



On approval of the Rules for functioning of design bureaus

Invalidated Unofficial translation

Order of the Minister of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan dated October 12, 2020 No. 380/HK. Registered with the Ministry of Justice of the Republic of Kazakhstan on October 15, 2020 No. 21441. Abolished by the Order of the Minister of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan dated February 22, 2022 No. 60/NK

Unofficial translation

Footnote. Abolished by the Order of the Minister of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan dated February 22, 2022 No. 60/NK (effective ten calendar days after the date of its first official publication).

In accordance with subclause 8) of clause 2 of article 100-1 of the Entrepreneur Code of the Republic of Kazakhstan dated October 29, 2015 **I HEREBY ORDER:**

1. To approve the attached Rules for functioning of design bureaus.
2. To recognize the order of the Acting Minister for Investments and Development of the Republic of Kazakhstan dated December 4, 2015 No. 1165 "On approval of the Rules for functioning of design bureaus" (registered in the Register of State Registration of Regulatory Legal Acts as No 12966, published on February 10, 2016 in "Adilet" Information and Legal System), as invalid.
3. The Department of Innovative Ecosystem and Scientific and Technical Development of the Ministry of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan shall ensure:
 - 1) state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;
 - 2) placement of this order on the Internet resource of the Ministry of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan;
 - 3) within ten working days after the state registration of this order, submission to the Legal Department of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan of information about implementation of measures, stipulated by subclauses 1) and 2) of this clause.
4. Control over execution of this order shall be entrusted to the supervising Vice Minister of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan.

5. This order shall come into force upon expiry of ten calendar days after the date of its first official publication.

*Minister of Digital Development,
Innovations and Aerospace Industry
of the Republic of Kazakhstan*

B.Mussin

"AGREED"

Ministry of Industry and Infrastructural Development
of the Republic of Kazakhstan

"AGREED"

Ministry of Finance
of the Republic of Kazakhstan

"AGREED"

Ministry of National Economy
of the Republic of Kazakhstan

Approved
by the order of the Minister of
Digital Development, Innovations
and Aerospace Industry of the
Republic of Kazakhstan
dated October 12, 2020
No. 380/HK

Rules for functioning of design bureaus

Chapter 1. General Provisions

1. These Rules for functioning of design bureaus (hereinafter referred to as the Rules) have been developed in accordance with subclause 8) of clause 2 of article 100-1 of the Entrepreneur Code of the Republic of Kazakhstan dated October 29, 2015 and determine the procedure for functioning of design bureaus.

2. The following basic concepts and definitions are used in these Rules:

1) Beneficiary – an applicant, whose application, in accordance with these Rules, was receipt for provision of services of design bureaus;

2) co-contractor – an individual or a legal entity possessing necessary resources and qualification, engaged by the design bureau for implementation of separate activities within the framework of provision of services of design bureaus to the Beneficiary;

3) design – a design, planned for implementation by the applicant or implemented by the Beneficiary in the process of provision of services of design bureaus and using the results of services of design bureaus;

4) engineering services – engineering and consulting services on preparation of the process of production and sale of products (goods, works, services), provision of

preliminary design and design services (preparation of feasibility studies, design and construction works, other related services);

5) authorized body in the field of state support of innovative activities (hereinafter referred to as the authorized body) the central executive body carrying out management in the field of innovative development, as well as within the limits provided for by the legislation of the Republic of Kazakhstan, cross-sectoral coordination and participation in the implementation of state support for innovative activities;

6) infrastructure – complex of buildings, structures, technological equipment, experimental industrial site;

7) design bureau (hereinafter referred to as the DB) — is a legal entity that provides services for the preparation of industrial design of a product, implementation of business process engineering, prototyping of products, preparation of design documentation and implementation of architectural supervision;

8) designing preproduction – a complex of activities aimed at adapting the design documentation to the conditions of serial production of the manufacturer;

9) technical preparation of production – a complex of regulatory and technical activities, regulating the design, technological preparation of production and the system of putting goods into production;

10) technological preparation of production – a set of works that determine the sequence of the production process of a new product in the most rational ways, taking into account specific production conditions;

11) applicant – an individual or a legal entity that implements designs, associated with development and implementation to the production of new or improved goods;

12) royalty – a payment for:
use or the right to use copyright, including software, drawings or models, with the exception of full or partial implementation of property (exclusive) rights to an intellectual property object; use or right to use patents, trademarks or other similar types of rights;

13) certification – the procedure by which the conformity assessment body certifies in writing the conformity of products, services to the established requirements;

14) testing – experimental determination of the quantitative and qualitative characteristics of the properties of a product as a result of exposure to it;

15) goods – ready-to-use product of labor intended for sale or exchange;

16) technical documentation – design, technological and regulatory documentation, required for organization of production of new or improved goods, as well as their operation and repair;

17) National development institute in the field of technological development (hereinafter referred to as the national institute) – a subject of the industrial and innovative system participating in the creation, management and coordination of

technology commercialization centers, technology parks, design bureaus, international technology transfer centers;

18) technological memorandum - an agreement, concluded by the authorized body in the field of state support of industrial and innovative activities with national management holdings, national holdings, national companies and legal entities affiliated to them and determining the list of purchased goods, works and services.

Chapter 2. Principal duties of DB

Paragraph 1. Procedure for DB functioning

3. DB shall provide the Beneficiaries with the following services (hereinafter referred to as the DB services):

1) procurement (when necessary – further refinement, adaptation) on a reasonably motivated application of the Beneficiary of technical documentation for organizing the production of goods on its basis;

2) assistance in the transfer of technologies;

3) assistance in the creation of new or improved products;

4) development of the technical documentation;

5) services for technical (design and technological) preparation of production;

6) consulting and engineering services;

7) assistance in testing new or improved products in accredited testing laboratories (centers);

8) assistance in certification of new or improved products in organizations accredited in accordance with the legislation in the field of technical regulation.

4. Where necessary, in order to ensure required quality and completeness of provided services, DB shall attract co-contractors for the provision of services.

5. The results of DB services, depending on the needs of the Beneficiary, determined by the agreement between the DB and the Beneficiary, shall be:

1) technical documentation, licenses or patents for manufacturing right;

2) a pre-production model (batch) of products;

3) documents confirming test (certification) results and required product parameters;

4) other documents or assets transferred to the Beneficiary upon completion of the provision of DB services in accordance with clause 3 of these Rules, on the basis of a contract between the DB and the Beneficiary.

6. Provision of DB services shall be carried out within the frameworks of:

1) implementation of technological memorandums with funding of costs for provision of DB services from the DB funds and subsequent reimbursement on behalf of the Beneficiary in the form of a royalty;

2) provision of services on the initiative of the applicant with financing of costs for the provision of DB services from the applicant's own funds;

3) provision of services on the initiative of the applicant with financing of costs for the provision of DB services from the DB funds with subsequent reimbursement on behalf of the Beneficiary in the form of a royalty;

4) provision of services within the framework of budget programs for the implementation of measures to support industrial and innovative activities, at the expense of the funds allocated from the republican budget.

7. Provision of DB services within the framework of implementation of technological memorandums with financing of costs for the provision of DB services из DB funds and subsequent reimbursement on behalf of the Beneficiary shall include the following stages:

1) analysis of devices included to the technological memorandums with regard to economic feasibility and opportunities of enterprises;

2) placement by the DB in the mass media of the list of products, offered to applicants for organization of production;

3) acceptance of applications for provision of DB services from the applicants;

4) collection and preliminary selection of applications by DB;

5) making decision on provision or refusal to provide DB services to applicants;

6) conclusion of a contract on provision of DB services and the transfer of rights to use the results of services in accordance with the contract between the DB and the Beneficiary;

7) Provision of DB services;

8) Acceptance of DB services by the Beneficiary;

9) monitoring the fulfillment by the Beneficiary of the terms of the contract regarding the use of the results of DB services, carried out by the national institute jointly with the DB;

10) assessment of results of implementation of the contract for the provision of DB services.

8. Provision of DB services at the initiative of the applicant with financing the costs of the provision of DB services from the applicant's own funds, in accordance with subclause 2) of clause 6 of these Rules, shall be carried out in accordance with a civil law contract concluded between the applicant and DB.

Decision on provision of DB services in this case shall be made by the head of the DB, due to the tariff policy of the DB and availability of resources for timely provision of services in accordance with the terms of reference presented by the applicant.

9. Provision of services at the initiative of the applicant with financing the costs of the provision of DB services from DB funds and subsequent reimbursement from the Beneficiary in the form of a royalty shall include the following steps:

- 1) acceptance of applications for provision of DB services from the applicants;
- 2) analysis of devices with regard to economic feasibility and technical opportunities of the applicants;
- 3) collection and preliminary selection of applications by DB;
- 4) making decision on provision or refusal to provide DB services to applicants;
- 5) conclusion of a contract on provision of DB services and the transfer of rights to use the results of services in accordance with the contract on provision of services and the transfer of rights to use the results of services;
- 6) provision of DB services;
- 7) acceptance of DB services by the Beneficiary;
- 8) monitoring the fulfillment by the Beneficiary of the terms of the contract regarding the use of the results of DB services, carried out by the national institute jointly with the DB;
- 9) assessment of results of implementation of the contract for the provision of DB services.

10. The provision of services within the framework of budget programs for the implementation of measures for state support of industrial and innovative activities, at the expense of funds allocated from the republican budget, shall include the following stages:

- 1) acceptance of applications for provision of DB services from the applicants within the framework of budget programs;
- 2) analysis of goods with regard of economic feasibility and technical opportunities of enterprises;
- 3) making decision on provision or refusal to provide DB services to applicants;
- 4) conclusion of a contract on provision of DB services between the DB and the Beneficiary;
- 5) provision of DB services;
- 6) acceptance of DB services by the Beneficiary;
- 7) reporting on the implementation of the budget program to the national institution ;
- 8) monitoring the effectiveness of the implementation of the results of services.

Paragraph 2. Execution of applications

11. The applicants shall submit to the DB the following documents:

- 1) an application for the provision of DB services in the form, according to Appendix 1 to these Rules (hereinafter referred to as the application);
- 2) Terms of reference;

3) a business plan in the form, according to Appendix 2 to these Rules, in the event that the amount of services provided exceeds twenty thousand times the minimum calculated indicator;

4) when providing services at the initiative of the applicant with financing the costs of providing services from DB funds and subsequent reimbursement from the Beneficiary in the form of royalty - documents confirming the demand for products (long-term contract, preliminary contract, agreement, memorandum and others) (if appropriate documents are available);

5) documents, confirming the legal status of the applicant:

for individuals - a copy of an identity document;

for legal entities - a certificate of state registration (re-registration) of a legal entity.

6) documents confirming the availability of specialists with appropriate qualifications to organize the production of goods specified in the application;

7) documents confirming the availability of the necessary infrastructure for organizing the production of the goods specified in the application.

12. List of DB services, required to the applicant shall be established by the applicant from services specified in clause 3 of these Rules, when executing the application.

13. The application shall be submitted to the DB in the official and Russian languages, on paper in two copies - original and a copy of original, as well as on an electronic medium.

The original of the application shall be signed by the applicant, formed into a single folder in a bound form with numbered pages, where the last page shall be certified by the applicant.

The applicant shall not bind the copy of the application.

14. The authenticity of the documents, copies of which are provided as part of the application in accordance with clause 11 of these Rules, shall be established by the DB employee responsible for collecting and registering the application by comparing with the originals, which are then returned to the applicant.

15. Making insertions between lines, erasures or postscripts in the application is prohibited.

16. The applicant shall ensure the completeness and reliability of the submitted documents, initial data, calculations, justifications contained in the application. The submission by the applicant of incomplete or inaccurate data shall be the basis for rejection of the application.

Paragraph 3. Collection and preliminary selection of applications

17. The head of the DB shall determine an employee, from the number of the regular staff of the DB, responsible for collection and registration of applications.

18. The employee of the DB, responsible for collection and registration of applications, shall execute their registration as and when they are received. The date of registration shall be the date of receipt of the application to the DB. 19. The employees of the DB, determined by the head of the DB, within two working days from the date of registration of the application, shall ensure the consideration of the application for compliance with the requirements of clauses 11-13 of these Rules.

20. If the application does not meet the requirements of paragraphs 11-13 of these Rules, DB no later than two working days from the date of registration of the application shall send to the applicant a notification indicating comments on one of the means of communication specified by the applicant in the application.

The application shall be subject to return to the applicant for elimination of comments and repeated submission to the DB.

21. To re-submit the application, the applicant shall eliminate the identified comments, according to all the requirements of these Rules.

22. The DB shall verify the elimination of comments within two working days from the date of receipt of the revised application.

In the absence of repeated comments, the DB shall calculate the cost of the DB services requested by the applicant within ten working days from the date of re-submission of the application, after which the corresponding calculation shall be sent to the applicant for approval.

Paragraph 4. making decision on provision or refusal to provide DB services

23. The cost of the DB services requested by the applicant shall be agreed with the applicant no later than ten working days from the date the applicant is provided with a calculation of the cost of DB services.

24. Reconciliation of the cost of DB services shall be drawn up by a protocol of agreement on the contractual cost of the provision of services and the right to use the results of DB services (hereinafter referred to as the protocol) in the form according to Appendix 3 to these Rules within ten working days, signed by the DB and the applicant.

25. In the event if the cost of DB services according to the protocol does not exceed twenty thousand times the minimum calculated indicator, the decision to provide or refuse to provide of DB services shall be made by the head of DB and formalized by order. In this case, the decision shall be made no later than ten working days from the date of signing the protocol.

26. The order on the provision of DB services indicates the basis for its adoption (justification) and the sources of financing the costs of providing of DB services. The application, protocol and materials are attached to the order, which served as the basis for making a decision on the provision of DB services.

27. The order on the refusal to provide DB services indicates the reasons that served as the basis for the refusal.

28. The decision of the DB, made according to clauses 26, 27 of these Rules, shall be communicated to the applicant within three working days from the date of its adoption.

29. In case if the cost of DB services according to the protocol exceeds the size of twenty thousand times the minimum calculated indicator, the DB shall prepare an opinion not later than ten working days from the date of signing the protocol.

30. The opinion shall include the assessment of conformity of the design with the following selection criteria:

1) completeness and reliability of the submitted documents, initial data, calculations, justifications contained in the application in accordance with clause 16 of these Rules;

2) the approval of the applicant of the cost of DB services, executed by the protocol for agreeing the contractual cost of the provision of DB services and the right to use the results of DB services in accordance with paragraph 24 of these Rules;

3) recoupment of costs incurred by DB in the process of providing services no more than five years from the date of transfer of the results of services from DB to the Beneficiary according to the contract in accordance with subclause 2) of clause 41 of these Rules;

4) relevance of the product.

In addition, the opinion shall contain recommendations on the provision or refusal to provide of DB services to the applicant with the justification of the recommendations.

31. The opinion, within two working days from the date of its signing by the head of DB, shall be sent to the national institute to make a decision on the provision or refusal to provide of DB services. A copy of the application and protocol shall be attached to the opinion.

The original of the application shall be kept in the DB.

32. The National Institute, within twenty working days from the date of receipt of the documents specified in clause 30 of these Rules, shall consider them in order to make a decision on the provision or refusal to provide of DB services. If necessary, depending on the complexity and cost of the designs, the national institute shall engage independent experts with qualifications in the design industry provided by the applicant. The criteria for the selection of independent experts shall be determined by the national institute and agreed with the authorized body.

33. Based on the results of consideration of the conclusion and the materials attached to it, the national institution shall make a decision on the provision or refusal

of the provision of DB services, which is communicated to the DB and the applicant, indicating the justification within three working days from the date of acceptance.

Paragraph 5. Conclusion of contracts for the provision of DB services

34. Conclusion of the contract for the provision of services between the DB and applicants, based on which the decision on provision of DB services has been in accordance with clause 33 of these Rules, shall be carried out according to the procedure, determined by the civil legislation of the Republic of Kazakhstan.

35. The integral part of the contract between the DB and the applicant shall be:

1) Terms of reference, containing the list and scopes of DB services, which are subject to provision to the applicant;

2) a calendar plan for the implementation of a design, containing a step-by-step description of the process of its implementation, indicating the cost of each of the stages and the result planned to achieve;

3) protocol for negotiating the contractual cost of provision of DB services and the right to use the results of DB services.

36. The date of commencement of the provision of DB services shall be the date of the conclusion of the contract between DB and the Beneficiary.

Paragraph 6. Financing of DB within the framework of provision of services

37. The sources of financing for the capital and operating costs of DB associated with the provision of DB services to applicants shall be:

1) funds of DB authorized capital;

2) funds, allocated from the republican budget within the framework of budget programs for implementation of measures on state support of industrial and innovative activities;

3) the applicant's own funds under contractual obligations;

4) royalty paid by the Beneficiary as payment for the right to use the results of DB services in accordance with the agreement between the DB and the Beneficiary.

38. The tariff policy of the DB shall be formed by their founders, taking into account the cost of the services provided, as well as the rate of return that ensures the functioning of DB.

39. Reimbursement of costs for DB services made from DB funds shall be made by royalty payment by the Beneficiary.

40. The amount of the royalty for the use by the Beneficiary of the results of DB services, the terms and procedure for its payment shall be determined by the contract for the provision of DB services, concluded between the DB and the applicant, on the basis of the protocol.

41. When determining the amount of royalty, the following restrictions shall apply:

1) the amount of royalty - at least one percent of the selling price of a unit of production produced by the Beneficiary using the results of DB services;

2) the term for the return of costs incurred by the DB in the process of providing DB services is no more than five years from the date of transfer of the results of services from the DB to the Beneficiary under the contract;

3) total royalty payment period - until the expiration of the contract concluded between the DB and the Beneficiary, but not less than one year longer than the period for refunding costs incurred by the DB in the process of providing of DB services.

42. Upon the expiration of the term of the agreement concluded between the DB and the Beneficiary, subject to the payment by the Beneficiary of the amount of royalty stipulated by the contract, the ownership right for the results of DB services shall be vested to the Beneficiary or shall remain with the DB in accordance with the terms of the contract.

43. In the case of the provision of DB services within the framework of budget programs, the ownership right for the results of the provision of services shall be vested to the Beneficiary from the date of execution of the acceptance certificate.

44. The Beneficiary may, fulfill the obligation to pay royalty in the established amount in advance - before the expiration of the contract concluded between the DB and the Beneficiary. At the same time, ownership right for the results of DB services also shall be vested to the Beneficiary.

Paragraph 7. Monitoring of the DB functioning

45. The purpose of monitoring the functioning of the DB is to reflect the actual progress of the implementation of designs in accordance with the planned activities, calendar plan and results.

46. The National Institute annually, before February 1 of the year following the reporting year, shall organize the hearing of DB reports on the results of activities for the past calendar year.

47. Based on the results of the hearing by the national institute of the annual reports of DB on the results of activities for the past calendar year, the national institute shall submit a corresponding report to the authorized body.

48. Provision of DB services shall be completed according to the schedule or through early termination.

49. The scheduled completion of the provision of DB services means the expiration of the period for the provision of services.

50. Early termination of the provision of services shall be carried out in the following cases:

1) making a decision on the inexpediency of further implementation of the design based on the results of the current assessment of the implementation results in the order of termination of the contract;

2) early achievement of the planned results and the lack of feasibility of further implementation of the design in the manner of signing the appropriate acceptance certificates for the work performed;

3) refusal of the applicant from further implementation of the design, subject to reimbursement of costs incurred by the DB in order to terminate the contract.

Paragraph 8. Assessment of effectiveness of the DB functioning

51. Within the framework of the implementation of DB designs, two types of assessment of the results of DB functioning shall be used:

1) current assessment - quarterly, based on quarterly reports of the DB on the progress of implementation of each of the Beneficiary designs being implemented;

2) final assessment - upon completion of provision of DB services to the Beneficiary.

52. The current assessment is carried out in order to determine the effectiveness of the implemented measures, to develop recommendations for the further development of the design and to evaluate the effectiveness over the past period.

53. The final assessment is made upon completion of the provision of DB services according to the design of a specific Beneficiary.

54. The current and final assessment of the results of the functioning of DB shall be carried out by the national institute.

55. Assessment of the effectiveness of DB functioning shall be carried out according to the system of key performance indicators (Key Performance Indicators - KPI). The ratio of designs recognized as successful according to the results of the final assessment to the total number of implemented designs serves as the basis for assessing the effectiveness of the functioning of the DB.

Appendix 1
to the Rules for functioning of
design bureaus
Form

Date of registration:

Number: " ____ " _____ 20 ____.

(assigned by the DB)

Application for the provision of DB services

(name of individual and (or) legal entity)

hereby submits this application with a package of required documents for consideration in order to provide services of the design bureaus.

Name of the design: _____

Full cost of design in tenge (in figures and in words):

We guarantee the accuracy of the information provided.

I have read and agree with the Rules of functioning of design bureaus.

Documents, required in accordance with the Rules are attached hereto in _____ sheets.

(position of the person authorized for signing documents for and on behalf of the applicant)

(surname, name, patronymic (if any), signature)

Applicant's questionnaire (for a legal entity)

full name of organization

Legal status and the property type:

supervising authority, organization, higher educational institution, research institute or holding:

Date of establishment:

Address: _____

zip code, region, district, settlement, street, house, (apartment, office)

Tel.: _____ Fax: _____ E-mail: _____ Web-site: _____

Bank details, checking account, foreign currency account, bank individual code, business identification number:

Received and not repaid tenge and foreign currency loans:

type of activity:

Industry, sub-industry: _____

First head (surname, name, patronymic (if any), year of birth, position, education, work experience):

Chief accountant (surname, name, patronymic (if any), telephone):

Contact person (surname, name, patronymic (if any), position, telephone, mobile phone, e-mail): _____

Signature of the head of organization

for applicants - legal entities, the application is drawn up on the letterhead of the legal entity and sealed with the seal of the legal entity the electronic media must contain files in non-editable (pdf, other common formats) and editable (Microsoft Word) formats

Business plan*

1. Brief description of the applicant.
 2. Description of the claimed products.
 3. Marketing analysis.
 4. Potential consumers, preliminary agreements on supplies.
 5. Production plan.
 6. Description of the required of DB services, their results.
 7. Institutional structure of design management.
 8. Financial plan.
 9. Risk assessment.
- Appendices.

* Executed in accordance with the given structure, the content of sections is provided subject to applicability to the designs

Protocol for negotiating the contractual cost of providing services and the right to use the results of DB services

No. ____ of " ____ " _____ 20 __.

Hereby we, the undersigned, on behalf of the Beneficiary - full name of the Beneficiary,

surname, name, patronymic (if any) of the signatory, basis for acting on behalf of the Beneficiary, and on behalf of DB - full name of DB, surname, first name, patronymic (if any) of the signatory, grounds for acting on behalf of DB, we certify that the parties have reached an agreement on the amount of the cost of providing services under the Contract No. _____

dated " ____ " _____ 20 __ amounted to _____
_ tenge,

(in figures and words)

including:

1) for the transfer of the right to use indicate the name of the technical documentation for the organization of production indicate the name of the goods based on it in the amount of _____ tenge;

2) for the transfer of the right to use other results of services, indicate the name of the services in the amount of _____
_____ tenge;

(in figures and words)

3) for provision of other associate services indicate the name of services in the amount of _____
_____ tenge.

(in figures and words)

The amount of royalty under this contract shall be - indicate in percent, in figures and words, period of royalty payment: indicate in figures and words dates of commencement and end of royalty payment.

This Protocol shows mutual agreement of the Parties concerning the issues contained herein and shall be the ground for the basis for mutual settlements and payments between the Beneficiary and the DB.

On behalf of the DB: _____ (signature) surname, name, patronymic (if any)	on behalf of the Beneficiary: _____ (signature) surname, name, patronymic (if any)
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