body that exercises leadership and intersectoral coordination in the field of permits and notifications - in relation to legal entities licensed to carry out activities related to the provision of warehouse services with the issue of grain receipts;

the state body that regulates activities in the field of accounting and financial reporting - in relation to information provided by grain receiving stations to the depository of financial statements;

the state body implementing the state policy and state regulation of activities in the field of state registration and state technical inspection of immovable property - in relation to immovable property registered as that belonging to grain receiving stations;

the state body that regulates land relations - in relation to land plots registered as those belonging to grain receiving stations;

the state body performing the state registration of legal entities and record registration of branches and representative offices - in relation to legal entities, branches and representative offices recorded in the register;

the state body for state property management - in relation to licensors of grain receiving stations and their spatial (geographical) data;

the state body for tax administration - in relation to data in electronic invoices issued by grain receiving stations and grain receipt holders;

the National Railway Company - in relation to information on grain transportation in the domestic market and for export;

the state body responsible for the formation of identification numbers and the maintenance of national registers of identification numbers – in relation to individuals entered in the register;

the National Certification Center of the Republic of Kazakhstan - regarding the use by the information system participants of an electronic digital signature when customers perform transactions in the information system;

the payment system of a second-tier bank - for the client to perform operations using the “delivery-versus-payment” option;

11) operates 24 hours a day/7 days a week, except for interruptions for technical reasons.

Appendix 2 to the Rules for
holding an open tender to appoint
the grain receipts' registrar
form

(state body)

Application

I hereby apply for participation in the tender for the appointment of the grain receipts' registrar

I assume responsibility for the authenticity of submitted documents.
I attach the following documents:

Address and contact phone number _____

_____ (signature) (surname, name, patronymic (if any))
" ____ " _____ 20__ г.

**Protocol on
opening envelopes with proposals of potential suppliers of
the services of the grain receipts' registrar**

(place of opening) (time and date)

1. The commission for the selection of the grain receipts' registrar (hereinafter referred to as the registrar) consisting of:

(surname, name, patronymic (if any), positions of the chairman,
secretary and members of the commission)

have performed the procedure for opening envelopes with proposals from potential
suppliers of the services of the registrar (hereinafter referred to as the supplier).

2. The package of documents was provided by the following suppliers:

(name, address of all suppliers)

3. The proposals from suppliers:

(name, address of all suppliers who submitted proposals
after the deadline for the proposals' submission)

were returned unopened for the following reasons: _____

4. The proposals from suppliers who submitted them on time before the deadline
for the proposals' submission: _____

(name, address of all suppliers who submitted proposals before the deadline for the
proposals' submission,

the time of proposals' submission)

were opened and they contain: _____

(list of documents contained in the proposal, information on the withdrawal
and amendment of the proposals, the number of sheets in the submitted documents)
were read out to all those present at the opening of the suppliers' proposals.

5. At the opening of the proposals, the following suppliers were present:

(name, address, details of all suppliers present at the opening of the proposals, surname, name, patronymic (if any) of their authorized representatives).

Surnames, names, patronymics (if any), signatures of the chairman, members and secretary of the commission.

Appendix 4 to the Rules for
holding an open tender to appoint
the grain receipts' registrar
form

Protocol on the results of the selection of the grain receipts' registrar

_____ (place of selection) _____ (time and date)

1. The commission for the selection of the grain receipts' registrar (hereinafter referred to as the registrar) consisting of: _____

_____ (surname, name, patronymic (if any), positions of the chairman, secretary and members of the commission)

2. The following proposals from potential suppliers of the registrar's services (hereinafter referred to as the supplier) were admitted

_____ (proposals of suppliers admitted to participation in accordance with the protocol on admission)

3. Envelopes with the suppliers' proposals: _____

_____ (names of suppliers, whose proposals were not accepted because of their submission after the deadline for their submission)

4. The proposals from suppliers who submitted them before the deadline for the commission's consideration: _____

_____ (names of the suppliers and their details) were opened and they contain:

_____ (proposals submitted by the suppliers) were read out to all those present at the opening of envelopes with proposals.

5. Rejected suppliers' proposals: _____

(suppliers (their details), whose proposals were rejected, as well as the reasons for
r e j e c t i o n)

Pursuant to the consideration of the suppliers' proposals, the Commission has DECIDED:

1) to appoint as the grain receipts' registrar:

(the supplier (its details))
or recognize the selection of the registrar as failed for the following reasons:

(the reason)

2) to publish this protocol on the website of the Ministry of Agriculture of the Republic of
K a z a k h s t a n .

The decision was voted as follows:

FOR - _____ ballots (surname, name, patronymic (if any) of the members of the
c o m m i s s i o n) ;

AGAINST - _____ ballots (surname, name, patronymic (if any) of the members of the
c o m m i s s i o n) .

Surnames, names, patronymics (if any), signatures of the chairman, members and
secretary of the commission