

**REFERENCE INFORMATION**

Starting from September 2015 new legislation on industry policy (Law № 488-FZ dated December 31, 2014) came into force and effect. Special investment contract (SPIC) has become one of the most investor-inviting means of state support. SPIC is an agreement between investor and the Russian Federation and/or region of the Russian Federation under which investor commits to invest certain amount of money in creation, development or modernization of production facilities at the territory of Russia while the government guarantees freezing of tax burden and stability of normative requirements to products for the duration of an investment project and is obliged to apply stimulating measures to the investor, including tax benefits.

Starting from September 1, 2016 SPIC investors are entitled to claim the right to sell up to 30 % of produced merchandise under public procurement procedure on a non-competitive basis. This new option has become available as a result of entry into force of the Law № 365-FZ dated July 03, 2016.

New facilities have also become available for regional investors having won regionally-held tender for the right to conclude state contract with counter investment commitments. Opposite to SPIC, such state contracts enable investor to claim single-source supplier status only at the territory of the region where investment project is being implemented.

The table below shows detailed key differences between SPIC and state contract with counter investment commitments:

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|  | **SPIC** | **State contract with counter investment commitments** | **Comment** |
| **Method of conclusion** | Non-competitive applicant procedure (Regulation of the Government of the Russian Federation № 708 dated July 16, 2016).  According to the formal procedure refusal to conclude SPIC may be given only in 3 cases:  - investment project is not aimed at resolution of tasks and/or achievement of targets and indicators of state programs;  - form and contents of submitted documents does not correspond to the requirements of Regulation of the Government of the Russian Federation № 708 dated July 16, 2016;  - stimulating measures claimed by the investor do not comply with the legislation. | Open tender | Government of Russia is entitled to set forth special provisions on the planning and implementation of open tenders as well as on separate tariffs and contract price |
| **Subject matter of the contract** | Creation, modernization or development of industrial production with counter stimulating measures | Supply of certain amount of product + creation, modernization or development of industrial production facilities with counter provision of single-source supplier status | Opposite to SPIC, state contract with counter investment commitments apart from investment commitments sets forth obligation on supply of certain amount of product to the authorized executive regional body and, correspondingly, counter payment obligation. |
| **Minimum investment amount (RUB)** | 750 mln. – for conclusion of SPIC not providing for single-source supplier status  3 bln – for conclusion of SPIC providing for single-source supplier status | 1 bln |  |
| **Validity term** | Term of reaching operating profits + 5 years, but no more than 10 years | Defined by regions of the Russian Federation, but no more than 10 years |  |
| **Party-1 (public entity)** | Russian Federation (Russian Federation + region of the Russian Federation/municipal body) represented by the authorized governmental body (The Ministry of Industry and Trade) | Region of the Russian Federation represented by the authorized executive regional body |  |
| **Party-2 (private entity)** | Investor and entities engaged by him | Supplier-investor (Russian legal entities exclusively) | Opposite to SPIC allowing separate entities for investor and manufacturer of the product, state contract concluded under article 111.4 of Law № 44-FZ burdens single legal entity of supplier-investor with commitments on both investment and production and supply. |
| **Who can act as a single-source supplier?** | Product manufacturer (Russian legal entity exclusively – investor or entities engaged by him) |
| **Advantages** | 1. Stability of tax regime for the validity term of SPIC, including frozen aggregate tax burden on profits  2. Stability of legal and technical regulation, including immunity against changes in legislation for investor and entities engaged by him (except for those changes connected with international commitments of the Russian Federation), imposing ban or restriction regime on SPIC or altering obligatory requirements to industrial products and (or) to the processes connected with such requirements.  3. Stimulating measures declared by the investor in the process of applying for SPIC conclusion and chosen from the list of measures set forth by Chapter 2 of the Federal law “On industrial policy”, including:  1) tax benefits – decreased tax rate of profit tax (cl.1.5 of art.284, art.284.3 + cl.2 of art. 25.9 of the Tax Code of the Russian Federation);  2) inclusion into the register of single-source suppliers for the validity term of SPIC + 1 year subject to export of no less than 10% of products, manufactured in the framework of SPIC for the last preceding year. | Inclusion into the register of single-source suppliers for the term not exceeding the validity term of the state contract |  |
| **Who is entitled to procure from the single-source supplier?** | Any consumer procuring under Law № 44-FZ | Regional and municipal customers having concluded state contract | State contract with counter investment commitments enables investor to become single-source supplier only within procurement procedure of a specific region of Russia and municipalities situated within its territory |
| **Quantitative restrictions on procurement by the single-source supplier** | No more than 30% of the annual production amount of each unit | No restrictions |  |
| **Price regulation for products** | Procedure of defining maximum single prices and contract prices is set forth by the authorized state body (The Ministry of Industry and Trade) | Procedure of defining maximum single prices and contract prices is set forth by the authorized regional body |  |

Public Procurement Institute (Moscow, www.roszakupki.com) is a leading scientific, expert and educational centre in the sphere of public procurement in Russia and offers services on support in conclusion of special investment contracts and organization of interaction with regional state bodies on holding tenders for conclusion of state contracts with counter investment commitments.