The Saeima has adopted and the President has proclaimed the following law:

**Public Procurement Law**

**Chapter I
General Provisions**

**Section 1. Terms used in the Law**

The following terms are used in the Law:

1) **subcontractor** - a person contracted by the tenderer or a person contracted by such person, in its turn, who performs works or provides services for the fulfilment of the procurement contract;

2) **life cycle** — all consecutive and interlinked stages, including, among others, research and development, production, trading and its conditions, transport, use, maintenance, throughout the period of existence of the product or structure, or the provision of the service, from raw material acquisition or generation of resources to waste disposal, clearance and end of service or utilisation;

3) **open procedure** — procurement procedure, where all interested suppliers are entitled to submit their tenders;

31) **offshore** — a low-tax or tax-free country of territory, within the meaning of the  Corporate Income Tax Law, except for the Member States of the European Economic Area or the territories thereof, Member States or territories of the Agreement on Government Procurement of the World Trade Organisation and such countries or territories, with whom the European Union or Latvia has entered into international agreements on opening the market in the field of public procurements;

4) **central purchasing body** — a contracting authority meeting one of the following features:

a) purchases products or services for the needs of other contracting authorities or public service providers,

b) performs procurements or procurement procedures, in order to enter into procurement contract or framework agreement for the needs of other contracting authorities or public service providers;

5) **dynamic purchasing system** – a completely electronic process, applied for works, services and supplies frequently used and widely available on the market, which is limited in time and open to all suppliers meeting the candidate selection requirements;

6) **electronic auction** — electronic process, repeatedly depicting the descending prices or new values of the lots of certain tenders, enabling the ranking of the tenders by means of automatic evaluation methods;

7) **electronic means** – means suitable for the processing of data received or sent via the electronic communications network (also for digital compression) and storage thereof, as well as for the transmission of data via the electronic communications network;

8) **procurement identification number** – designation containing the abbreviation of the name of the contracting authority (the first capital letters), the relevant year and the procurement sequence number in ascending sequence. The contracting authority may also indicate other information in the final part of the procurement identification number.

9) **procurement contract** - public works, supply or service contract, concluded, in the financial interests, between one or several contracting authorities and one or several suppliers;

10) **common procurement vocabulary (CPV)** – vocabulary approved by the European Union, applied in public procurements;

11) **procurement procedure document** - any document produced or referred to by the contracting authority to describe or determine elements of the procurement or the procurement procedure, including the contract notice, modification or additional information notice, the technical specifications, the descriptive documents, draft procurement contract, procurement procedure regulations and additional documents;

12) **innovation partnership procedure** - procurement procedure, where all interested suppliers may submit a request to participate, but the tenders may only be submitted by the candidates invited by the contracting authority, and which is applied to establish a long-term innovation partnership aimed at the development and subsequent acquisition of an innovative product, service or works;

13) **candidate** - supplier taking part in a restricted procedure, in a competitive procedure with negotiation, in a negotiated procedure, in a competitive dialogue or in an innovation partnership procedure prior to submission of the tender;

14) **competitive dialogue** -procurement procedure, where all interested suppliers may submit a request to participate, but the tenders may only be submitted by the candidates invited by the contracting authority, and which shall be applied, when it is impossible to obtain the tender meeting the needs of the contracting authority within an open or restricted procedure, and the aim of which shall be to identify and define, in a dialogue with the selected candidates, the means best suited to satisfying the needs of the contracting authority;

15) **competitive procedure with negotiation** -procurement procedure, where all interested suppliers may submit a request to participate, but the tenders may only be submitted by the candidates invited by the contracting authority, and which shall be applied, when it is impossible to obtain the tender meeting the needs of the contracting authority within an open or restricted procedure, and the aim of which shall be to give the possibility to the tenderers, during the negotiation, to improve the content of the tenders in accordance with the needs pf the contracting authority;

16)**common technical specification** — technical specification in the field of information and communication technologies, laid down in accordance with Articles 13 and 14 of Regulation No 1025/2012  of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council;

17) **contract price**- total remuneration for the fulfilment of the procurement contract, including all applicable taxes, except for the value added tax;

18) **design contest** - a procedure which enables the contracting authority to acquire [mainly in the fields of town and any other territory planning, architecture, engineering or data processing (including information systems)], a design or plan, recognised as the best by a jury commission;

19) **contracting authority**- a public entity or the body thereof, associations all members whereof are the contracting authorities, foundation all founders whereof are the contracting authorities, as well as a legal entity governed by private law meeting all of the following criteria:

a) is established or operates in order to satisfy the needs of the public, which are not of commercial or industrial nature;

b) is subordinate to or under the decisive influence of a public entity or its bodies, or under the decisive influence of a legal entity governed by private law meeting these criteria (this influence manifests as the majority of voting rights upon electing the members of the supervisory or executive body or upon appointment of the management) ,or more than 50 per cent of financing for activities of such legal entity governed by private law comes from the public entity, body thereof or another legal entity governed by private law meeting these criteria;

20) **research and development** - all activities related to the fundamental and industrial studies and experimental development;

21) **tender security** - payment of a sum of money provided for in the procurement procedure documents into the account indicated by the contracting authority, guarantee from the bank or insurance company for a specific amount of money, which the tenderer submits together with the tender to the contracting authority as a security for the validity of the tender;

22) **supplier** - a natural person or a legal entity, an association of such persons in any combination thereof, offering on the market, correspondingly, to perform works, supply products or provide services;

23) **buyer profile** – the site of a contracting authority in the State electronic information system publicly available on the internet for acceptance of the tenders and applications, where the contracting authority posts information regarding subsequent calls for tenders, regarding planned procurements, concluded contracts, suspended procedures, as well as other information related to procurements as defined by the legal framework;

24) **tenderer** — a supplier, who has submitted a tender;

25) **publication management system** - the State information system operated by the procurement Monitoring Bureau, available on the website of the Procurement Monitoring Bureau, ensuring the preparation of such information and submission thereof to the Procurement Monitoring Bureau or posting thereof on its website, which in accordance with the legal framework shall be prepared and submitted to the Procurement Monitoring Bureau or posted on its website, and where information is available about the persons subject to imposition of administrative penalty - prohibition to hold the office of the public official due to the violations in the field of public procurements and public and private partnership;

26) **public works contract** — procurement contract having as its object the execution or designing of the works referred to in Annex 1 to this Law, and the execution of the relevant works referred to in Annex 1, or the development of the work, or designing and development of the work, or the development of the work, by whatever means, corresponding to the requirements of the contracting authority exercising the decisive influence on the type or design of a work. For the purposes of this Law, the work shall mean the outcome of the works referred to in Annex 1 taken as a whole, which is sufficient for the work to be able to fulfil certain economic or technical function;

27) **public service contract** — procurement contract having as its object the provision of services other than those referred to in Annex 1 to this Law;

28) **public supply contract**- procurement contract having as its object the purchase, hire-purchase, lease of a product or lease of a product with an option to buy. A public supply contract shall also include a contract having as its object the supply of products and including, as an incidental matter, siting and installation operations of a product;

29) **public service provider** - public service provider within the meaning of the legal acts governing the procurement of public service providers;

30) **negotiated procedure**- procurement procedure, where the contracting authority, without prior publication of the contract notice, consults with the suppliers selected by it and organises negotiation with one or several of them regarding the conditions of the procurement contract;

31) **restricted procedure** - procurement procedure, where all interested suppliers may submit a request to participate, but the tenders may only be submitted by the candidates invited by the contracting authority;

32) **technical reference** — any deliverable produced by European standardisation bodies, other than European standards, according to procedures adapted to the development of market needs;

33) **framework agreement** - such agreement between one or more contracting authorities and one or more suppliers, the purpose of which is to establish and describe the contracts to be awarded during a given period and to establish the terms governing the conclusion thereof (in particular with regard to prices and, where appropriate, the quantity envisaged);

34) **green public procurement** — procurement of such products, services or works, the environments impact whereof during their life cycle is smaller than the impact of the products, services and works with the same purpose of use, acquired without applying the principles of green procurement.

*([26 April 2018]  Amendment in Clause 23 regarding replacement of the words "website or the State electronic information system" with the words "the site ....in the State electronic information system" shall come into force on 1 January 2019.  Please see Clause 9 of the Transitional Provisions).*

**Section 2. Purpose of the Law**

The purpose of this Law is to ensure:

1) openness of procurements;

2) free competition f suppliers, as well as equal and fair treatment thereof;

3) effective allocation of the funds of the contracting authority, as far possible minimising the risk thereof.

**Section 3. Exclusions to the application of the law**

(1) This Law shall not be applicable, if the contracting authority concludes the procurement contract for:

1) the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon;

2) the acquisition, development, production or co-production of programme material intended for audio and audio-visual electronic mass media services, that are awarded by electronic mass media, or contracts for broadcasting time or programme provision that are awarded to electronic mass media;

3) arbitration and conciliation services;

4) document certification services which provided by notaries;

5) legal services the providers of which are designated by a court the providers of which are assigned by eternal legal framework to carry out specific tasks under the supervision of such a court;

6) legal services which are connected with the exercise of official authority (governmental powers);

7) financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments, the bank of Latvia services and operations conducted with the European Financial Stability Facility and the European Stability Mechanism;

8) loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;

9) services of natural persons under the employment contracts;

10) services in the field of civil defence, civil protection, and danger (disaster)prevention that are provided by associations, foundations or unions, and which are covered by any of the following CPV codes: 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3, except emergency medical (ambulance) services related to the patient transport;

11) public passenger transport services by rail or metro;

12) services provided by another contracting authority or by an association of contracting authorities, on the basis of an exclusive right which they enjoy pursuant to an external legal framework.

(2) This Law shall apply only to public service contracts for research and development services, under the CPV code from 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5, where all of the following conditions are concurrently fulfilled:

1) only the contracting authority will benefit from the outcomes of the service provided, using these outcomes only for their own needs;

2) the contracting authority will fully pay for the service provided.

(3) This Law shall not apply to:

1) procurements, to ensure the activities referred to in Sections 3, 4, 5, 6 and 7 of the Law On the Procurement of Public Service Providers, in the fields specified in these Sections;

2) procurements specified as exclusion to the scope of application of the Law On the Procurement of Public Service Providers;

3) [ *26 April 2018*].

(4) This Law shall not be applied by the universal post service provider, if the public service contract is concluded for:

1) the provision of the added value services linked to electronic means and provided entirely by the referred to means (including the secure transmission of coded documents by electronic means, electronic mail address management services and transmission of registered electronic mail);

2) financial services which are covered by CPV codes 66100000-1 to 66720000-3 and include postal money orders and postal giro transfers;

3) philatelic services; or

4) logistics services (services combining both physical delivery and warehousing of postal items, or only delivery or warehousing with other non-postal functions).

(5) This Law shall not apply, when concluding procurement contract, having as its sole purpose to provide or exploit public electronic communications networks operated by the contracting authority or one or more publicly available electronic communications services provided by the contracting authority.

(6) This Law shall not apply, when the procurement contracts are concluded in accordance with the provisions of other procedures and the contracts are awarded in accordance with:

1) an international agreement, which, in accordance with the legal framework of the European Union, has been entered into by a European Union Member State with one or several states, other than the European Union Member States, or administrative units of such states, regarding works, supplies or services in connection with the participation of the states having signed the agreements in the implementation of a joint measure or the use of the outcomes thereof. The contracting authority shall communicate all such agreements to the European Commission;

2) a special procedure of an international organisation;

3) a special procedure of an international organisation or international financial institution, if the relevant procurements are fully financed by the relevant organisation or institution. In the case of procurements financed for at least 50 per cent by an international organisation or international financial institution, the parties shall agree on applicable procurement procedures;

4) an international agreement relating to the deployment of troops and the suppliers of the European Union Member State or the suppliers of the state, other than the European Union Member State.

(7) This Law shall not apply to the supplies, services and works corresponding to Section 3 of the Law On Procurement in the Field of Defence and Security.

(8) This Law shall not apply, when the application thereof may cause harm to the defence of substantial interests of the State. The Cabinet shall decide regarding the defence of the substantial interests of the State in each specific case. The basis for the application of this exclusion shall be neither urgency nor protected information itself, if protection thereof can be ensured in procurement procedures in accordance with this Law or the legal framework governing procurements in the field of defence and security.

(9) This Law shall not apply, when the Cabinet, in accordance with external legal framework, has recognised the information regarding a contract or the implementation thereof as an official secret.

*[26 April 2018]*

**Section 4. Mutual procurement contracts between the contracting authorities**

(1) This Law shall not apply to the works, supplies performed, or services provided by a person meeting all the following features:

1) it is under such control of the contracting authority that manifests as the rights to influence the strategic objectives and decisions of the activities of the controlled person, or under the control of a person controlled in the referred to manner by the contracting authority;

2) more than 80 per cent of its activities are comprised of fulfilment of particular tasks in the interests of the controlling contracting authority or other persons controlled by the same contracting authority;

3) there is no direct private capital participation in it, with the exception of such form of private capital participation, which in accordance with the legal framework governing the commercial law and the Treaty on the Functioning of the European Union does not entail the rights to influence and control its decisions and does not exert a decisive influence on it.

(2) This Law shall not apply, where a controlled person meeting the features referred to in paragraph one of this Section, which concurrently is also the contracting authority, awards a procurement contract to its controlling contracting authority, or to another person controlled by the controlling contracting authority, within the meaning of Clause 1 of Paragraph one of this Section, provided that there is no direct private capital participation in aa person awarded being awarded the procurement contract with the exception of such form of private capital participation, which in accordance with the legal framework governing the commercial law and the Treaty on the Functioning of the European Union does not entail the rights to influence and control its decisions and does not exert a decisive influence on it.

(3) This Law shall not apply to the works, supplies performed, or services provided by a person meeting all the following features:

1) it is under such joint control of several contracting authorities that manifests as the rights to influence the strategic objectives and decisions of the activities of the controlled person;

2) more than 80 per cent of its activities are comprised of fulfilment of particular tasks in the interests of the jointly controlling contracting authorities or other persons controlled by the same contracting authorities;

3) there is no direct private capital participation in it, with the exception of such form of private capital participation, which in accordance with the legal framework governing the commercial law and the Treaty on the Functioning of the European Union does not entail the rights to influence and control its decisions and does not exert a decisive influence on it.

(4) For the purposes of Paragraph three of this Law, contracting authorities exercise joint control over a person where:

1) the management bodies of the controlled person are composed of representatives of all contracting authorities (individual representatives may represent several or all of the participating contracting authorities);

2) all contracting authorities are entitled to jointly influence the strategic objectives and decisions of the activities of the controlled person;

3) the controlled person pursues the interests of the contracting authorities.

(5) This Law shall not apply to procurement contracts concluded between two or more contracting authorities, where all of the following conditions are fulfilled:

1) the procurement contract establishes or implements a cooperation between the contracting authorities with the aim of ensuring public services under the competence thereof;

2) the cooperation is implemented in the interests of public;

3) the share of the public services provided by the participating contracting authorities on the open market is less than 20 per cent.

(6) For the determination of the percentage of activities referred to in Clause 2, Paragraph one, Clause 2 Paragraph three and Clause 3 Paragraph five of this Section, the average financial turnover, or an appropriate alternative activity-based measure (such as costs incurred by the relevant person or contracting authority with respect to services, supplies and works) for the three years preceding the procurement contract award shall be taken into consideration. Where, because of the date on which the controlled person or contracting authority was created or commenced activities or because of a reorganisation of its activities, the data on financial turnover or alternative activity-based measure, are either not available or no longer relevant, the percentage of activities may be proven by means of business projections.

**Section 5. Exclusions to the application of the procurement procedures**

The contracting authority shall not apply the procurement procedures laid down in this Law, if the estimated contract price of the procurement contract is less than the thresholds of contract prices determined for procurement contracts by the Cabinet and if it is concluded for:

1) the supplies or services, provided by a public service provider, by performing the activities referred to in Sections   3, 4, 5, 6 and 7 of the Law On the Procurement of Public Service Providers, in the fields specified in these Sections;

2) the procurement of printed publications, electronic publications, manuscripts and other documents for supplementation of library collections or the organisation of education and research process in educational institutions, as well as in scientific institutions established by the State or institutions of higher education;

3) the procurement of such museum-related objects for supplementation of museum collections, which have an artistic, cultural and historical, scientific or memorial value;

4) the procurements in foreign states, performed by foreign economic representative offices, the Ministry of the Interior and the authorities subordinated thereto, as well as the units of the National Armed Forces, participating in international operations and international training;

5) the supplies and services for the implementation of a research and development contract completely financed by a legal person governed by private law in a scientific institution established by the State or institution of higher education, registered in the register of scientific institutions, if such supplies and services are completely reimbursed from the resources received for the implementation of the relevant research and development contract;

6) the supply of materials, reacting substances and components for conducting of experiments, development of designs and prototypes in a scientific institution established by the State or institution of higher education, registered in the register of scientific institutions, if the necessity of such materials, reacting substances and components, their parameters or quantity is determined by the progress of the research or development process;

7) publishing of a scientific article in a scientific periodical or other scientific publication, and it is paid for or reimbursed to the scientist by a scientific institution established by the State or institution of higher education, registered in the register of scientific institutions;

8) the services provided by a supplier for the attraction of students of higher education institutions from the states other than European Union Member States;

9) the services provided by specialists and experts necessary for performance of investigative activities in the criminal proceedings;

10) the supplies, services or works procured by the diplomatic and consular missions of Latvia for ensuring their functions, if the procurement contract is fulfilled in the state of accreditation of the mission or another state, where the head of the mission is accredited, irrespective of the state of registration of permanent residence of the supplier;

11) the supplies, services or works procured by the State Joint Stock Company State Real Estate (*"Valsts nekustamie īpašumi")*, for the purposes of administering own real estate or real estate transferred into its administration located abroad, if the procurement contract is fulfilled in the country of location of a real estate;

12) such services of the experts registered in the database of scientific experts or the European Commission or another database of scientific experts in the field of research and development, which are related to the preliminary scientific assessment of the research and development project proposals or the interim assessment of such projects, or the assessment of achieved outcomes thereof, if the attraction of the referred to experts is prescribed by the legal acts of the Cabinet on implementation of funds and programmes financed from the State budget or the European Union budget, as well as implementation of schemes or mechanisms established jointly with the Member States;

13) the service of travel agencies, which are covered by CPV code 63510000-7;

14) implementation of significant measures for strengthening civic consciousness, contributing to the defence of State security interests, if the procurement is carried out by the direct administration authority and the cabinet has resolved upon the application of this exclusion;

15) the services provided by the experts in the commission for the assessment of the higher education institution or college, or the study direction, or the commission for licensing the study programme;

16) the services provided by the authors, composers, sculptors, entertainment artists and other individual artists, which are covered by CPV code 92312200-3, and the services or artistic and literary creation and interpretation, which are covered by CPV code 92310000-7;

17) the services necessary for ensuring the State, official, work visits of the foreign delegations organised by the Chancery of the President, Administration of the Saeima (Parliament) and the Ministry of Foreign Affairs, if the delegation is chaired by the foreign presidents, vice-presidents, head and deputy heads of the parliaments, prime ministers and their deputies, ambassadors, ministers for foreign affairs and their deputies, heads or international organisations, or if the referred to delegations are staying in Latvia according to the official invitation of the Prime Minister or the Minister for Foreign Affairs, or international events of the national importance, which are covered by CPV codes 55300000-3, 55100000-1 and 60170000-0.

**Section 6. Contracts the implementation whereof is by more than 50 per cent financed by the contracting authority**

(1) This Law shall be applied for conclusion of contracts, if:

1) the implementation of a works contract is financed by more than 50 per cent of the contract price directly by the contracting authority and the estimated contract price of this contract is equal to or exceeds the contract price thresholds specified by the Cabinet and if this contract relates to specialised works in accordance with Annex 1 to this Law, as well as to the construction of buildings intended for sports, medical treatment and recreation, hospitals, schools and administrative buildings;

2) the implementation of a service contract is financed by more than 50 per cent of the contract price directly by the contracting authority and the estimated contract price of this contract is equal to the contract price thresholds specified by the Cabinet and if this contract relates to the works contract in accordance with Clause 1 of this Section.

(2) If the contracting authority financing the implementation of the contracts referred to in Clause 1 and 2 of Paragraph one of this Section is not itself ensuring the awarding of contracts or awards the contracts in favour or on behalf of other persons, it shall ensure the compliance of the contract awards to this Law.

**Section 7. Other projects financed by the contracting authority**

(1) If the contracting authority finances the implementation of such contract, which is not referred to in Section 6 of this Law, from their own funds or from the funds of the European Union policy instruments or other foreign financial assistance and national co-financing, the procurement procedures and the procedures for application thereof, as well as persons, which apply these procedures, shall be determined by the Cabinet.

(2) Paragraph one of this Section shall not apply to financing, which is granted as compensation. Within the meaning of this Paragraph, compensation is a sum of money, calculated according at a specific rate, and shall be issued as remuneration for the implementation of a specific objective.

**Section 8. Types of procurement procedures and application thereof**

(1) The following procurement procedures exist:

1) open procedure;

2) restricted procedure;

3) competitive procedure with negotiation;

4) competitive dialogue;

5) innovation partnership procedure;

6) negotiated procedure.

(2) The contracting authority shall be entitled to organise the design contest, if the estimated contract price is EUR 10, 000 or more. Design contest shall be organised as part of a procurement procedure leading to the award of a public service contract, or as a separate contest providing for the prizes or payment to participants. The procedures for the course of the design contest shall be determined by the Cabinet.

(3) The Cabinet shall determine the following regulations related to the course of procurement procedures and design contests, insofar as it is not regulated by this Law:

1) procedures for the course and regulations on application of the procurement procedures and design contests;

2) minimum terms for submission of the requests to participate, tenders and designs and the cases for reduction thereof;

3) cases, when the contracting authority shall not be obliged to use electronic information systems for the receipt of requests to participate, tenders, designs or constituent parts thereof;

4) content of the regulations of the procurement procedures and design contests;

5) rules for announcing, suspension and termination of procurement procedures and design contests;

6)rules for the communication of results of the procurement procedure and design contest;

7) rules for documentation of the procurement procedure and design contest and the contents of the notice of the procurement procedure and design contest;

8) rules for publication of the notices;

9) procedures for application of dynamic purchasing system.

(4) This Law shall be applied to the procurement procedures referred to in Paragraph one of this Section if the contract price of public supply contracts or of service contracts is EUR 42, 000 or more and the contract price of public works contracts is EUR 170, 000 euro or more.

(5) In cases laid down in Section 17, Paragraphs seven and eight of this Law the contracting authority shall procure products and services from a centralised procurement authority or with the intermediation thereof, not applying the procurement procedures laid down in Paragraph one of this Section or the provisions of Sections 9 and 10 of this Law.

(6) The contracting authority may apply a competitive procedure with negotiation or a competitive dialogue, where:

1) the needs of the contracting authority cannot be met without adaptation of readily available solutions in the market;

2) procurement contract includes designing or innovative solutions;

3) the procurement contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, the complexity or the legal and financial make-up of the procurement, or because of the risks attaching to them;

4) the technical specifications cannot be prepared with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical references;

5) in response to an open or a restricted procedure, the tenders not corresponding to the requirements prescribed by the procurement procedure documents are submitted or the tenders exceed the estimated contract price specified in the procurement procedure documents, or the tenders have been found to be abnormally low, or the tenders are submitted after the expiry of the term for submission thereof, or the tenderers do not meet the qualification requirements prescribed by the procurement procedure documents. This procedure may be applied, without prior publication of a contract notice, if only all those tenderers are called for negotiation, who meet the qualification requirements prescribed in an open or restricted procedure and who have not been excluded from participation in the procurement procedure, and who have submitted their tenders within the term for submission of the tenders prescribed in an open or restricted procedure.

(7) The contracting authority may apply a negotiated procedure, where:

1) no tenders or requests to participate have been submitted, or tenders not corresponding to the procurement contract have been submitted in response to an open procedure or a restricted procedure, where such tenders are incapable, without substantial changes, of meeting the requirements as specified in the procurement procedure documents, or the tenders of the tenderers, who do not meet the qualification requirements and are to be excluded from the procurement procedure, provided that the initial conditions for the implementation of the procurement contract are not substantially altered. The contracting authority hall send the procurement procedure report to the European Commission, where it so requests. Where an open or restricted procedure is terminated or suspended, because the tenders are rejected in accordance with Section 41, Paragraph eleven of this Law, the contract price of the contract concluded as a result of negotiation may not exceed any of the following values:

a) the contract price specified by the contracting authority in the procurement procedure documents in an open or restricted procedure, set as the tender conformity requirement,

b) 150 per cent of the estimated contract price specified in the procurement procedure documents of an open or restricted procedure;

2) the works, supplies or services can be supplied only by a particular supplier for any of the following reasons:

a) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;

b) competition is absent for technical reasons;

c) it is necessary to observe the protection of exclusive rights, including intellectual property rights;

3) as a result of extraordinary events unforeseeable by the contracting authority, a situation has objectively occurred, where, for reasons of urgency, t is not possible to apply open procedure, restricted procedures or competitive procedure with negotiation. The referred to circumstances invoked to justify extraordinary situation may not depend upon the activities of the contracting authority;

4) the necessary products are specifically manufactured for research and experimentation. This norm shall not apply to the manufacture of products to establish their commercial viability or to recover research and experimentation costs;

5) the contracting authority is in need of additional deliveries by the original supplier (manufacturer) of products, in order to extend or partially replace the already existing supplies or installations, because a change of supplier (manufacturer) of products would oblige the contracting authority to acquire supplies having different technical characteristics than those of the existing supplies, and such difference would result in incompatibility or disproportionate technical difficulties in operation and maintenance of supplies or installations. The duration of such procurement contract, as well as that of recurrent procurement contracts may not exceed three years;

6) the procurement contract has as its object the supplies of the products quoted and purchased on a commodity market;

7) it is possible to purchase products or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator which has carried out the liquidation procedure of the supplier, or the administrator organising the auction of the property of a bankrupt supplier in accordance with the legal framework;

8) public service contract is concluded with the winner or any of the winners of the design contest and the design contest has been organised in accordance with the requirements of this Law. If several winners have been determined in the design contest, all winners shall be invited to participate in the negotiations;

9) the procurement contract has as its object the repeated performance of works or provision of the services specified in the previously concluded procurement contract as a result of the procurement procedure, entrusted to the contractor of this contract, and the repeatedly required works or services correspond to the project underlying the previously concluded procurement contract as a result of the procurement procedure. This condition shall not apply to the cases, when the contracting authority in the procurement procedure documents of the first project, when determining the estimated contract price, has provided for the repeated conclusion of the procurement contracts, total estimated value of the works or services and the conditions for awarding them. The negotiated procedure may be used only during the three years following the conclusion of the original procurement contract.

(8) Exclusions referred to in Sub-clause "b" and "c", Clause 2, Paragraph seven of this Section shall apply only, where there is not justified alternative or substitute and if the cause of the absence of competition is other than the requirements set for the procurement.

(9) The procurement contract having as its subject two or more types of procurement (works, services or supplies) shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject of the procurement contract in question. For the procurement contracts consisting partly of services referred to in Annex 2 to this Law and other services or partly of services and partly of supplies, the main subject and the applicable procurement procedure shall be determined in accordance with which of the estimated contract prices of the respective services or supplies is the highest.

(10) Where the procurement contract has as its subject the procurement covered by this Law as well as the procurement not covered by this Law, and the different lots of the procurement are objectively separable, the contracting authority may choose to apply to each lot the legal regulation applicable thereto or to conclude a single procurement contract and to apply this Law. Where the different lots of a procurement contract are objectively not separable, the applicable legal regulation shall be determined according to the main subject of the procurement contract, except fir the case referred to in Paragraph thirteen of this Section.

(11) Where the procurement contract has as its subject the procurement covered by this Law, and it also contains the elements of concessions, the procurement contract shall be awarded in accordance with this Law, provided that the contract price of the lot of the procurement contract covered by this Law is equal to or greater than the contract price thresholds set by the Cabinet.

(12) Where the procurement contract has as its subject both the procurement covered by this Law and the procurement for the pursuit activities subject to the legal regulation governing the field of procurement of public service providers, the provisions applicable to awarding such procurement contract shall be determined in accordance with Sections 8 and 9 of the Law On Procurement of Public Service Providers.

(13) Where the procurement contract has as its subject both the procurement covered by this Law and the procurement and the procurement covered by legal framework governing the procurement in the field of defence and security, and where the contracting authority has chosen to award a single procurement contract (decision to award a single contract shall not, however, be taken for the purpose of excluding contracts from the application of either this Law or the legal framework governing the procurement in the field of defence and security), the following criteria shall determine the applicable legal regulation:

1) where a specific lot of a procurement contract is covered by Article 346 of the Treaty on the Functioning of the European Union, the procurement contract may be awarded without applying this Law, provided that the award of a single contract is justified for objective reasons;

2) where a specific lot of a procurement contract is covered by Clauses 2, 3 and 4, Paragraph one, Section 3 of the Law On the Procurement in the Field of Defence and Security, the procurement contract may be awarded in accordance with the legal framework governing the procurement in the field of defence and security, provided that the award of a single contract is justified for objective reasons.

(14) Where a procurement contract corresponds to both Clause 1 and Clause 2 of Paragraph thirteen of this Section, the contracting authority shall apply Clause 1, Paragraph thirteen of this Section.

*[20 September 2018]*

**Section 9. Procurements excluded from the scope of the procurement procedures laid down in this Law**

(1) Where the estimated contract price of a public supply contract or public service contract is EUR 10, 000 or more, but less than EUR 42, 000 and the estimated contract price of public construction works contracts is EUR 20, 000 or more, but less than EUR 170, 000, the contracting authority shall perform procurement in accordance with the procedures laid down in this Section.

(2) When preparing the procurement, the contracting authority shall apply paragraph one of Section 18 of this Law. When preparing the procurement, the contracting authority may apply Paragraph two of three of Section 18 of this Law.

(3) Fr performing the procurement the contracting authority shall establish a procurement commission in accordance with Section 24 of this Law. The operation of the procurement commission shall be subject to the provisions of Section 25 of this Law. The procurement commission shall take decisions in accordance with the procedures laid down in Section 26 of this Law.

(4) The procurement commission shall prepare the regulations for the procurement to be performed under the procedures laid down in this Section. The regulations shall contain:

1) justified and objective requirements with respect to the subject-matter of the procurement, taking into account Sections 20, 21 and 22 of this Law and ensuring that the referred to requirements do not create unjustified restrictions for competition;

2) requirements for the tenderers, taking into account Sections 13, 44, 45 and 46 of this Law;

3) cases, when the tenderers shall be excluded in accordance with the provisions of Paragraph eight of this Law, or the reference to the exclusion of the tenderers in accordance with paragraph eight of this Section;

4) requirements for tender security, if any is provided for, and the fulfilment security, if any is provided for, taking into account Section 50 of this Law;

5) criteria for evaluation of the tenders, takin into account Sections 19 and 51 of this Law;

6) information security rules, if any are necessary, takin into account Section 14, Paragraph one of this Law;

7) procedures for conclusion of a procurement contract;

8) other rules.

(5) It shall be prohibited to request the inclusion in the composition of the tender of a work prepared for a specific procurement, forming the object of copyright or considered to be partial fulfilment of the service.

(6) The contracting authority for the announcement of the procurement shall prepare and publish in the publications management system the notice of the planned contract, stating the term for submission of tenders, which shall not than 10 days (excluding the State official holidays) from the day of publishing the notice. The contracting authority, up to the day of publishing the referred to notice, shall post on its buyer profile the procurement regulations and shall ensure free and direct access thereto. If the supplier has timely requested additional information about the requirements contained in the procurement regulations, the contracting authority shall provide it within the period of three business days, but not later than four days before the expiry of the term for submission of tenders. The contracting authority shall send the additional information to the supplier, who has asked the question, and concurrently shall post this information in the place, where the procurement regulations are available, specifying also the question asked. The contracting authority shall ensure the exchange of information related to the procurement in accordance with Section 38 of this Law.

(7) Upon the expiry of the term for submission of tenders, the contracting authority shall assess the submitted tenders, carry out the selection of tenderers and select one or more tenders, taking into account the requirements of Section 41 of this Law.

(8) The contracting authority shall exclude the tenderer, whom the procurement contract would be awarded to, from the participation in the procurement in any of the following cases:

1) insolvency proceedings of the tenderer have been announced (except the case where a set of measures is applied within insolvency proceedings oriented towards restoration of solvency of the debtor), economic activity thereof has been suspended or the tenderer is liquidated;

2) it is detected that on the final date of the term for submission of tenders or on the day, when the decision has been adopted on possible award of the procurement contract, the tenderer has tax debts in Latvia or in a country of registration or permanent residence thereof, including the debts of mandatory State social security contributions, in total exceeding EUR 150 in any country. As regards the tenderers registered and permanently residing in Latvia, the contracting authority shall consider information posted on the information system determined by the Cabinet on the date of the latest data update of the public tax debtors’ database and the Real Estate Tax Administration System of the State Revenue Service;

3) a person preparing the procurement procedure documents (official r employee of the contracting authority), member of the procurement commission or an expert is connected to the tenderer, within the meaning of Paragraph one or two, Section 25 of this Law, or is interested in the selection of the tenderer, and the contracting authority has no possibility to prevent this situation by the less restrictive measures with respect to the tenderer;

4) a person specified by the tenderer, on whose capacities the tenderer relies upon, to certify that the qualification thereof conforms to the requirements specified in the notice of the planned contract or the procurement regulations, as well as the member of the partnership, if the tenderer is a partnership, is subject to the conditions of Clauses 1, 2 or 3 of this Paragraph;

5) the tenderer is a legal person or association of persons registered in an offshore.

(9) To verify, if the tenderer is not to be excluded from participation in procurement due to the circumstances referred to in Clauses 1, 2, 4 or 5 of Paragraph eight of this Section, the contracting authority:

1) as regards the tenderer registered or permanently residing in Latvia or a person referred to in Clause 4 of Paragraph eight of this Law, by means of information system determined by the Cabinet, under the procedure prescribed by the Cabinet, shall obtain information:

a) about the facts referred to Clause 1 and 5 of Paragraph eight of this Section - from the Enterprise Register. As regards the tenderer registered abroad, the contracting authority shall request to submit the document confirming the country of registration,

b) about the facts referred to Clause 2 of Paragraph eight of this Section - from the State Revenue Service and local governments of Latvia. The contracting authority shall be entitled to receive the relevant information from the State Revenue Service and local governments of Latvia, without asking for a consent of the tenderer and a person referred to in Paragraph eight, Clause 4 of this Section.

2) as regards the tenderer registered or permanently residing abroad and a person referred to in Paragraph eight, Clause 4 of this Section, shall request that the tenderer submits a statement issued by the relevant competent authority confirming that the tenderer and a person referred to in Paragraph eight, Clause 4 of this Section are not subject to the cases laid down in Paragraph eight of this Section. A contracting authority shall determine a time period for the submission of the statement of at least 10 business days after the day of issuance or sending of the request. If the relevant tenderer fails to submit the referred to statement within the laid down time period, a contracting authority shall exclude them from the participation in the procurement.

(10) Depending on the results of the verification carried out in conformity with Paragraph nine, Clause 1, Sub-clause “b” of this Section a contracting authority shall:

1) not exclude a tenderer from the participation in the procurement, if it detects that in accordance with information in the information system determined by the Cabinet a tenderer and a person referred to in Paragraph eight, Clause 4 of this Section has no tax debts, including the debts of mandatory State social security contributions, in total exceeding EUR 150;

2) inform a tenderer that, based on information posted on the information system determined by the Cabinet on the date of latest data update of the public tax debtors’ database and the Real Estate Tax Administration System of the State Revenue Service, a tenderer or a person referred to in Paragraph eight, Clause 4 of this Section, on the final date of the term for submission of tenders or on the day, when the decision has been adopted on possible award of the procurement contract, has tax debts, including the debts of mandatory State social security contributions, in total exceeding EUR 150, and shall determine a time period – 10 business days following the day of issuance or sending of the information – within which the certification shall be submitted that the tenderer, on the final date of the term for submission of tenders or on the day, when the decision has been adopted on possible award of the procurement contract, had no tax debts, including the debts of mandatory State social insurance contributions, in total exceeding EUR 150. If the certification is not submitted within a prescribed time period, a contracting authority shall exclude a tenderer from the participation in the procurement.

(11) In order to certify that the tenderer and a person referred to in Paragraph eight, Clause 4 of this Section had no tax debts, including the debts of mandatory State social insurance contributions, in total exceeding EUR 150 in Latvia, the tenderer, within the time period laid down in Paragraph ten, Clause 2 of this Section, shall submit:

1) printout from the electronic declaration system of the State Revenue Service certified by the relevant person or a representative thereof or the statement of the State revenue Service that the relevant person had no relevant tax debts, including the debts of mandatory State social security contributions;

2) the statement issued by the local government that the relevant person had no real estate tax debts;

3) copy of the decision issued by the State Revenue Service or the competent authority of the local government on the extension or postponing of the term of tax payment or other objective evidence on the absence of the tax debts.

(12) Where the documents, by which the tenderer registered or permanently residing abroad can certify that it is not subject to the cases laid down in Paragraph eight of this Section, are not issued or where such documents are not sufficient to certify that this tenderer is not subject to the cases laid down in Paragraph eight of this Section, the referred to documents may be replaced by a declaration on oath, or where there is no provision for declarations on oath in the legal framework of the relevant country, - by a solemn declaration made by the tenderer or a person referred to in Paragraph eight, Clause 4 of this Section before a competent executive or judicial power authority, a sworn notary or a competent relevant trade organisation in the country of registration (permanent residence) thereof.

(13) The procurement commission shall recognise as the winner in the procurement the tenderer selected in accordance with the requirements and criteria laid down in the procurement regulations and not subject to exclusion from the participation in the procurement in accordance with Paragraph eight of this Section. Decision, by which the winner is determined, shall additionally indicate all the tenderers rejected and the reasons for their rejection, contract prices offered by all the tendered and the comparative advantages of the tenderer selected as the winner, takin into account the provisions of Paragraph two, Section 14 of this Law. If the tenders not corresponding the requirements laid down in the procurement regulations are submitted or no tenders are submitted at all, the procurement commission shall take a decision to terminate the procurement without result. The contracting authority, within the period of three business days, after taking a decision to terminate the procurement without result, shall prepare and publish in the publication management system information on termination of the procurement without result, specifying the date of taking and the justification of the decision (information shall be attached to the notice of the planned contract), as well as shall ensure free and direct electronic access to this decision on its buyer profile.

(14) Within the period of three days after taking of the decision, the contracting authority shall inform all the tenderers about the tenderer or tenderers selected within the procurement and shall provide them with information to be specified in the decision referred to in Paragraph thirteen of this Section or shall send the referred to decision to them, as well as shall ensure free and direct electronic access to the decision referred to in paragraph thirteen of this Section on its buyer profile.

(15) The contracting authority shall award the procurement contract to the tenderer selected by the procurement commission in accordance with Paragraphs one, two, three, four and five of Section 60 of this Law. The contracting authority shall be entitled to suspend the procurement and not to award the procurement contract, if it has an objective substantiation. The contracting authority, within the period of three business days, after taking a decision to suspend the procurement, shall prepare and publish in the publication management system information on suspension of the procurement, specifying the date of taking and the justification of the decision (information shall be attached to the notice of the planned contract), as well as shall ensure free and direct electronic access to this decision on its buyer profile.

(16) The contracting authority shall ensure the documentation of the procurement, issuance and storage of the procurement documents in accordance with Paragraphs one, three, four and five of Section 40 of this Law.

(17) Within the period of ten business days after conclusion of the procurement contract, the contracting authority shall prepare and publish in the publication management system the informative notice regarding the concluded contract.

(18) Within the period of ten days after the procurement contract or the modifications thereto have come into effect, the contracting authority shall post on its buyer profile, correspondingly, the text of the procurement contract or the modifications thereto, observing the requirements for the protection of the trade secret under the procedure laid down in the legal framework. The text of the procurement contract and the modifications thereto shall be available in the buyer profile for at least the entire term of validity of the procurement contract, however not less than 36 months following the day of coming into effect of the procurement contract.

(19) Modifications to the procurement contract to be concluded under the procedure laid down in this Law shall be introduced in accordance with Section 61 of this Law.

(20) The contracting authority shall be entitled not to apply the provisions of this Section, where the procurement contracts referred to in Section 10 are concluded, as well as in case referred to in Paragraph three of Section 19 of this Law.

(21) The contracting authority shall be entitled not to apply the provisions of Paragraph six and eight of this Section, if:

1) the procurement meets the conditions of Paragraph seven and eight of Section 8 of this Law;

2) a procurement has been carried out previously under the procedures laid down in this Section and tenders not complying with the requirements laid down in the procurement regulations have been submitted – by taking into account the condition that the provisions of the procurement contract do not significantly differ from the requirements necessary for the implementation of the procurement contract provided for in the procurement carried out previously and in this procurement only those tenderers are invited to submit a tender, who have not been excluded in the procurement carried out previously and were not to be excluded, and who comply with the defined qualification requirements;

3) a procurement has been carried out previously under the procedures laid down in this Section and tenders have not been submitted therein – taking into account the condition that the provisions of the procurement contract do not significantly differ from the requirements necessary for the implementation of the procurement contract provided for in the procurement carried out previously;

4) the audit services of a sworn notary are procured with respect to the audits (verifications) of the annual statements.

(22) The Cabinet shall determine:

1) the information system in which the verification referred to in Paragraph nine of this Section is to be carried out, as well as the procedures for maintenance and use of such system;

2) the purpose of processing and scope of the information to be verified, as referred to in Paragraph nine, Clause 1 of this Section;

3)the procedures for the receipt and processing of the information by the information system referred to in Clause 1 of this Paragraph from the information systems maintained by the institutions referred to in Paragraph nine, Clause 1 of this Section;

4) the content of the notice referred to in Paragraph six and of the informative notice referred to in Paragraph seventeen of this Section and the procedures for the preparation of such notices.

(23) A tenderer, which has submitted a tender in a procurement, to which the provisions of this Section apply, and which deems that the rights thereof have been infringed or an infringement of such rights is possible, shall be entitled to appeal the decision taken in the Administrative District Court under the procedures laid down in the Administrative Procedure Law within the period of one month from the day of receipt of the decision. A ruling of the Administrative District Court may be appealed under the cassation procedures in the Department of Administrative Cases of the Supreme Court. Appeal of the decision shall not suspend the operation thereof.

*[26 April 2018] [20 September 2018]*

**Section 10. Procurements of the services referred to in Annex 2 to this Law**

(1) If the estimated contract price of a public service contract is EUR 42, 000 or more and the contract is concluded for the services referred to in Annex 2 to this Law, the contracting authority shall be entitled not to apply the procurement procedures laid down in this Law, except for the requirements prescribed by Sections 13, 14, 19, 20, 21 and 22, Chapter III, Paragraph two of Section 28, Section 32 and Section 33, Paragraphs one and three of Section 36, Sections 37, 38 and 39, Paragraphs one, three, four and five of Section 40, Section 60 and Section 61.

(2) The contracting authority shall be entitled not to apply this Law to a public service contract the subject-matter whereof is covered by any of CPV codes referred to in Chapter "Health, social and related services" of Annex 2 to this Law, if the estimated contract price thereof is less than EUR 750, 000. If the estimated contract price of such public service contract is EUR 750, 000 or more, the procurement shall be subject to the procedure for performance of the procurement laid down in paragraph one of this Section.

(3) The contracting authority shall be entitled not to apply this Law to a public service contract concluded for the provision training practice or study practice, or the on-job training, if the estimated contract price thereof is less than EUR 750, 000.

**Section 11. Determination of the estimated contract price**

(1) The estimated contract price shall be determined in order to select the type and the applicable procedure of the procurement.

(2) The estimated contract price shall be determined as the total planned payment by the contracting authority for implementation of the procurement contract, which the supplier may receive from the contracting authority and other persons. The contracting authority, when planning the total payment, shall take into account any selection opportunity and any supplements to the procurement contract, all taxes to be paid in relation to the procurement contract (except value added tax), as well as the value of prizes and payments if the contracting authority intends to award prizes or to disburse payments to the candidates, tenderers, participants of a competitive dialogue or participants of a design contest. If the contracting authority consists of separate structural units, not assigned by independent liability for performance of the procurement, the estimated contract price shall be determined as the total planned payment of all structural units for implementation of the procurement contract.

(3) The estimated contract price shall be determined prior to submission of the notice referred to in Section 9, Paragraph six, Section 28, Paragraph one, Section 31, Paragraph one or Section 32., Paragraph one of this Law for publication, or, if submission of such notice for publication is not necessary, prior to the commencement of the procurement or the procurement procedure.

(4) It shall not be allowed to divide into lots the work projects, estimated supplies or services in order to avoid the application of the relevant procurement procedure. It shall not be allowed to use such method for the determination of the estimated contract price, which is aimed towards the non-application of the procurement or procurement procedures specified in this Law.

(5) The estimated contract price of public works contracts shall be the total value of all works or a work, including the contract price of the supplies or services necessary for the implementation of the public works contract and which the contracting authority has intended to correspondingly perform or provide to the contractor of the works. The contracting authority shall not add the estimated contract price of the supplies and services, which are not necessary for the implementation of the specific public works contract, to the estimated contract price of the public works contract, if thus the application of the requirements of this Law may be avoided to the relevant supply or service contracts.

(6) If the possible subject-matter of a public works or service contract may be divided into lots, when entering concurrently into procurement contract for each of the lots, the estimated contract price shall be determined as the total amount of all the lots. The contracting authority shall apply the requirements of this Law to each lot, if the total amount of the lots is equal to or exceeds the contract price thresholds referred to in Section 8, Paragraph four of this Law. With respect to the lots, the estimated contract price whereof is less than EUR 80, 000 for public service contracts and less than EUR 1, 000, 000 for public works contracts, the contracting authority shall be entitled to carry out the procurement, which would relate to the estimated contract price of these lots in accordance with Section 8, 9 or 10 of this Law, if the total estimated contract price of the relevant lots is less than 20 per cent of the total estimated contract price of all lots. If the total estimated contract price of such lots is less than EUR 20, 000 for public works contracts and less than EUR 10, 000 for public service contracts, the contracting authority shall be entitled not to apply this Law in relation to such lots.

(7) If similar products are intended to be procured, by concurrently concluding several public supply contracts so that they are procurement contracts concerning lots, the estimated contract price shall be determined as the total amount of all lots. The contracting authority shall apply the requirements of this Law to each lot, if the total amount of the lots is equal to or exceeds the contract price thresholds referred to in Section 8, Paragraph four of this Law. With respect to the lots, the estimated contract price whereof is less than EUR 80, 000, the contracting authority shall be entitled to carry out the procurement, which would relate to the estimated contract price of these lots in accordance with Section 8 or 9 of this Law, if the total estimated contract price of the relevant lots is less than 20 per cent of the total estimated contract price of all lots. If the total estimated contract price of such lots is less than EUR 10, 000, the contracting authority shall be entitled not to apply this Law in relation to such lots.

(8) The estimated contract price for public supply contracts providing for lease, lease with a purchase option and hire-purchase shall be determined as follows:

1) for fixed-term procurement contracts:

a) if the term is 12 months or less – as the total contract price for the term of the procurement contract;

b) if the term is more than 12 months – as the total contract value for the term of the procurement contract, taking into account the residual value;

2) for an open-ended procurement contracts or procurement contracts the term whereof cannot be defined - as the estimated monthly payment multiplied by 48.

(9) If regular public supply or public service contracts are concluded or the term of the procurement contract is extended within a specified time period, the estimated contract price shall be determined:

1) as the total actual value of the successive procurement contracts of the same type during the preceding 12 months or the preceding financial year, taking into account the possible changes in quantity or value during the subsequent 12 months;

2) as the total estimated value of the successive procurement contracts of the same type during the subsequent 12 months after the initial supply or during the next financial year (if it is longer than 12 months).

(10) The estimated contract price for the service shall be determined:

1) for insurance services – as the total sum of the due insurance premiums and other forms of remuneration;

2) for banking and other financial services – as the total sum of the fee for services, commissions, interest to be paid and other forms of remuneration;

3) for public service contracts, which include design engineering, the design, designing or modelling of the architecture or engineering structures – as the total sum of the fee for services, commission and other forms of remuneration.

(11) If the total contract price is not indicated for public service contracts, the estimated contract price shall be determined as follows:

1) for the procurement contracts of fixed term, being 48 months or less – as the total contract price for the term of the procurement contract;

2) for an open-ended procurement contracts or procurement contracts the term whereof exceeds 48 months- as the estimated monthly payment multiplied by 48.

(12) The estimated contract price in case of a framework agreement and for the dynamic purchasing system shall be the total contract price of procurement contracts envisaged during the term of the framework agreement or the dynamic purchasing system.

(13) The estimated contract price in case of an innovation partnership procedure shall be the maximum estimated value of all research and development activities during all stages of the procedure and the estimated maximum contract price of all supplies, services or works, intended to be developed during the procedure and subsequently procured.

(14) If the design contest is planned as a part of the procurement procedure, resulting in the award of the public service contract, the estimated contract price shall be determined, taking into account the total amount of the prizes or payments and the estimated contract price of the public service contract to be concluded.

*[26 April 2018]*

**Section 12. Thresholds of contract prices**

The thresholds of the contract prices referred to in Section 5, Section 6, Paragraph one, Clause 1 and 2, Section 8, Paragraph eleven, Section 33, Section 34, Paragraphs two and three, Section 35, Paragraph four, Section 47, paragraph three, Section 48, Paragraph three, Section 55, Paragraph one, Section 60, Paragraph ten, Section 61, Paragraph five, Clause 1, Section 68, Paragraph two, Clause 3, Section 73, , Paragraph three, Clause 2, Sub-clause ‘"a", Section 74, Paragraph one, Clause 2, 5 and 6 and paragraph two, Clause 2 shall be determined by the Cabinet, on the basis of the international commitments of the European Union in relation to the contract price thresholds, which must be observed by the contracting authority. The Cabinet shall determine the referred to contract price thresholds at least once in every two years within one month after the European Commission has announced the relevant contract price thresholds in the Official Journal of the European Union.

*[26 April 2018]*

**Section 13. General conditions with respect to a supplier**

(1) The contracting authority shall not reject a candidate, a tenderer or a participant of a design contest if it does not have the specific legal status in accordance with the legal framework of Latvia, however, it is entitled to perform works, supply products or provide services in accordance with the legal framework of the European Union Member State where it has been founded.

(2) The contracting authority shall request only such information or documents from the candidate, the tenderer or the participant of a design contest, which are necessary for verification of the conformity of the qualification and tenders, as well as for the selection of a tender in accordance with the criteria specified for the evaluation of tender.

(3) If a public works or public service contract is being concluded or if a public supply contract also includes the process of building-in or installation of a product, the contracting authority may request that the legal persons indicate in the request to participate or the tender the name, surname and professional qualification of employees responsible for the implementation of the procurement contract.

(4) Supplier associations may submit tenders or apply as candidates. The contracting authority shall not be not entitled to set a requirement for these associations to get organised in a specific legal status for them to be able to submit a tender as a tenderer or a request to participate in the procurement procedure as a candidate.

(5) The contracting authority may specify in the procurement procedure documents that the supplier associations must meet the requirements with respect to the economic or financial condition or technical or professional abilities. The requirements must be commensurate, and they shall be set, based on objective reasons.

(6) The contracting authority my set different, commensurate and objectively justified conditions for the supplier associations with respect to the implementation of the procurement contract. The contracting authority may request that the association with respect whereto the decision is taken to award the procurement contract, at its own choice, establishes in accordance with a specific legal status or concludes the partnership agreement, agreeing upon the allocation of liability of the members of the association, if necessary, for successful implementation of the provisions of the procurement contract.

**Section 14. Protection of information**

(1) The contracting authority may prescribe the conditions for the protection of such information, which it has transferred to suppliers together with technical specifications, as well as during the procurement procedure.

(2) When notifying regarding the conclusion of a procurement contract and informing the candidates and tenderers, the contracting authority shall not be entitled to reveal information, which has been transferred thereto by other suppliers as a trade secret or confidential information.

**Section 15. Conditions with respect to the Agreement on Government Procurement of the World Trade Organisation and other international agreements**

The contracting authority, insofar as it is prescribed by the Agreement on Government Procurement of the World Trade Organisation and other international agreements binding on the European Union, shall apply at least as favourable conditions to the works, supplies, services and suppliers of the referred to contracting parties as those applied to the European Union works, supplies, services and suppliers.

*[26 April 2018]*

**Section 16. Privileged contracts**

(1) If the subject-matter of an intended contract allows, the contracting authority shall be entitled, within the scope of the measures intended for certain groups of persons, to reserve the possibility to participate in procurement procedures only for those candidates or tenderers, where more than 30 per cent of the average number of employees per year are disabled persons.

(2) Where the procurement contract is concluded for the service of the health, social and culture field referred to in Annex 2 to this Law, which are covered by CPV codes 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, 98133110-8, the contracting authority shall be entitled to reserve the possibility to participate in the procurement procedure and the procurement under the procedure laid down in Section 10 of this Law only for those candidates or tenderers, who have been granted the status of a social enterprise and who provide the services in the referred to field, and to whom, for the last three years from the day, when the decision on awarding of the procurement contract would be potentially taken, the contracting authority has not awarded the procurement contract for the service referred to in this Section under the procedure laid down in this Section. The term of such procurement shall not exceed three years.

(3) When applying Paragraph one of this Section, the contracting authority shall make a reference thereto in the contract notice. When applying Paragraph two of this Section, the contracting authority shall make a reference thereto in the notice regarding the contract on the social and other specific services.

*[26 April 2018]*

**Section 17. Procurements by central purchasing bodies and joint procurements by contracting authorities**

(1) Central purchasing body may purchase products and services, as well as perform procurements in order to concluded procurement contracts and framework agreements for the needs of other contracting authorities and public service providers, *inter alia*, contracting authorities and public service providers of other countries. In such case, the central purchasing body applies the requirements of this Law. Central purchasing body may maintain electronic information system for the receipt of requests to participate and tenders, as well as provide advice to the contracting authorities and suppliers regarding the use of such system.

(2) The contracting authority may purchase products and services form the central purchasing body or receive works, supplies and services through the intermediation thereof.

(3) Where the contracting authority purchases products and services form the central purchasing body or receives works, supplies and services through the intermediation hereof, it shall be considered that it has applied the requirements of this Law, if the central purchasing body, when carrying out the procurement, has applied the requirements of this Law.

(4) The contracting authority may purchase products and services form the central purchasing body located in another Member State of the European Union or receive works, supplies and services through the intermediation of such body, if it, when carrying out the procurement for the needs of the contracting authority, applies the requirements of such legal framework that corresponds to the European Union law in the field of public procurement. In such case it shall be considered that the contracting authority has complied with the requirements of this Law.

(5) Several contracting authorities from different Member States of the European Union may jointly award a procurement contract, conclude a framework agreement or operate a dynamic purchasing system. Where the provisions for such cooperation are not incorporated in the international agreement concluded between the member State of the European Union, the contracting authorities concerned shall conclude the agreement providing for the rights and obligations of the parties, stating the relevant national law applicable to the liabilities, as well as the provisions of organisation of the procurement and conclusion of the procurement contract. The rights and obligations of the contracting authority shall also be specified in the relevant procurement or procurement procedure documents.

(6) Where several contracting authorities from different Member States of the European Union have set up a joint entity, including European Grouping of territorial cooperation or another entity under the European Union law, the contracting authorities concerned shall, by a decision of the competent body of the joint entity, agree whether to apply the public procurement rules of the Member State where the joint entity has its registered address or where the joint entity is carrying out its activities.

(7) Direct administration authorities shall be obliged to acquire the products and services from the central purchasing body specified by the Cabinet or thorough the intermediation thereof, if the relevant products or services are in the product and service groups specified by the Cabinet and the contract price thereof during the 12-month period in the relevant product or service group is EUR 1, 000 or more. This condition shall not apply to the case referred to in Paragraph ten of this Section.

(8) Local governments and local government authorities shall be obliged to acquire the products and services from the central purchasing body or thorough the intermediation thereof, if the relevant products or services are in the product and service groups specified by the Cabinet and the contract price thereof during the 12-month period in the relevant product or service group is EUR 10, 000 or more.

(9) The duty laid down in Paragraph eight of this Section is fulfilled, where the relevant products and services are procured in any of the following ways:

1) from the central purchasing body specified by the Cabinet or through the intermediation thereof;

2) from the central purchasing body established by one or several local governments or through the intermediation thereof, if the relevant central purchasing body ensures procurements of the relevant products and services for the local government and all authorities thereof.

(10) A local governments and local government authority in case referred to in Paragraph eight of this Section and a direct administration authority in case referred to in Paragraph seven of this Section shall be entitled not to procure the relevant products and services form the central purchasing body specified by the Cabinet or through the intermediation thereof in any of the following cases:

1) it is not possible to procure from the central purchasing body or through the intermediation thereof the product or service corresponding to the needs of the direct administration or local government authority or the local government in accordance with the technical specifications published by the central purchasing body;

2) the direct administration or local government authority, or the local government can ensure the acquisition of the products or services for a lower price. In such case it shall, within the period of one business day before the conclusion of the procurement contract, fix the contract price offered by a central purchasing body for the relevant products and services, printing out the information regarding the rice of the relevant products and services form the information system maintained by the central purchasing body, or requesting such information from the central purchasing body, if the information system does not ensure the relevant printouts.

(11) The contracting authorities may agree to perform certain specific procurements jointly. Where the joint procurement is organised in the name and on behalf of all contracting authorities, even though the procurement is conducted by only one contracting authority, the contracting authorities concerned shall be jointly responsible for the fulfilling of the requirements of this Law. The contracting authorities shall be jointly responsible for only those lots of the procurements, which are intended for the needs of all contracting authorities concerned.

(12) The Cabinet shall determine:

1) the groups of products and services referred to in Paragraphs seven and eight of this Section;

2) the central purchasing bodes referred to in Paragraph seven and Paragraph nine, Clause 1 of this Section and the conditions for the use of the services provided thereby.

**Chapter II
Preparation for the procurement, preparation of the procurement procedure documents and technical specifications**

**Section 18. Communication of the planned procurements and procurement procedures, consulting the suppliers and candidates and prior involvement of tenderers**

(1) The contracting authority, within a period of one month from the day of approval of the annual budget, shall publish in the State electronic information system intended for the receipt of tenders and requests to participate, information about the planned procurements and procurement procedures to be carried out under the procedure laid down in Section 8, Paragraph two, Section 9 and Section 10 of this Law, specifying at least the contracting authority, planned subject-matter of the procurement and the link to the buyer profile, where the procurement procedure documentation would be available, he planned procedure for the conduct of the procurement, planned CPV code, type of the procurement contract, planned year and quarter or month of announcement of the procurement and the date of data updates. The contracting authority shall update the information as necessary.

(2) Before launching a procurement procedure, the contracting authority may conduct consultations with the suppliers, with a view to preparing the procurement and informing the suppliers the procurement plan and requirements. The contracting authority shall announce the consultation on its website, specifying the issues to be discussed, the time and place of the consultation, the manner, how suppliers can apply for participation in the consultation, requirements with respect to documenting the consultation and publishing such documentation.

(3) The contracting authority may receive advice from independent experts or authorities, or from the suppliers. The referred to advice may be used in the planning and preparation of the procurement, provided that it does not restrict competition and does not violate the principles of equal treatment (non-discrimination) and transparency.

(4) If the candidate or tenderer, or a legal entity connected with the candidate or tenderer, consulted the contracting authority or otherwise engaged in the preparation of the procurement, the contracting authority shall ensure that the participation of the relevant candidate or tenderer does not give rise to the restriction of competition, communicating to other candidates and tenderers the relevant information, which has been provided, when the candidate or the tenderer engaged in the preparation of the procurement, or which arises out of such engagement, and setting a corresponding term for the submission of, respectively, requests to participate or the tenders.

*[26 April 2018]*

**Section 19. Green public procurement**

(1) The contracting authority, when preparing the procurement, shall consider the requirements prescribed in accordance with Paragraph two of this Section. If such requirements are not prescribed, the contracting authority shall give preference to such requirements of technical specifications, criteria for selection of the tenders and provisions of implementation of the procurement contract, which ensure the conformity of the procurement to the green public procurement principles, taking into account the principle of commensurability and based on objective reasons.

(2) The Cabinet shall determine the green public procurement principles, requirements and the procedures for application thereof, groups of products, services and works subject to the requirements of green public procurement, criteria for selection of the tenders, provisions of implementation of the procurement contract and procedure for control thereof.

(3) The contracting authority shall be entitled not to apply the provisions of Section 9 of this Law, if the procurement contract on supply of food products is concluded, the estimated contract price thereof is less than EUR 42, 000 and the green public procurement requirements prescribed by the Cabinet with respect to the supplies of food products are complied with.

**Section 20. Technical specifications**

(1) Technical specifications shall be included in the procurement procedure documents and shall prescribe the requirements set for the works, services or supplies. Technical specifications shall ensure equal opportunities to all tenderers and shall not create unjustified restrictions for the competition in the procurement.

(2) The requirements of the contracting authority may refer to a special process or method of manufacturing or provision of the requested works, service or supplies or to a special process in any other stage of their life cycle, even if such factors are not directly related to the essence of works, service or supplies, provided that they are related to the subject-matter of the procurement contract and are commensurate to the value and purposes of the procurement contract.

(3) Technical specifications for public works contracts shall represent a summary of technical descriptions, which determines the requirements of the contracting authority in relation to materials, products, technical equipment or supplies and which characterise materials, products, technical equipment or supplies so that, upon acquisition thereof, they would conform to the purposes intended by the contracting authority. These descriptions shall include environmental protection provisions, design requirements (also requirements in relation to availability to disabled persons), requirements for conformity assessment and implementation, safety rules, quality assurance system, terminology, measurements, symbols, testing rules and methods, pre-packaging, labelling, manufacturing processes and methods in all stages of a life cycle of the works. Technical specifications shall also include rules regarding work completion tests and work acceptance, requirements in relation to methods and technology for performance of works, rules regarding construction designing and pricing and other technical rules which the contracting authority has provided for works or the work at large, or for materials and objects, which are intended to be used in the work. The scope of works shall be determined in accordance with the building design and shall be included in the list of the scope of works. Procedure for determination of construction costs for a public works contract shall be determined by the Cabinet.

(4) Technical specifications shall prescribe the requirements set for the supplies and services necessary for the public supply and service contracts. Public service contracts shall, in addition, determine the objective, methods and resources to be used (if necessary), as well as the end result of services. Technical specifications for public supply and service contracts shall additionally contain technical descriptions, which include such requirements of the contracting authority in relation to the product or service as the level of quality, environmental protection requirements and climate change reduction (reduction of emissions of greenhouse gasses) and climate change adaptation, energy efficiency, construction requirements (also requirements in relation to availability of a product or service to disabled persons), performance requirements, methodology for service provision, requirements for product use, safety rules, measurements, terminology, symbols, testing rules and methods, requirements in relation to the product name, under which it is sold, the packaging and labelling, user manuals, manufacturing process and methods at any stage of a life cycle of a product or service, as well as the conformity assessment methods.

(5) Technical specifications shall be prepared in one of the following ways:

1) by determining the functional requirements or performance results, including also environmental protection requirements. The requirements shall be precisely defined for the tenderer to be able to determine the subject-matter of the contract, and for the contracting authority to be able to compare tenders;

2) with reference to the technical specifications referred to in Paragraphs three and four of this Section and to the standards in the following sequence: the European standards adapted in the status of Latvian national standard, European technical assessments, common technical specifications, other international standards, as well as other technical reference systems established by the European standardisation institutions, or if the standards referred to do not exist, then in the following sequence: the Latvian national standards, the national technical approvals or the national technical specifications with respect to designing, cost estimation and fulfilment, and the use of the products. Each reference shall include the words “or equivalent”;

3) by determining the functional requirements or performance results in accordance with Clause 1 of this Paragraph and with reference to the specifications in accordance with Clause 2 of this Paragraph, in order to ensure the conformity to the functional or performance requirements;

4) with reference to the specifications in accordance with Clause 2 of this Paragraph but specifying other requirements as functional requirements or performance requirements in accordance with Clause 1 of this Paragraph.

(6) If it is not decisive for the existence of the subject-matter of the procurement contract, technical specifications need not specify a specific origin, special process, characterising the products of services of only some particular supplier only, brand, patents or specific types of products, which create advantages or a reason for rejection of certain suppliers or products. Such reference may be included in exceptional cases if it is not possible to prepare a sufficiently precise and clear description of the subject-matter of the procurement contract in accordance with Paragraph five of this Section. In such case the reference shall be used together with the words “or equivalent".

(7) If the contracting authority prepares the technical specification in accordance with Clause 2, Paragraph five of this Section, it shall not reject a tender, because the offer red product or services do not conform to the standards or technical specifications specified in the reference, if the tenderer, by using any appropriate means, *inter alia*, evidence referred to in Section 22 of this Law, may prove that the tender is equivalent and meets the requirements of the contracting authority indicated in the technical specification.

(8) If the contracting authority determines the environmental protection requirements as the functional requirements or performance requirements in accordance with Paragraph five, Clause 1 of this Section, it shall not reject the tenders corresponding to the European standards adapted in the status of Latvian national standard, European technical assessments, common technical specifications, other international standards, other technical reference systems established by the European standardisation institutions, if such standards, technical specifications or reference systems prescribe the same functional requirements or performance requirements as those determined by the contracting authority, and if the tenderer r, by using any appropriate means, *inter alia*, evidence referred to in Section 22 of this Law, may prove that the works, supplies or services corresponding to the standard conform to the functional requirements or performance requirements determined by the contracting authority.

(9) For all procurements the result whereof is intended for use by natural persons, including the staff of the contracting authority, the technical specifications shall be drawn up so as to take into account accessibility of the procurement results for persons with disabilities or the principles of universal design, except for the cases, when the contracting authority duly justifies the non-inclusion of such requirements in the technical specifications. If the European Union legal acts confirm the mandatory access requirements, the technical specifications shall contain a reference to such standards, insofar as they require to ensure access to disabled persons or to observe the principles of universal design.

(10) The technical specifications may also specify the conditions for the transfer of intellectual property rights to the contracting authority.

**Section 21. Labels**

(1) Where the contracting authority intends to purchase works, products or services meeting specific environmental, social or other requirements it may, in the technical specifications, the criteria for selection of a tender or the procurement contract performance conditions, require a specific label as means of proof that the works, services or supplies correspond to the set requirements, provided that all of the following conditions are fulfilled:

1) the label requirements only concern criteria which are linked to the subject-matter of the procurement contract and are appropriate to define characteristics features of the works, supplies or services that are the subject-matter of the procurement contract;

2) the label requirements are prepared, based on objectively verifiable and non-discriminatory criteria;

3) the labels are established in an open and transparent procedures in which all relevant stakeholders, including public authorities, consumers, social partners, manufacturers, distributors and non-governmental organisations, may participate;

4) the labels are accessible to all stakeholders;

5) the label requirements are set by a party over which the supplier applying for the label cannot exercise a decisive influence.

(2) Where a label fulfils the conditions provided in Clauses 2, 3, 4 and 5 of Paragraph one of this Section, but also contains information about the requirements not linked to the subject-matter of the procurement contract, contracting authority shall not require the conformity to all label requirements, but shall refer the detailed specifications of the relevant label or the parts thereof, that are linked to the subject-matter of the procurement contract and are appropriate to define characteristic features s of the subject-matter of the procurement contract.

(3) The contracting authority shall specify which label requirements must be met, where the conformity of the works, supplies or services to all of the label requirements is not required. The contracting authority shall accept equivalent labels confirming that the works, supplies or services meet the label specified by the contracting authority.

(4) Where the supplier had no possibility of obtaining the specific label indicated by the contracting authority or an equivalent label by the day of submission of the tender time limits for reasons that are not attributable to that supplier, the contracting authority shall accept other appropriate means of proof, *inter alia*, a technical dossier from the manufacturer, proving that the works, supplies or services fulfil the requirements of the label indicated by the contracting authority.

*[26 April 2018]*

**Section 22. Test reports, specifications and other means of proof**

(1) The contracting authority may require that supplier submits a test report and statements or certificates of the conformity assessment body accredited under the procedure laid down Regulation (EC) No 765/2008 of the European parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93  and thus proves the conformity to the requirements or criteria set out in the technical specification, criteria for selection of a tender or the procurement contract performance conditions. Where the contracting authority requires the submission of certificates drawn up by a specific conformity assessment body, certificates from equivalent other conformity assessment bodies shall also be accepted by the contracting authority.

(2) The contracting authority shall accept other appropriate means of proof, *inter alia*, a technical dossier of the manufacturer, where the supplier had no possibility of obtaining the certificates or test reports referred to in Paragraph one of this Section, or no possibility of obtaining them by the expiry of the term for submission of tenders, provided that it is not attributable to the supplier and provided that the supplier proves that the works, supplies or services meet the requirements or criteria set out in the technical specification, criteria for selection of a tender or the procurement contract performance conditions.

**Section 23. Variants of tenders**

(1) The contracting authority may provide for the option to submit variants of tenders. The contracting authority shall indicate in the contract notice, whether or not they authorise or require variants. It shall not be permitted to submit variants without such indication.

(2) The contracting authority shall state in the procurement procedure documents the minimum requirements to be met by the variants and any specific requirements for submission of variants, specifying whether variants may be submitted only where a tender, which is not a variant, has also been submitted. The contracting authority shall ensure that the criteria for selection of a tender can be applied to the tender with variants as well as to conforming tenders which are not variants. Variants shall be mandatory linked to the subject-matter of the contract.

(3) Only the variants of tenders meeting the minimum requirements laid down by the contracting authority shall be taken into consideration.

(4) If within the procurement procedures it is intended to award public apply or public service contract and the contracting authority has authorised the submission of variants of tenders, it shall not reject a variant of tender on the sole ground that it would, where successful, lead to either a public service contract rather than a public supply contract or a public supply contract rather than a public service contract.

*[26 April 2018]*

**Chapter III
Procurement commission**

**Section 24. Establishment of the procurement commission**

(1) The contracting authority shall establish a procurement commission for the performance of the procurement procedures referred to in Section 8, Paragraph one, Clauses 1, 2, 3, 4, 5 and 6 of this Law and for the performance of the procurement referred to in Sections 9 and 10 of this Law. The commission shall consist of persons having no administrative penalty imposed regarding violations in the field of public procurement and public and private partnership - prohibition to hold the positions of public official, whose duties include decision-taking in the field of public procurement and public and private partnership or the award of the procurement contracts, framework agreements, partnership procurement contracts or concession contracts, as well as taking relevant decisions and awarding relevant contract - or the enforcement of this penalty has been terminated. To ascertain with respect to the above mentioned, the contracting authority shall obtain information int he publication management system.

(2) A procurement commission shall be established for each procurement separately or for a certain period of time, or as a permanently functioning body. When establishing the procurement commission, the contracting authority shall ensure that this commission is competent in the field where the procurement contract is being awarded. The procurement commission shall be entitled to invite experts, when performing its duties.

(3) The contracting authority shall establish a procurement commission in the composition of at least three members. If the estimated contract price of a procurement exceeds EUR 1, 000, 000, the contracting authority shall establish a procurement commission in the composition of at least five members.

**Section 25. Basic operating principles of the procurement commission**

(1) A person preparing the procurement procedure documents (official or employee of the contracting authority), members of the procurement commission and experts may not represent the interests of a candidate or tenderer, as well as may not be connected to the candidate or tenderer. Within the meaning of this Paragraph, a person preparing the procurement procedure documents (official or employee of the contracting authority), a member of the procurement commission and an expert is connected to a candidate or tenderer if he or she is:

1) the current or former employee, official, participant, shareholder, holder of procura or member of a legal person – candidate, tenderer or subcontractor, and if this connection with the legal person has terminated within the last 24 months;

2) the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a shareholder who owns at least 10 per cent of shares, participant, holder of procura or official of a legal person – candidate, tenderer or subcontractor;

3) a relative of a natural person – candidate, tenderer or subcontractor.

(2) Connection of a person preparing the procurement procedure documents (official or employee of the contracting authority), members of the procurement commission and experts with a candidate or tenderer shall also apply to cases where the candidate or tenderer is an association of persons, members of which are natural persons or legal persons, with which a person preparing the procurement procedure documents (official or employee of the contracting authority) or the member of the commission, or the expert has the connection referred to in Paragraph one, Clauses 1, 2 or 3 of this Section.

(3) A person preparing the procurement procedure documents (official or employee of the contracting authority), members of the procurement commission and experts shall sign a statement that there are no such circumstances, due to which it might be regarded that they are interested in selecting or activities of a particular candidate or tenderer or that they are connected to them within the meaning of Paragraph one of this Section.

(4) The procurement commission shall ensure the drafting of procurement procedure documents, procurement documents referred to in Sections 9 and 10 of this Law, shall record the progress of the procurement process and shall be responsible for the procurement process.

(5) The procurement commission shall select candidates and evaluate tenderers and the tenders submitted by them in accordance with this Law, the procurement procedure documents, procurement documents referred to in Sections 9 and 10 of this Law, as well as another legal framework. The decision of the procurement commission shall be binding on contracting authority if a procurement contract is being awarded.

(6) The chairperson of the procurement commission shall organise and manage the work of the commission, determine the venue, time and agenda of the commission meetings, convene and chair the commission meetings, as well as shall ensure the signing of the statements referred to in Paragraph three of this Section.

*[26 April 2018]*

**Section 26. Procedure for taking decisions of the procurement commission**

(1) The procurement commission shall take decisions at meetings. The procurement commission shall be entitled to take decisions (have a quorum) if at least two thirds, but not less than three members of the members of the commission are present at the meeting. Number of the members of the commission shall be determined, by rounding up the obtained result. The procurement commission shall take decisions with a simple majority of votes. In the event of a tied vote of the members of the procurement commission, the chairperson of the commission shall have the casting vote. The member of the commission may not abstain from taking the decision.

(2) Each member of the procurement commission shall evaluate the tender individually according to all evaluation criteria indicated in the procurement procedure documents, except for the case, where only the price is used for comparison and evaluation of the tenders. The tender, which upon summarisation of individual evaluations has achieved the highest score, shall be recognised as the most economically advantageous tender.

**Chapter IV
Publication and observance of transparency**

**Section 27. Prior information notice**

The contracting authority may inform regarding the planned procurements through the publication of a prior information notice.

**Section 28. Contract notice, notice of modifications or additional information**

(1) Where a contracting authority applies open or restricted procedure, competitive procedure with negotiation, innovation partnership procedure, competitive dialogue or plans to establish a dynamic purchasing system, it shall publish a contract notice.

(2) Where the contracting authority introduces modifications to procurement procedure documents or in the documents of the procurement to be carried out under the procedure laid down in Section 10 or extends the terms for the submission of requests to participate and tenders, it shall publish a notice of modifications or additional information.

**Section 29. Contract award notice**

(1) The contracting authority, within 10 business days after the conclusion of a procurement contract or of a framework agreement or taking a decision to terminate or discontinue the procurement procedure or not to establish a dynamic purchasing system, shall submit for publishing the contract award notice. The contracting authority may group contract award notices for procurement contracts being concluded based on the framework agreement on a quarterly basis and submit them for publishing within 10 business days of the end of each quarter.

(2) Where the contracting authority takes a decision within the scope of the dynamic purchasing system, it shall submit the contract award notice with respect to each procurement contract within 10 business days following the taking of decision. This condition may be waived, where the contracting authority groups contract award notices on a quarterly basis and submits them for publishing within 10 business days of the end of each quarter.

**Section 30. Voluntary notice on the procurement results**

(1) The contracting authority may submit a voluntary notice of the procurement results in cases referred to in Sections 3, 4 or 5 of this Law or in case of a negotiated procedure.

(2) A voluntary notice of the procurement results shall be published so that the stakeholders could contest the justification of such procurement, which, because of an error by the contracting authority, has been performed without applying a corresponding procurement procedure and without publishing a contract notice, and in order to concurrently eliminate the consequences referred to in Section 75 of this Law.

*[26 April 2018]*

**Section 31. Design contest notice and notice on the results of the design contest**

(1) The contracting authority willing to organise a design contest shall publish a design contest notice.

(2) The contracting authority, within 10 business days after notifying the participants of the design contest, shall submit for publishing the notice of the results of the design contest.

**Section 32. Notice for social and other specific services**

(1) The contracting authority willing to organise a procurement under the procedure laid down in Section 10 of this law, shall publish a notice on social and other specific services. The contracting authority shall set the term for submission of requests to participate of not less than five business days following the day, when the notice for social and other specific services has been posted on the website of the Procurement Monitoring Bureau. The contracting authority shall set the term for submission of tenders of not less than five business days following the day, when the notice for social and other specific services has been posted on the website of the Procurement Monitoring Bureau and when the call to submit the tender has been sent to the selected candidates, where the selection of candidates is provided for.

(2) The contracting authority within 10 business days following the conclusion of a public service contract or taking the decision to terminate or discontinue the procurement shall submit for publishing the notice for social and other specific services.

(3) The contracting authority shall be entitled not to publish the notice referred to in paragraph one of this Section, where the procurement corresponds to any of the cases referred to in Section 8, Paragraph seven of this Law.

*[26 April 2018]*

**Section 33. Notice of modifications during the term of the contract**

The contracting authority, who has introduced the modifications referred to in Section 61, Paragraph three, Clause 2 and 3 of this Law to the procurement contract, where the contract price is equal to or exceeds the contract price thresholds set by the Cabinet, within 10 business days following the day of coming into effect of the modifications shall publish a notice of modifications during the term of the contract.

**Section 34. Publication of the notices**

(1) The content of and the procedures for preparation of the notices referred to in Section 27 and Section 28, Section 29 , paragraph one, Section 30, 31, 32 and 33 of this Law shall be determined by the Cabinet Template of the notice form shall be determined by Commission Implementing Regulation (EU) 2015/1986 of 11 November 2015 establishing standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation (EU) No 842/2011.

(2) The contracting authority shall prepare the notice referred to in Paragraph one of this Section and submit it to the publication management system. The Procurement Monitoring Bureau, within three business days following the receipt of the notice referred to in Paragraph one of this Section, shall verify the conformity of the content thereof to the requirements of this Law and shall post it on the website of the Procurement Monitoring Bureau, if the estimated contract price is less than the contract price thresholds set by the Cabinet.

(3) Where the estimated contract price is equal to or exceeds the contract price thresholds set by the Cabinet or, in case of a procurement referred to in Section 10 of this Law, EUR 750, 000 of more, the Procurement Monitoring Bureau, within three business days following the receipt of the notice referred to in Paragraph one of this Section, shall verify the conformity of the content thereof to the requirements of this Law shall send the notice to the Publications Office of the European Union for publication in the Official Journal of the European Union. The Procurement Monitoring Bureau shall post a notice on its website following the receipt of the confirmation about publication of the notice in the Official Journal of the European Union, or within 48 hours following the receipt of confirmation from the Publications Office of the European Union about the receipt of the notice.

(4) When announcing the procurement results, the contracting authority shall be entitled to withhold certain information from publication in the notice, where its release would impede law enforcement or be contrary to the public interest, might prejudice fair competition between the suppliers, or would harm the legitimate commercial interests of suppliers (public or private).

**Section 35. Time limits for submission of requests to participate or tenders**

(1) The contracting authority, when determining the time limits for submission of requests to participate or tenders, shall take into account the level of complexity of the potential procurement contract and the time period, which is necessary for preparation of tenders, as well as the minimum time limits for submission of requests to participate and tenders set by the Cabinet.

(2) The contracting authority shall set a longer time limit for submission of tenders than the minimum time limit for submission set by the Cabinet, if the tender can be made only after a visit to the site of fulfilment of the procurement contract specified by the contracting authority or after inspection of the additional documents specified in the procurement procedure documents on the site specified by the contracting authority. The time limit for submission of the tenders shall be fixed so that all suppliers or candidates would have the possibility to review all the information needed to produce tenders.

(3) The contracting authority may introduce modifications to the procurement procedure documents, provided that the amended provisions do not allow for submission of different tenders or participation or selection of other candidates or tenderers in the procurement procedure. Where the modifications have been introduced to the procurement procedure documents, the time limit for submission of tenders shall be extended according to the relevance of information or changes so that the suppliers or candidates would be able to review all the information needed to produce tenders, and taking into account the minimum time limits set by the Cabinet for submission of requests to participate and tenders.

(4) The contracting authority shall be entitled to extend the set time limits for submission of requests to participate and tenders, publishing the notice of modifications or additional information. If the estimated contract price for a procurement contract is equal to the contract price thresholds set by the Cabinet or more, the minimum time limit, by which the contracting authority is entitled to extend the time limit for submission of requests to participate or tenders, shall be seven days. Such extension of time limits shall not be regarded as modifications to the procurement procedure documents within the meaning of Paragraph three of this Section.

*[26 April 2018]*

**Section 36. Access to procurement procedure documents, issuance thereof and provision of additional information**

(1) The contracting authority in its buyer profile shall ensure free and direct electronic access to procurement procedure documents and all additional necessary documents, as well as an opportunity for the suppliers to become acquainted on site with the additional documents of the procurement, to which no free and direct electronic access may be ensured due to technical reasons or information contained therein, or for the protection of fair commercial interests, starting from the moment of the announcement of the relevant procurement. If the supplier requests to issue the procurement procedure documents in a printed form, the contracting authority shall issue them, within three working days after receipt of the request for these documents, provided that the request for documents has been submitted in good time prior to the expiry of the time limit for submission of tenders. The contracting authority shall be entitled to charge a fee for the issuance of the procurement procedure documents in a printed form, which shall not exceed the actual expenses of reproduction and sending of the documents.

(2) If the supplier or the candidate has timely requested additional information about the requirements contained in the procurement procedure documents, the contracting authority shall provide it within the period of five business days, but not later than six days before the expiry of the time limit for submission of requests to participate and tenders. Where the contracting authority, out of urgency considerations, has shortened the time limit for submission of tenders in an open procedure or the time limit for submission of requests to participate and tenders in a restricted procedure or competitive procedure with negotiation, the contracting authority shall provide additional information within three business days, but not later than four days before the expiry of the time limit for submission of requests to participate and tenders.

(3) The contracting authority shall send the additional information to the supplier or the candidate, who has asked the question, and concurrently shall post this information ion the buyer profile, where the procurement procedure documents are available, specifying also the question asked.

(4) Where the contracting authority has introduced modifications to the procurement procedure documents, it shall post information about the modifications on the buyer profile, where these documents are available, not later than within one day after the notice of modifications or additional information has been submitted for publication to the Procurement Monitoring Bureau.

*[26 April 2018]*

**Section 37. Procedure for communicating the results to the candidates and tenderers**

(1) The contracting authority shall, within three business days after taking the decision, concurrently inform all candidates regarding the decision taken in relation to the results of candidate selection or regarding inclusion in the dynamic purchasing system (the rejected tenderer shall also be notified of the reasons for rejecting the tender submitted by it), or design contest participants regarding the decision taken in relation to the results of the design contest. The contracting authority shall notify all candidates or design contest participants regarding the time period in which the person, taking into account Section 68, Paragraph two, Clause 1 and 2 of this Law, may submit a complaint to the Procurement Monitoring Bureau regarding infringements of the procurement procedure.

(2) The contracting authority shall, within three business days after taking the decision, concurrently inform all tenderers regarding the decision taken in relation to conclusion of a procurement contract or a framework agreement. The contracting authority shall notify the name of the selected tenderer or the names of the selected participants of the framework agreement, indicating:

1) to the rejected tenderer - the reasons for rejecting the tender submitted by it, *inter alia*, by justifying the decision on non-conformity to equivalence or the decision on non-conformity of the relevant tender to the functional requirements or performance requirements (where applicable);

2) to the tenderer which has submitted a conforming tender - the characteristics and relative advantages of the tender selected;

3) the time period in which the tenderer, taking into account Section 68, Paragraph two, Clause 1 and 2 of this Law, may submit a complaint to the Procurement Monitoring Bureau regarding infringements of the procurement procedure.

(3) Where procurement procedure is terminated or discontinued, or the dynamic purchasing system is not established, the contracting authority shall, within three business days after taking the decision, concurrently inform all candidates or tenderers regarding all reasons due to which the procurement procedure is terminated or discontinued, or the dynamic purchasing system is not established. The contracting authority shall notify all candidates or tenderers regarding the time period in which the person, taking into account Section 68, Paragraph two, Clause 1 and 2 of this Law, may submit a complaint to the Procurement Monitoring Bureau regarding infringements of the procurement procedure.

(4) The contracting authority shall send information regarding the results by post, fax or electronically, using secure electronic signature or attaching a scanned document to the electronic mail message, or shall deliver it in person. Within the meaning of this Section, information shall be considered to have been concurrently submitted to all candidates, tenderers or design contest participants, if such information has been sent out or delivered to them on the same day.

(5) When communicating the results, the contracting authority shall keep means of proof regarding the date and manner of sending or delivery of information.

(6) The contracting authority shall be entitled not to reveal information referred to in Paragraphs one and two of this Section, where its release would impede law enforcement or be contrary to the public interest, might prejudice fair competition between the suppliers, or would harm the legitimate commercial interests of suppliers.

*[26 April 2018]*

**Section 38. Exchange of information**

(1) An exchange of information between the contracting authority and suppliers shall take place by post, fax, electronically (in accordance with the provisions referred to in Paragraphs three, four, six and eight of this Section), depending on the choice of the contracting authority.

(2) Oral communication may be used in respect to exchange of information not relevant to the procurement procedure documents, requests to participate and tenders. The content of oral communication which could have an impact on the content of the requests to participate and tenders or on the assessment of the tenders shall be documented as written or audio records.

(3) The contracting authority shall choose such means for the exchange of information, which are generally accessible, in order not to hinder the access by the supplier to the procurement. The contracting authority shall choose such method of sending the documents referred to in this Law, which ensures that the addressee receives information as soon as possible. Where electronic means are used for the exchange of information, such means shall be chosen, which are publicly accessible and compatible with generally used information and communication technologies, thereby avoiding the possibility of discriminating suppliers on these grounds.

(4) The exchange and storage of information shall be carried out so as to protect all the data contained in tenders and requests to participate and that the contracting authority might examine the content of tenders and requests to participate only after the expiry of time limits for submission of tenders or requests to participate.

(5) During the time form the day of submission of tenders or requests to participate till the moment of opening them, the contracting authority shall not provide any information about the existence of other tenders or requests to participate. During the period of evaluation of tenders and requests to participate until the notification of results, the contracting authority shall not provide information regarding the evaluation process.

(6) Electronic devices used for receipt and transmission of tenders and requests to participate shall be subject to the provisions of Section 39 of this Law.

(7) The contracting authority may, where necessary, require the use of special tools and devices which are not generally available for submission of the tenders, provided that the contracting authorities offer the following alternative means of access:

1) offer unrestricted and full direct access free of charge by electronic means to special tools and devices starting from the day of publication of the contract notice. The contract notice shall specify the internet website address, where the relevant tools and devices are accessible;

2) ensure that tenderers having no access to the tools and devices concerned, or no possibility of obtaining them within the relevant time limits (provided that the lack of access is not attributable to the tenderer concerned), may access the procurement procedure through the use of provisional tokens (access rights) made available free of charge online;

3) support an alternative data channel for electronic submission of tenders.

(8) When submitting a tender or a request to participate electronically, a candidate or supplier shall be entitled to sign all documents as one set with one secure electronic signature. Where a tender or request to participate may be submitted electronically, a contracting authority shall not be entitled to request that a candidate or supplier submits also a written tender or request to participate in addition to electronic tender or request to participate.

**Section 39. Requirements for electronic receipt of requests to participate and tenders**

(1) The contracting authority shall provide for electronic submission of tenders and requests to participate in the procurement, except for the cases laid down by the Cabinet, when the contracting authority is not obliged to use electronic information systems for receipt of requests to participate or tenders, or the constituent parts thereof. For the receipt of requests to participate and tenders the contracting authority shall choose the free of charge electronic information systems intended for electronic receipt of tenders and requests to participate.

(2) When using electronic information systems, by which tenders and requests to participate, as well as plans and projects are received in the procurements and procurement procedures, the following rules shall apply:

1) information on specifications for the electronic submission of tenders and requests to participate, including encryption and time-stamping, shall be available to all interested suppliers;

2) a system-integrated signature tool is used, ensuring the validation of the identity of the signatory of electronic document, or an electronic signature meeting the legal framework regarding the status of electronic documents and electronic signature;

3) the exact time and date of the receipt of tenders, requests to participate and the submission of plans and projects can be determined precisely;

4) the contracting authority shall ensure that, before the time limits laid down, no-one can have access to submitted information;

5) only authorised persons may set or change the time for opening the received documents;

6) during the different stages of the procurement or of the procurement procedure access to the documents submitted, or to a part thereof, shall be possible only after activities performed simultaneously by authorised persons;

7) the submitted documents may be accessed only on a specific date after activities performed simultaneously by authorised persons;

8) the submitted and opened documents remain accessible only to those authorised persons who have been granted such access;

9) it is possible to discover that the prohibition referred to in Clause 4, 5, 6, 7 and 8 of this Paragraph has been violated.

(3) The Cabinet shall set the requirements and standards for the systems used for submission of tenders and requests to participate.

*[26 April 2018]*

**Section 40. Documentation of the procurement procedure and storage of the procurement procedure documents**

(1) The contracting authority shall ensure the documentation of each stage of the procurement procedure and the documentation of the procurements referred to in Section 9 and Section 10 of this Law, as well as shall document the procurement procedure taking place by electronic means.

(2) A procurement procedure notice (hereinafter - notice) is a report reflecting the progress of the procurement procedure. The notice shall be prepared and posted on the buyer profile regarding each procurement procedure after taking of a decision on the procurement procedure results, taking into account the procedure and content laid down by the Cabinet.

(3) Minutes reflecting the progress of the procurement, the notice, procurement procedure documents, except for the tenders and requests to participate, shall be generally accessible information.

(4) The contracting authority shall ensure the issuance of the documents referred to in Paragraph three of this Section within three business days after the day of receipt of the respective request. The contracting authority shall not issue the minutes, except for the minutes of the meeting of the opening of tenders, while the evaluation of the requests to participate or tenders takes place.

(5) The contracting authority shall store all the originals of the documents referred to in Paragraph three of this Section, as well as the originals of requests to participate and tenders for 10 years after the conclusion of the procurement contract, conclusion of the framework agreement or establishment of the dynamic purchasing system.

**Chapter V
Selection of candidates and tenderers and choice of the tender**

**Section 41. General rules for selection of candidates and tenderers, conformity check and choice of the tenders**

(1) The contracting authority shall select candidates and tenderers in accordance with the qualification requirements specified in Sections 44., 45, 46, 47 and 48 of this Law, shall check the conformity of tenders with the requirements specified in the procurement procedure documents and choose a tender or tenders in accordance with the set tender selection criteria.

(2) The contracting authority may set the minimum conformity level to the requirements referred to in Sections 45 and 46 of this Law. The scope of requirements, as well as the requested minimum level of capabilities for the implementation of the particular procurement contract shall be determined commensurate to the subject-matter of the procurement contract Such minimum conformity level requirements shall be included in the contract notice, as well as in the procurement procedure documents.

(3) Statements and other documents issued by Latvian competent authorities in the cases referred to this Law shall be accepted and recognised by the contracting authority if they have been issued not earlier than one month prior to the day of submission, but the statements and other documents issued by foreign competent authorities shall be accepted and recognised by the contracting authority if they have been issued not earlier than six months prior to the day of submission, unless the issuer of the statement or the document has set a shorter term of validity thereof.

(4) If the contracting authority obtains the necessary information regarding the candidate or tenderer directly from the competent authority, databases or other sources, the relevant candidate or tenderer shall be entitled to submit a statement or another document regarding the relevant fact, if the information obtained by the contracting authority does not conform to the actual situation.

(5) If the contracting authority has a reason to doubt the authenticity of the document copy submitted, it shall request that the candidate or tenderer presents the original document or submits a certified copy of the document.

(6) Where the contracting authority detects that information or a document contained in the request to participate or the tender or submitted by the candidate or tenderer is unclear or incomplete, it shall request that the candidate or tenderer, or the competent authority to clarifies or supplements the relevant information or document or submits a missing document, ensuring equal treatment of all candidates and tenderers. The contracting authority shall set the time limit for submission of the necessary information or document commensurate with the time necessary to prepare and submit such information or document.

(7) Where the contracting authority in accordance with Paragraph six of this Section has requested to clarify or supplement the information contained in the request to participate or the tender submitted by the candidate or tenderer, but the candidate or tenderer has failed to do it in accordance with the requirements set by the contracting authority, the contracting authority shall evaluate the request to participate or the tender, based on information at its disposal.

(8) During the evaluation of the tenders, the contracting authority shall be entitled to request that information contained in the technical and financial bid is explained, as well as the samples of offered products are submitted, if any are necessary for the product conformity assessment and the tenderer through the document available thereto cannot prove to the contracting authority the conformity of the products. The contracting authority shall not request to submit the samples of such products which are to be adjusted or produced during the fulfilment of the procurement contract in accordance with the requirements thereof, if such samples are not available to the supplier before the conclusion of the procurement contract, as well as the product samples the submission whereof causes incommensurate expenses to the supplier.

(9) During the evaluation of the tenders, the contracting authority shall check whether the tender is free of arithmetic errors. Where the contracting authority detects such errors, it shall correct such errors. The contracting authority shall notify about the correction of errors and the corrected sum of the tender the tenderer whose errors have been corrected. When evaluating the financial bid, the contracting authority shall take note of the corrections.

(10) During the evaluation of the tenders, the contracting authority shall be entitled to request that the tenderer submits an acknowledgement that it has developed the tender independently.

(11) The contracting authority shall reject the tender of the tenderer within an open or restricted procedure, if the contract price offered by the tenderer exceeds any of the following values:

1) the contract price specified by the contracting authority in the procurement procedure documents, if it is set as the tender conformity requirement;

2) 150 per cent of the estimated contract price specified in the procurement procedure documents.

*[20 September 2018]*

**Section 42. Rules for exclusion of candidates and tenderers**

(1) The contracting authority shall exclude a candidate or tenderer from participation in a procurement procedure in any of the following cases:

1) a candidate, a tenderer or a person, who is a member of the management board or the supervisory board, a person with representation rights or a holder of procura of a candidate or tenderer, or a person having the right to represent the candidate or tenderer in activities related to a branch, has been found guilty in any of the following criminal offences by such prosecutor’s injunction of fine of prosecutor or a court judgement that has entered into effect and is non-disputable and not subject to appeal:

a) establishment, management, involvement in a criminal organisation or an organised group in the composition thereof or another criminal formation or participation in criminal offences committed by such organisation,

b) bribetaking, bribery, bribe misappropriation, intermediation in bribery, prohibited participation in property transactions, acceptance of prohibited benefit, commercial bribing, requesting, accepting or giving unlawful benefit, insider trading,

c) fraud, misappropriation or money laundering,

d) terrorist activities, terrorist financing, establishment or organisation of the terrorist group, travelling for the purposes of terrorist activities, justification of terrorist activities, inciting terrorist activities, terrorist threats or recruiting or training a person for commitment of terror acts,

e) trafficking in human beings,

f) evading payment of taxes and payments equivalent thereto;

2) it is detected that on the final date of the term for submission of tenders in case of the tenderers and of requests to participate in case of a candidate, or on the day, when the decision has been adopted on possible award of the procurement contract, they have tax debts in Latvia or in a country of registration or permanent residence thereof, including the debts of mandatory State social security contributions, in total exceeding EUR 150 in any country. As regards the tenderers registered and permanently residing in Latvia, the contracting authority shall consider information posted on the information system determined by the Cabinet on the date of the latest data update of the public tax debtors’ database and the Real Estate Tax Administration System of the State Revenue Service;

3) insolvency proceedings have been declared for the candidate or tenderer, the economic activity of the candidate or tenderer has been suspended, the candidate or tenderer is wound up;

4) a person preparing the procurement procedure documents (official r employee of the contracting authority), member of the procurement commission or an expert is connected to the tenderer, within the meaning of Paragraph one or two, Section 25 of this Law, or is interested in the selection of the tenderer, and the contracting authority has no possibility to prevent this situation by the less restrictive measures with respect to the tenderer;

5) a candidate or tenderer has advantages distorting the competition within the procurement procedure, where it or a legal person connected thereto has involved in preparing procurement procedure in accordance with Paragraph four, Section 18 of this Law and such advantages cannot be prevented by less restrictive measures, and the candidate or tenderer cannot prove that the participation thereof or of the legal person connected thereto in preparing the procurement procedure does not distort competition;

6) a candidate or tenderer, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition law manifested as a horizontal cartel agreement, except for the case when the relevant authority, upon determining infringement of competition law, has released the candidate or tenderer from a fine or reduced fine for the cooperation within the framework of the leniency programme;

7) a candidate or tenderer, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement manifested as:

a) employment of one or more persons, if they do not have the necessary work permit or they are no entitled to stay in the European Union Member States,

b) employment of a person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the legal framework, which is to be submitted regarding persons who commence work;

8) a candidate or tenderer has provided false information, in order to certify the conformity to the provisions of this Section or the qualification requirements for the candidates and tenderers laid down in this Law, or has failed to submit the requested information;

9) a member of the partnership, if the candidate or the tenderer is a partnership, shall be subject to the conditions of Clauses 1, 2, 3, 4, 5, 6 or 7 of this Paragraph;

10) a subcontractor specified by the tenderer, where the value of the works to be performed or the services to be provided by it is at least 10 per cent of the total value of the public works, service or supply contract, shall be subject to the conditions of Clauses 2, 3, 4, 5, 6 or 7 of this Paragraph;

11) a person designated by the candidate or tenderer, whose abilities the candidate or tenderer relies on to certify that its qualification conforms to the requirements set by the contract notice of the procurement procedure documents, shall be subject to the conditions of Clauses 1, 2, 3, 4, 5, 6 or 7 of this Paragraph;

12) a candidate or tenderer is a legal person or association of persons registered in an offshore;

13) the owner or holder of more than 25 per cent of capital shares (stock) of the candidate or tenderer registered in Latvia is a legal person or association of persons registered in an offshore;

14) any of the subcontractors specified by the tenderer, where the value of the works to be performed or the services to be provided by it is at least 10 per cent of the total value of the public works, service or supply contract, or any of the persons, whose abilities the candidate or tenderer relies on, is a legal person or association of persons registered in an offshore.

(2) A contracting authority, provided that it has been specified in the contract notice or the procurement procedure documents, shall be entitled to exclude a candidate or tenderer from further participation in a procurement procedure in the following cases:

1) a candidate or tenderer (as a contracting party or a participant or member of the contracting party, if the contracting party has been an association of suppliers or a partnership), its participant or member (if a candidate or tenderer is an association of suppliers or partnership) has not performed the procurement contract, framework agreement or concession contract entered into with the relevant contracting authority and therefore the contracting authority has exercised the right provided for in the procurement contract, framework agreement or concession contract to unilaterally withdraw from the procurement contract, framework agreement or concession contract;

2) a candidate or tenderer has committed a grave professional misconduct, which renders its integrity questionable, or has failed to fulfil the procurement contract, framework agreement or concession contract concluded with the contracting authority or a public partner, and this fact has been recognised by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal;

3) a member of the partnership, if the candidate or the tenderer is a partnership, shall be subject to the conditions of Clause 2 of this Paragraph;

4) a subcontractor specified by the tenderer, where the value of the works to be performed or the services to be provided by it is at least 10 per cent of the total value of the public works, service or supply contract, shall be subject to the conditions of Clauses 1 or 2 of this Paragraph;

5) a person designated by the candidate or tenderer, whose abilities the candidate or tenderer relies on to certify that its qualification conforms to the requirements set by the contract notice of the procurement procedure documents, shall be subject to the conditions of Clauses 1 or 2 of this Paragraph.

(3) The contracting authority shall not exclude a candidate or tenderer from participation in a procurement procedure, where:

1) three years have passed from the day when the judgement of a court, the injunction of a prosecutor or a decision taken by another competent authority on infringements referred to in Paragraph one, Clause 1 and Clause 7, Sub-clause “a” of this Section became non-disputable and not subject to appeal till the day when the request to participate or tender was submitted;

2) 12 months have passed from the day when the judgement of a court or a decision taken by another competent authority on infringements referred to in Paragraph one, Clause 6 and Clause 7, Sub-clause “b” and Paragraph two, Clause 2 of this Section became non-disputable and not subject to appeal till the day when the request to participate or tender was submitted.

(4) The contracting authority shall not exclude the candidate or tenderer from participation in a procurement procedure, where 12 months have passed from the day when the contracting authority has unilaterally withdrawn from the public supply, service or works contract, framework supply, service or works agreement or service or works concession contract referred to in Clause 1, Paragraph two of this Section till the day when the request to participate or tender was submitted. The contracting authority, provided that it has been specified in the contract notice or the procurement procedure documents, shall be entitled not to exclude a candidate or tenderer from further participation in a procurement procedure in accordance with Clause 1, Paragraph two of this Section, by stipulating additional commitment performance security instead of it or such provisions for the fulfilment of the procurement contract which make non-performance of essential provisions of the procurement contract or framework agreement economically unprofitable for a candidate or tenderer. A contracting authority, when taking a decision to exclude a candidate or tenderer from further participation in a procurement procedure in accordance with Paragraph one, Clause 1 of this Section, shall take into account the level of gravity of the infringement committed during the performance of the procurement contract, framework agreement or concession contract from which the contracting authority has withdrawn unilaterally, as well as the risk of non-performance of the procurement contract, framework agreement or concession contract to be concluded.

(5) Where the contracting authority detects that inform a tenderer that, based on information posted on the information system determined by the Cabinet on the date of latest data update of the public tax debtors’ database and the Real Estate Tax Administration System of the State Revenue Service, a candidate, tenderer or a person referred to in Paragraph one, Clauses 9, 10 and 11 of this Section, on the final date of the time limit for submission of requests to participate or tenders or on the day, when the decision has been adopted on possible award of the procurement contract, has tax debts, including the debts of mandatory State social security contributions, in total exceeding EUR 150, the contracting authority shall determine a time period – 10 days following the day of issuance or sending of the information for submission of the certification that the candidate, on the final date of the term for submission of requests to participate, and the tenderer, on the final date of the term for submission of tenders, or on the day, when the decision has been adopted on possible award of the procurement contract, had no tax debts, including the debts of mandatory State social insurance contributions, in total exceeding EUR 150. If the certification is not submitted within a prescribed time period, a contracting authority shall exclude a candidate or tenderer from the participation in the procurement. Where the contracting authority detects that inform a tenderer that, based on information posted on the information system determined by the Cabinet on the date of latest data update of the public tax debtors’ database and the Real Estate Tax Administration System of the State Revenue Service, a candidate, tenderer or a person referred to in Paragraph one, Clauses 9, 10 and 11 of this Section, on the final date of the time limit for submission of requests to participate or tenders or on the day, when the decision has been adopted on possible award of the procurement contract, has no tax debts, including the debts of mandatory State social security contributions, in total exceeding EUR 150, the contracting authority shall not request the certification.

(6) A candidate or tenderer, in order to certify that it, as well as a person referred to in Paragraph one, Clauses 9, 10 and 11 of this Section had no tax debts, including the debts of mandatory State social insurance contributions, in total exceeding EUR 150 in Latvia, the tenderer, within the time period laid down in Paragraph five of this Section, shall submit:

1) printout from the electronic declaration system of the State Revenue Service certified by the relevant person or a representative thereof or the statement of the State revenue Service that the relevant person had no relevant tax debts, including the debts of mandatory State social security contributions;

2) the statement issued by the local government that the relevant person had no real estate tax debts;

3) copy of the decision issued by the State Revenue Service or the competent authority of the local government on the extension or postponing of the term of tax payment or other objective evidence on the absence of the tax debts.

(7) The contracting authority shall require that the candidate or tenderer replaces a subcontractor, where the value of the works to be performed or the services to be provided by it is at least 10 per cent of the total value of the public works, service or supply contract, if it corresponds to the grounds for exclusion referred to in Paragraph one, Clauses 2, 3, 4, 5, 6, 7 or 14 or Paragraph two, Clauses 1 and 2 of this Section, and a person, whose abilities the candidate or tenderer relies on to certify that its qualification conforms to the requirements set by the contract notice of the procurement procedure documents, if its corresponds to the grounds for exclusion referred to in Paragraph one, Clauses 1, 2, 3, 4, 5, 6, 7 or 14 or Paragraph two, Clauses 1 and 2 of this Section. If the candidate or tenderer, within 10 business days following the day of issue or sending of the request, fails to submit the documents regarding the new subcontractor or a person, whose abilities the candidate or tenderer relies on to certify that its qualification conforms to the requirements set by the contract notice of the procurement procedure documents, meeting the requirements specified by the contract notice or the procurement procedure documents, the contracting authority shall exclude the tenderer or candidate from participation in a procurement procedure.

(8) The Cabinet shall determine the list of those cases of professional misconduct, which shall form the grounds for exclusion from the procurement procedure.

(9) In order to verify whether a candidate or tenderer is to be excluded from participation in a procurement procedure due to the criminal offences and infringements referred to in Paragraph one, Clauses 1, 6 and 7 and Paragraph two, Clause 2 of this Section regarding which the relevant person referred to in Paragraph one of this Section has been punished or made subject to coercive measure in Latvia, as well as due to the facts referred to in Paragraph one, Clauses 2 and 3 of this Section, the contracting authority, as well as the supplier itself, by using the information system laid down by the Cabinet, with respect to the person registered or permanently residing in Latvia, in accordance with the procedures laid down by the Cabinet shall acquire the information:

1) regarding infringements and criminal offences referred to in Paragraph one, Clauses 1, 6 and 7 and Paragraph two, Clause 2 of this Section – from the Information Centre (Punishment Register) of the Ministry of the Interior. The contracting authority shall be entitled to receive the referred-to information from the Information Centre (Punishment Register) of the Ministry of Interior, without asking for a consent from a candidate, tenderer and other persons referred to in Paragraphs one and two of this Section;

2) about the facts referred to in Paragraph one, Clause 2 of this Section - from the State Revenue Service and local governments of Latvia. The contracting authority shall be entitled to receive the relevant information from the State Revenue Service and local governments of Latvia, without asking for a consent of the candidate, tenderer and other persons referred to in Paragraph one of this Section.

3) regarding a person referred to in Paragraph one, Clause 1 of this Section (a person, who is a member of the management board or the supervisory board, a person with representation rights or a holder of procura of a candidate or tenderer, or a person having the right to represent the candidate or tenderer in activities related to a branch) and about the facts referred to in Paragraph one, Clause 3 of this Section - from the Enterprise Register.

(91)In order to verify whether a candidate or tenderer is to be excluded from participation in a procurement procedure din case referred to in Paragraph one, Clauses 12, 13 and 14 of this Section, the contracting authority, as well as the supplier itself, by using the information system laid down by the Cabinet, with respect to the person registered in Latvia, shall acquire the information from the Enterprise Register. Where the information system laid down by the Cabinet has no data available regarding the case referred to in Paragraph one, Clause 13, when the candidate or tenderer is to be excluded from participation in a procurement procedure, the contracting authority shall request the certification that the candidate or tenderer is not subject to this provision. As regards the candidate or tenderer registered abroad, the contracting authority shall request to submit the document confirming the country of registration.

(10) In order to verify, whether a person, who is a member of the management board or the supervisory board, a person with representation rights or a holder of procura of a candidate or tenderer registered in Latvia, or a person having the right to represent the candidate or tenderer registered in Latvia in activities related to a branch, and who is registered or permanently resides abroad, or the candidate or tenderer registered or permanently residing abroad, or a person referred to in Paragraph one, Clause 9, 10 and 11 of this Section and registered or permanently residing abroad, is not subject to the grounds for exclusion referred to in Paragraph one and Paragraph two, Clause 2 of this Section, except for the case referred to in Paragraph eleven of this Section, it shall be requested that the candidate or tenderer submits the statement from the corresponding competent authority certifying that a person, who is a member of the management board or the supervisory board, a person with representation rights or a holder of procura of a candidate or tenderer registered in Latvia, or a person having the right to represent the candidate or tenderer registered in Latvia in activities related to a branch, and who is registered or permanently resides abroad, or the candidate or tenderer, or a person referred to in Paragraph one, Clause 9, 10 and 11 of this Section, is not subject to the cases referred to in Paragraph one and Paragraph two, Clause 2 of this Section. If in accordance with the legal framework of the country of registration of the candidate or tenderer or a person referred to in Paragraph one, Clause 9 and 11 of this Section, a person subject to the grounds for exclusion specified in Paragraph one of this Section may not be a member of the management board or the supervisory board, a person with representation rights or a holder of procura of a candidate or tenderer, or a person having the right to represent the candidate or tenderer in activities related to a branch, a candidate or tenderer shall be entitled to submit the corresponding explanation instead. A contracting authority shall determine a time period for the submission of the explanation or the statement of at least 10 business days after the day of issuance or sending of the request. If the relevant candidate or tenderer fails to submit the referred to explanation or statement within the laid down time period, a contracting authority shall exclude them from participation in a procurement procedure. Where the contracting authority does not obtain confidence from the explanation that the relevant persons are not subject to the grounds for exclusion referred to in Paragraph one of this Section, it shall be entitled to request submitting the statements of the competent authorities with respect to the relevant person.

(11) Paragraph ten of this Section shall not be applied to those persons referred to in Paragraph one, Clauses 9, 10 and 11 of this Section which are registered in Latvia or are permanently residing in Latvia and are indicated in the request to participate or the tender submitted by a candidate or tenderer. In such case the verification shall be carried out in accordance with Paragraph nine of this Section.

(12) If such documents, by which a candidate or tenderer registered or permanently residing abroad may certify that it is not subject to the cases referred to in Paragraph one, Clause 2 of this Section, are not issued or they are not sufficient to certify that the candidate or tenderer is not subject to the cases referred to in Paragraph one, Clause 2 of this Section, the referred to documents may be replaced with an oath or, if the legal framework of the relevant country do not provide for giving of an oath, with a certification of the candidate, tenderer itself or the person referred to in Paragraph one of this Section to the competent executive authority or judicial authority, a sworn notary or a competent organisation in the relevant sector in the country of registration (permanent residence) thereof.

(13) The Cabinet shall determine:

1) the information system in which the verification referred to in Paragraph nine and Paragraph 91 of this Section is to be carried out, as well as the procedures for maintenance and use of such system;

2) the purpose and scope of processing of the information to be verified referred to in Paragraph nine, Clause 1 of this Section, as well as the legal framework and the specific Sections thereof, which comply with the grounds for exclusion of candidates and tenderers laid down in Paragraph one and two of this Section and the infringements and criminal offences provided wherein shall be subject to verification laid down in Paragraph nine, Clause 1 of this Section;

3)the procedures for the receipt and processing of the information by the information system referred to in Clause 1 of this Paragraph from the information systems maintained by the institutions referred to in Paragraph ten of this Section.

(14) A contracting authority shall carry out the verification regarding the grounds for exclusion of candidates and tenderers laid down in Paragraphs one and two of this Section:

1) in an open procedure – in respect of each tenderer, whom a contract should be awarded to in conformity with other requirements laid down in the contract notice and procurement procedure documents and chosen tender selection criteria;

2) in a restricted procedure, competitive dialogue, innovation partnership procedure and competitive procedure with negotiation – in respect of each candidate who meets other requirements laid down in the contract notice and candidate selection regulations and should be invited to submit a tender. Where a contracting authority applies reduction in number of candidates, it shall carry out verification before such reduction in number of candidates. The contracting authority shall carry out the verification regarding existence of the grounds for exclusion of candidates and tenderers laid down in Paragraph one, Clauses 2 and 10 of this Section in respect of each tenderer, whom a procurement contract should be awarded to in conformity with other requirements laid down in the contract notice and procurement procedure documents and chosen tender selection criteria;

3) in the procurement referred to in Section 10 of this Law (where the contracting authority in the procurement procedure documents has provided for application of the conditions of exclusion referred to in Paragraphs one and two of this Section) and in a negotiated procedure- in respect of each tenderer, whom a procurement contract should be awarded to;

4) in the competitive procedure with negotiation in the case referred to in Section 8, Paragraph six, Clause 5 of this Law, if it invites to participate in negotiation all the tenderers not excluded in the previously announced relevant procurement procedure in accordance with the provisions of this Section and meeting the set qualification requirements, is such is applied after the termination of the open procedure - in respect of each tenderer which has submitted a tender in an open procedure and has been invited to a negotiated procedure. This verification shall be carried out before commencement of negotiations.

(15) Where the contracting authority applies negotiated procedure in accordance with Section 8, Paragraph seven, Clause 7 of this Law, it shall not apply Paragraph one, Clause 3 of this Section.

*([26 April 2018] [20 September 2018]  New wording of Paragraph one, Clause 1, Sub-clause "d" shall take effect on 1 January 2019.  Please see Clause 11 of the Transitional Provisions).*

**Section 43. Assessment of the means of proof submitted for ensuring reliability**

(1) Where a candidate or a member of partnership, if the candidate is a partnership, meets the grounds for exclusion referred to in Section 42, Paragraph one, Clauses 1, 3, 4, 5, 6 or 7 or Paragraph two, Clauses 1 or 2, the candidate, jointly with the tender, shall submit an explanation and means of proof for compensation of the caused damage or concluded agreement on the compensation of the caused damage, collaboration with the investigating authorities and taken technical, organisational or personnel measures, in order to prove its reliability and prevent the repetition of the same or similar events in the future.

(2) Where a tenderer or a member of partnership, if the tenderer is a partnership, meets the grounds for exclusion referred to in Section 42, Paragraph one, Clauses 1, 3, 4, 5, 6 or 7 or Paragraph two, Clauses 1 or 2, the tenderer shall specify this aspect in the tender, and if it is recognised as a tenderer whom the contract should be awarded to, shall submit an explanation and means of proof for compensation of the caused damage or concluded agreement on the compensation of the caused damage, collaboration with the investigating authorities and taken technical, organisational or personnel measures, in order to prove its reliability and prevent the repetition of the same or similar events in the future.

(3) If he candidate or tenderer fails to submit the explanation and means of proof, the contracting authority shall exclude the candidate or tenderer from participation in a procurement procedure in accordance with the grounds for exclusion referred to in Section 42, Paragraph one, Clauses 1, 3, 4, 5, 6 or 7 or Paragraph two, Clauses 1 or 2.

(4) The contracting authority shall evaluate the measures taken by the candidate, tenderer or a member of partnership, if the candidate or tenderer is a partnership, and the means of proof thereof taking into account the gravity and particular circumstances of the criminal offence or misconduct (infringement). The contracting authority may request from the authorities competent in the field of the relevant criminal offence or misconduct (infringement) the opinions on whether the measures taken by the candidate or tenderer are sufficient to restore reliability and to prevent the same or similar cases in the future. The opinion shall not be requests, if the contracting authority has available or the candidate or tenderer has submitted thereto the opinion of the authority competent in the field of the relevant criminal offence or misconduct (infringement) that the measures taken by the candidate or tenderer are sufficient to restore reliability and to prevent the same or similar cases in the future.

(5) Where the contracting authority considers the measures taken as sufficient to restore reliability and prevent similar cases in the future, it shall take a decision not to exclude the relevant candidate or tenderer from participation in a procurement procedure. Where the measures taken are not sufficient, the contracting authority shall take a decision to exclude the candidate or tenderer from further participation in a procurement procedure.

**Section 44. Suitability to pursue professional activity**

(1) The contracting authority may request means of proof that the relevant supplier is registered, licensed or certified in accordance with the requirements of the legal framework of the country of registration or permanent residence.

(2) In case of a public service contract, in so far as suppliers have to possess a particular authorisation or to be members of a particular organisation in order to be able to perform in their country of registration or permanent residence the service concerned, the contracting authority may require them to prove that they hold such authorisation or membership.

(3) In case of a public works contract, the contracting authority shall request that the supplier would have obtained or by the conclusion of the procurement contract obtains the class of qualification of the construction merchant corresponding to the performance of the works concerned as defined by the legal framework. The Cabinet shall determine the requirements for a construction merchant with respect to the experience and class for performance of public works within the groups of structures.

(4) The contracting authority shall not determine the requirements in respect of the minimum time since the registration, licensing or authorisation of a supplier, or becoming of the member of any special organisation.

**Section 45. Economic and financial standing**

(1) The contracting authority may impose requirements with respect to the economic and financial ability of the supplier, required to perform the procurement contract. Such requirements may refer to:

1) the minimum yearly financial turnover of the supplier, including in the area covered by the procurement contract concerned;

2) financial ratios of the supplier;

3) professional risk insurance.

(2) The minimum yearly financial turnover may be set not exceeding two times the estimated contract price value, except in a case, where the fulfilment of the procurement contract is related to the special risks attached to the nature of the works, services or supplies concerned. The contracting authority shall provide for the justification for the application of exception in the procurement procedure documents.

(3) Where a subject-matter of the procurement contract is divided into lots, the contracting authority may determine the minimum yearly financial turnover by reference to groups of lots, in the event that the successful tenderer is awarded several lots to be executed at the same time.

(4) Where within the scope of a framework agreement a reopening of the tenders is provided for, the minimum yearly financial turnover of the supplier shall be determined, on the basis of the estimated maximum contract price of specific contracts that will be performed at the same time, or, where the estimated maximum contract price of the procurement contracts is not known, on the basis of the estimated contract price of the framework agreement.

(5) In case of dynamic purchasing systems, the minimum yearly turnover of the supplier shall be determined, on the basis of the estimated maximum contract price of specific contracts to be awarded under that system.

(6) A supplier may attest the conformity of the economic and financial standing thereof to the set requirements mainly by submitting the following documents:

1) statements from a credit institution or, where appropriate, evidence of the relevant professional risk insurance company;

2) a financial statement or an extract from the financial statement, where financial statements are publicly available information under the law of the country in which the supplier is established;

3) a statement of its overall net turnover or, where appropriate, of turnover in the area covered by the procurement contract concerned for a maximum of the last three financial years, depending on the date on which the supplier was set up or started trading, as far as the information on these turnovers is available.

(7) When setting the requirements with respect to the financial ratios, the contracting authority shall clearly indicate in the procurement procedure documents objective and non-discriminating methods and criteria to be applied for determination of financial ratios. In case of a public works contract, the contracting authority shall determine that the conformity to the economic and financial standing is attested by the classes of qualification of construction merchants laid down in the legal framework. The contracting authority shall be entitled to additionally set for the supplier only such requirements, which are not evaluated within the scope of the classification of construction merchants.

(8) The supplier may rely on the economic and financial capacities of other persons if it is necessary for the implementation of the particular contract, regardless of the legal nature of mutual relations thereof. In such case the supplier shall prove to the contracting authority that it will have the necessary resources at its disposal, by submitting a certification of these persons or an agreement regarding co-operation for the implementation of the particular contract. The contracting authority may request that the supplier and the person, whose economic and financial capacities it relies upon, are jointly responsible for the implementation of the procurement contract.

(9) In the contract notice or in the invitation to submit a tender, as well as in the procurement procedure documents the contracting authority shall determine the documents, which the supplier or candidate submits to attest its conformity to the requirements set by the contracting authority. Where the supplier or the candidate, due to substantiated reasons, is unable to submit the documents requested by the contracting authority, it is entitled to attest its economic or financial standing with any other documents if the contracting authority considers these appropriate.

*[26 April 2018]*

**Section 46. Technical and professional ability**

(1) The contracting authority may impose requirements with respect to the technical and professional ability of the supplier, required to perform the procurement contract. Such requirements may refer to the personnel involved in the fulfilment of the contract, experience and technical resources of the supplier. In case of a public works contract, the contracting authority shall determine that the technical and professional ability of the supplier is attested by the classes of qualification of construction merchants laid down in the legal framework. The contracting authority shall be entitled to additionally set for the supplier only such requirements, which are not evaluated within the scope of the classification of construction merchants.

(2) In procurement procedures for supplies requiring siting or installation work, services or works, the professional ability of the supplier to provide the service or to execute the installation or perform the works may be evaluated with regard to their skills, efficiency and experience.

(3) The technical and professional ability of the supplier according to the nature, quantity, level of significance and application of works, supply or service may be attested with the following:

1) a list of the works carried out over at the most the past five years, accompanied by certificates and references of the execution for the most important works; except for the case, where in order to ensure an adequate level of competition, the contracting authority has indicated a longer period for attesting experience;

2) a list of the supplies effected, or the services provided over at the most the past three years, accompanied by certificates and references, with the sums, dates and recipients involved (whether public or private persons). Where necessary in order to ensure an adequate level of competition, the contracting authority may prescribe a longer term for attesting experience;

3) information regarding technical personnel or technical bodies responsible for quality control and, in the case of works, regarding technical personnel or technical bodies to be involved in the performance of works;

4) a description of the technical facilities and measures used by the supplier for ensuring quality and the supplier’s study and research facilities;

5) an indication of the supply chain management and tracking systems that the supplier will apply when performing the procurement contract;

6) where the products to be supplied or the services to be provided are of a complex nature or required for a special purpose, a check carried out by the contracting authority or on its behalf by a competent public body of the country of the supplier or the service provider. The referred to check covers the production capacities of the supplier or the technical capacity of the service provider and, where necessary, the quality control measures it will take;

7) documents attesting the education and professional qualification of the personnel of the works contractor or the service provider, provided that the education or professional qualification of personnel is not laid down as one of the tender evaluation criteria;

8) a description of the measures that the supplier is planning to take for the purposes of meeting the environmental protection requirements when performing the procurement contract;

9) information regarding the average annual number of employees (manpower) of the works contractor or the service provider and the number of managerial staff for the last three years;

10) information regarding the tools, plant and technical equipment available to the works contractor and the service provider for carrying out the contract;

11) an indication of the proportion (lot) of the procurement contract which the supplier intends to assign to a subcontractor;

12) with regard to the products to be supplied:

a) samples, descriptions or photographs, the authenticity of which must be certified where the contracting authority so requests;

b) a certificate drawn up by quality control institution (of recognised competence) attesting the conformity of products to the set technical specifications or standards.

(4) The supplier may rely on the technical and professional capacities of other persons if it is necessary for the implementation of the particular procurement contract, regardless of the legal nature of mutual relations thereof. In such case the supplier shall prove to the contracting authority that it will have the necessary resources at its disposal, by submitting an attestation of these persons or an agreement regarding the transfer of the necessary resources into the disposal of the supplier. In order to attest the professional experience or the availability of the personnel meeting the requirements of the contracting authority, the supplier may rely on the capacity of other persons only if such persons will perform the works or provide services for the implementation whereof the relevant capacities are necessary.

(5) In the case of public works contract or public service contract, or if the public supply contract incorporates also the siting or installation of the products, the contracting authority may require that certain critical tasks be performed directly by the tenderer itself or by a member of the association of persons.

(6) In the contract notice or in the invitation to submit a tender, as well as in the procurement procedure documents the contracting authority shall determine the documents, which the supplier or candidate submits to attest its conformity to the requirements set by the contracting authority.

*[26 April 2018]*

**Section 47. Quality assurance standards**

(1) Where the contracting authority requires the production of a certificate drawn up by an independent body attesting that the supplier complies with certain quality assurance standards, including on accessibility for disabled persons, it shall refer to quality assurance systems based on the relevant European standards series certified by the bodies accredited under the procedure prescribed by the legal framework. The contracting authority shall recognise the certificate drawn by a body accredited under the procedure prescribed by the legal framework of other European Union Member State. Where the supplier concerned had no possibility of obtaining such certificates by the day of submission of the request to participate or the tender, for reasons that are not attributable to that supplier, the supplier shall submit other evidence of equivalent quality assurance measures, provided that the supplier proves that the proposed quality assurance measures comply with the requirements of the contracting authority.

(2) In case of a public works contract, the contracting authority shall not prescribe such requirements with respect to the conformity of the supplier to certain quality assurance standards which have already been evaluated, when granting the class of qualification of a construction merchant.

(3) Paragraph one of this Section shall only apply to procurements the estimated contract price whereof is equal to or exceeds the contract price thresholds determined by the Cabinet.

**Section 48. Environmental management standards**

(1) Where the contracting authority requires the production of a certificate drawn up by independent body attesting that the supplier complies with certain environmental management standards or environmental management systems, it shall refer to the Eco-Management and Audit Scheme (EMAS) or to other systems as recognised in accordance with Article 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC or other environmental management standards meeting the relevant European or international environmental management standards and attested by the bodies accredited under the procedure prescribed by the legal framework. The contracting authority shall recognise the certificate drawn by a body accredited under the procedure prescribed by the legal framework of other European Union Member State. Where the supplier concerned had no possibility of obtaining such certificates by the day of submission of the request to participate or the tender, for reasons that are not attributable to that supplier, the supplier shall submit other evidence of equivalent measures, to be ensured in accordance with the environmental management system or standard requested by the contracting authority.

(2) In case of a public works contract, the contracting authority shall not prescribe such requirements with respect to the conformity of the supplier to certain environmental management standards or environmental management systems which have already been evaluated, when granting the class of qualification of a construction merchant.

(3) Paragraph one of this Section shall only apply to procurements the estimated contract price whereof is equal to or exceeds the contract price thresholds determined by the Cabinet.

**Section 49. European Single Procurement Document**

(1) The contracting authority shall accept the European Single Procurement Document as a preliminary evidence confirming the fulfilment of the requirements for selection of tenderers and candidates laid down in the contract notice or the procurement procedure documents. Where the supplier has selected to submit the European Single Procurement Document to attest that it fulfils the requirements for selection of tenderers and candidates laid down in the contract notice or the procurement procedure documents, it shall submit such document also about each person, whose capacities t relies on, in order to attest that its qualification meets the requirements laid down in the contract notice or the procurement procedure documents, and about the subcontractor designated by it, where the value of the works to be performed or the services to be provide by such subcontractor is at least 10 per cent of the value of the procurement contract. The association of suppliers shall submit a separate European Single Procurement Document regarding each member thereof.

(2) The supplier may submit to the contracting authority the European Single Procurement Document which has already been used in another procurement procedure, provided that it confirms that the information contained therein continues to be correct.

(3) A contracting authority shall be entitled ask the tenderer and candidate at any moment during the procurement procedure to submit all or part of the documents confirming the fulfilment of the requirements for selection of tenderers and candidates laid down in the contract notice or the procurement procedure documents. The contracting authority shall not request such documents and information which are at its disposal or are available in public databases.

(4) The procedure for use of the European Single Procurement Document in the procurement procedures shall be determined by the Cabinet. The templates for the forms of the European Single Procurement Document shall be laid down in the Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document.

**Section 50. Tender security and contract fulfilment security**

(1) The contracting authority shall be entitled to request that the tenderer submits or pays in a tender security and contract fulfilment security. The contracting authority shall specify in the procurement procedure documents the types, amount and time limits of the tender security and contract fulfilment security, as well as the provisions for submission and issue, payment and disbursement thereof.

(2) The amount of the tender security shall be determined commensurately, taking into account the estimated contract price of the relevant procurement and the subject-matter of the procurement contract, but not more than two per cent of the estimated contract price.

(3) The time limit of the tender security shall be determined commensurately, taking into account the complexity of the relevant procurement and the estimated time limit for evaluation of tenders, but it may not exceed six months counting from the day when tenders were opened.

(4) A supplier is entitled to submit the tender security and contract fulfilment security as a bank guarantee, insurance policy or, if the contracting authority has provided for such an option in the procurement procedure documents, as payment of a sum of money in the account indicated by the contracting authority.

(5) The tender security shall be in effect for the shortest of the following time limits, except the case referred to in Paragraph seven of this Section:

1) within the minimum time limit of validity of the tender security laid down in the procurement procedure documents;

2) if it has been laid down in the procurement procedure documents that the tenderer awarded by the procurement contract submits a contract fulfilment security prior to conclusion of the procurement contract – until the day when the selected tenderer submits such contract fulfilment security;

3) until conclusion of the procurement contract.

(6) The provider of security shall disburse to the contracting authority or the contracting authority shall deduct the amount of the tender security paid in by the tenderer, if:

1) 1) the tenderer withdraws its tender during the period of validity of the tender security;

2) the tenderer awarded by the procurement contract has not submitted the contract fulfilment security provided for in the procurement procedure documents and the procurement contract to the contracting authority within the time limit laid down by the contracting authority;

3) the tenderer awarded by the procurement contract does not sign the procurement contract or framework agreement within the time limit laid down by the contracting authority.

(7) If it has been laid down in the procurement procedure documents and the procurement contract that the tenderer whose tender has been selected in accordance with the tender selection criterion submits a contract fulfilment security after conclusion of the contract, the tender security in relation to such person shall be in effect until the day when it submits such contract fulfilment security.

*[26 April 2018]*

**Section 51. Tender evaluation criteria**

(1) The contracting authority shall base the award of procurement contract on the most economically advantageous tender.

(2) The most economically advantageous tender shall be identified:

1) on the basis of the price or cost, using a cost-effectiveness approach (such as life-cycle costing);

2) on the basis of the price or cost and quality criteria linked to the subject-matter of the procurement contract, for instance:

a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social and environmental protection requirements, and innovative characteristics and trading conditions,

b) organisation of the management of, qualification and experience of staff assigned to performing the procurement contract, where the qualification and experience of the staff assigned can have a significant impact on the quality of performance of the procurement contract,

c) after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion of delivery.

(3) Quality criteria are linked to the subject-matter of the procurement contract where they relate to the works, supply or services at any stage of their life cycle, as well as the factors involved in the process of performance of the works, production or sales of the supplies or provision of services, or any other process in a stage of their life cycle, even where such factors are not directly linked to the subject-matter of the procurement contract (for example, observance of environmental protection requirements or social criteria during the provision of service, production of the product or performance of the works).

(4) The contracting authority shall be entitled to use price only for comparison and assessment of the tenders, where the procurement is carried out under the procedure laid down in Section 9 or 10 of this Law, or where the prepared technical specification is sufficiently detailed and other criteria are of no relevance in choosing the tender.

(5) The contracting authority shall determine such tender evaluation criteria as are not distorting the competition and are objectively comparable and assessable.

(6) The contracting authority shall indicate in the procurement procedure documents all tender evaluation criteria in the order of importance thereof, the values of the criteria and, where appropriate, spread of values, as well as shall the selection algorithm of a tender in accordance with these criteria and a description of how each evaluation criteria indicated will be applied.

(7) The contracting authority shall indicate in the procurement procedure documents the decisive tender selection criterion, based on which it will select the tender, if, prior to taking a decision on award of the procurement contract, it would detect that the score of at least two tenders is identical. The contracting authority shall be entitled to set as the decisive tender selection criterion such criterion which describes the conformity of the supplier to the social security requirements, inter alia, that the selected tender has been submitted by the supplier being the member of the organisation of employers of the national level and has entered into collective agreement with the trade union being the member of the national level trade union (if the tender has been submitted by the partnership or association of persons, the collective agreement must be concluded with each member of the partnership and each participant of the association of persons).

*[26 April 2018]*

**Section 52. Life-cycle costing**

(1) Life-cycle costing shall cover parts or all of the following costs over the life cycle of a product, service or works:

1) costs, borne by the contracting authority or other users, such as:

a) costs relating to acquisition,

b) costs of use (such as consumption of electricity energy and other resources),

c) maintenance costs,

d) end of life costs (such as collection and recycling costs);

2) costs incurred and related to the environmental impact (imputed to environmental externalities) during the life cycle of the product, service or works (such as the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs and costs oriented towards climate change adaptation), provided their monetary value can be determined and verified.

(2) The contracting authority shall indicate in the procurement procedure documents the method for calculating the life-cycle costs and the data to be provided by the tenderers required for performance of the calculation.

(3) The methodology used for the assessment of costs related to environmental impact assessment (imputed to environmental externalities) shall fulfil all of the following conditions:

1) it is based on objectively verifiable and non-discriminatory criteria;

2) it is accessible to all interested persons;

3) the data necessary for calculation are at disposal of the suppliers, including the suppliers required registered in the country other than the European Union Member State (third country) which is a party to the World Trade Organisation's Agreement on Government Procurement (GPA) or other international agreements by which the Union is bound, or are easily accessible.

**Section 53. Abnormally low tender**

(1) A contracting authority shall require explaining the price or costs proposed in the tender where the tender appears to be abnormally low in relation to the particular public works, public supply or public service contract.

(2) The explanation may specifically relate to:

1) the costs of the manufacturing process, construction method or of the services to be provided;

2) the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the execution of works, the supply of the products or provision of services;

3) the qualities and originality of the works, supplies or services proposed;

4) compliance with obligations established by the legal framework and collective agreements in the field of environmental, social, labour law and labour protection;

5) obligations towards subcontractors;

6) the State aid obtained by the tenderer.

(3) The contracting authority shall assess the explanations provided by consulting the tenderer. The contracting authority may request that the tenderer submits printouts from the Electronic Declaration System of the State Revenue Service regarding the average hourly tariff rates of the employees of the subcontractors specified in the tender by groups of professions, if such data are compiled by the State Revenue Service.

(4) The contracting authority shall reject the tender as abnormally low, if the provided explanation does not satisfactorily account for the low level of price or costs proposed by the tenderer, or if the price or costs do not cover the costs related to compliance with obligations established by the legal framework and collective agreements in the field of environmental, social, labour law and labour protection;

(5) Where a contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender may be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the State aid in question was compatible with the internal market within the meaning of Article 107 of the Treaty on the Functioning of the European Union. Where the contracting authority rejects a tender in those circumstances, it shall inform the European Commission and the Procurement Monitoring Bureau regarding the rejection of the tender and the reason for rejection thereof.

**Section 54. Special rules for procurements in the field of road transport**

(1) When organising a procurement of road transport vehicles, the contracting authority shall take into account the impact of their operation on the energy industry and environment and for this purpose shall evaluate at least the energy consumption and the amount of emissions of carbon dioxide, nitrogen oxides, non-methane hydrocarbons and solid particles.

(2) The Cabinet shall determine the categories of road transport vehicles, the procurements whereof shall be subject to the requirements of this Section, as well as the methodology for the calculation of the costs of operation of the referred to road transport vehicles.

(3) The contracting authority shall fulfil the requirements of Paragraph one of this Section in one of the following ways:

1) shall include in the technical specifications the requirements in relation to energy consumption and the amount of emissions of the substances referred to in Paragraph one of this Section, as well as, if necessary, other environmental impact aspects;

2) shall assess the factors of the impact of operation on the energy industry and environment, specifying the tender evaluation criteria in accordance with Section 51 of this Law. The contracting authority shall be entitled to express and assess the referred to factors in monetary terms, using the methodology specified by the Cabinet for the calculation of the costs of operation of road transport vehicles.

*[26 April 2018]*

**Section 55. Special rules with respect to energy-efficiency**

(1) When organising procurements of products or services the estimated contract price whereof is equal or exceeds the contract price thresholds determined by the Cabinet, the direct administration authority shall procure only the products and services with high energy-efficiency level. Direct administration authority may procure products or service of a lower energy-efficiency level, taking into account the considerations linked to profitability, technical suitability and sustainability.

(2) The Cabinet shall determine the requirements to be prescribed in the procurements organised by the direct administration authorities with respect to the energy-efficiency of the products and services.

(3) If the service provider, for the purposes of provision of the relevant service forming the basis for the conclusion of the public service contract, acquires the products not subject to the requirements laid down in Paragraph two of this Section, then it shall not be mandatory to set the requirements with respect to the energy-efficiency of the service.

(4) If the direct administration authority procures a set of products subject to the legal framework specified in the requirements referred to in Paragraph two of this Section regarding labelling of the products related to the consumption of energy and other resources, and such legal framework lays down the labelling requirements for the set of products in question, then the requirements may be set with respect to the combined energy-efficiency of the products and not to the energy-efficiency of each separate product. In such case, the direct administration authority shall procure the set of products meeting high energy-efficiency level in accordance with the provisions of the legal framework on the labelling of the products related to consumption of energy and other resources.

(5) The direct administration authority shall fulfil the obligation prescribed by Paragraph one of this Section, by incorporating the energy-efficiency requirements in the technical specification or other procurement procedure documents. The contracting authority, when evaluating the submitted tenders, may grant the score within the scope of the evaluation criteria, by evaluating the energy consumption during the useful life of the product or service or the conformity thereof to a possibly higher energy-efficiency class.

(6) The rules laid down in this Section shall not apply to procurements in the field of works.

**Chapter VI
Application of the framework agreement, dynamic purchasing system, electronic auction and electronic catalogues**

**Section 56. Framework agreement**

(1) In order to conclude a framework agreement, the contracting authority shall observe the procurement procedures provided for in this Law in all stages up to the conclusion of a procurement contract within the scope of a framework agreement. The contracting authority shall determine the participants of the framework agreement, taking into account the specified tender evaluation criteria.

(2) Procurements contracts shall be concluded within the scope of the framework agreement in accordance with the provisions of Paragraphs five, six and seven of this Section. This procedure shall only apply to such contracting authorities and suppliers, which have been specified as participants in the provisions of the framework agreement on the date of conclusion thereof. Only such contracting authorities, which are indicated in the contract notice, invitation to submit a tender or in the procurement procedure documents, shall be determined as the participants of the framework agreement.

(3) When concluding the procurement contracts within the scope of the framework agreement, the parties shall not make substantial modifications to the provisions of the framework agreement, particularly in the cases provided for in Paragraph five of this Section.

(4) The term of a framework agreement shall not exceed four years, unless a longer term is required in exceptional cases objectively justified (in particular by the subject of the framework agreement). The contracting authority shall not use the framework agreement in order to restrict competition.

(5) Where a framework agreement is concluded with one supplier, procurement contracts within the scope of this agreement shall be concluded in accordance with the provisions of the framework agreement. In order to conclude these contracts, the contracting authority may consult with the supplier in writing, if necessary, requesting that the tender is supplemented.

(6) Where a framework agreement is concluded with more than one supplier, the particular procurement contracts within the scope of the framework agreement shall be concluded in one of the following ways:

1) following the provisions of the framework agreement, without reopening competition, where the provisions of the framework agreement set out all the necessary conditions for the provision of the works, services and supplies concerned and the objective conditions for determining which of the suppliers shall perform them;

2) following the provisions of the framework agreement, inter alia, also with respect to the lots of the framework agreement, and without reopening competition or with reopening competition, where the provisions of the framework agreement sets out all the necessary conditions for the provision of the works, services and supplies concerned and the determines the cases and provisions for direct conclusion of procurement contracts and reopening of competition;

3) evaluating the tenders, where the provisions of the framework agreement do not set out all the necessary conditions for the provision of the works, services and supplies concerned.

(7) If all the necessary conditions are not provided for in the provisions of the framework agreement and the competition have to be reopened, these provisions shall be supplemented on the basis of the same provisions (if necessary, regulated in more detail) or other provisions in accordance with the technical specifications of the framework agreement under the following procedure:

1) in order to conclude the specific contract, the contracting authority shall consult in writing with the suppliers, which are capable of implementing the procurement contract concerned;

2) the contracting authority shall determine a time limit, which is sufficient for the submission of the relevant tender, taking into account such factors as the complexity of the subject-matter of the procurement contract and the time required for the preparation of tenders;

3) a tenderer shall submit a tender in writing and the contracting authority shall not open them until the expiry of the time limit set for the submission;

4) contracting authority shall conclude the particular procurement contract with the tenderer that has submitted the most appropriate tender on the basis of the tender evaluation criteria set out in the framework agreement.

**Section 57. Dynamic purchasing system**

Procurements within the dynamic purchasing system shall be subject to a restricted procedure. The Cabinet shall determine the rules and procedures for application of the dynamic purchasing system.

**Section 58. Application of electronic auctions**

(1) In open procedure, restricted procedure and competitive procedures with negotiation, the contracting authority may decide that the selection of a tender shall be preceded by an electronic auction when the content of the procurement procedure documents, in particular the technical specifications, can be prepared with precision. An electronic auction may also be organised prior to selection of a tender within the scope of the framework agreement in accordance with Section 56, Paragraph seven, Clauses 2 and 3 of this Law, as well as prior to the selection of a tender within the scope of the dynamic purchasing system.

(2) An object of the electronic auction may be:

1) the price or the price and the new values of the features of the tenders indicated in the procurement procedure documents, if the tender evaluation criterion is ratio of the price or cost-effectiveness and the quality criteria linked to the subject-matter of the procurement contract or the lowest cost using a cost-effectiveness approach;

2) the price, if the tender evaluation criterion is solely the price.

(21) Public works contracts or public service contracts having as their subject-matter intellectual performances (such as the design of works), shall not be the object of electronic auctions.

(3) Where the decision is taken to hold an electronic auction, the contracting authority shall state that fact in the contract notice.

(4) Where an electronic auction is held, the procurement procedure documents, in addition to other details, shall include also the following details:

1) the features of the objects of electronic auction, provided that such features are quantifiable, and the value thereof can be expressed in figures or percentages;

2) any limits on the values (which may be submitted and modified), as they result from the technical specification of the subject-matter of the procurement contract;

3) the information which will be made available to tenderers in the course of the auction and, where appropriate, when it will be made available to them;

4)the relevant information concerning the organisation of the electronic auction process;

5) the conditions to be complied with by the tenderers within the electronic auction and, in particular, the minimum differences which will, where appropriate, be required when bidding;

6) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

(5) Before proceeding with an electronic auction, the contracting authority shall make a full initial evaluation of the tenders in accordance with the set tender evaluation criteria.

(6) The contracting authority shall simultaneously invite all tenderers, which have submitted admissible tenders, to submit new prices or prices and values by electronic means. The invitation shall contain all necessary information regarding the individual connection to the electronic equipment being used in the auction and shall state the date and time when the electronic auction will be initiated. The electronic auction may take place in a number of successive phases. It shall not be initiated earlier than two working days after sending of the invitation to participate in this auction.

(7)A summary of the evaluation of tenders shall be appended to the invitation and the invitation shall include the mathematical formula or algorithm to be used in the electronic auction, which reflects the notional values of all criteria and which, taking into account the initially specified proportion of criteria, shall determine the re-ranking of positions, using the newly submitted values and prices or only prices. Except where the tender is evaluated on the basis of price alone, the referred to formula shall incorporate the weighting of all the criteria established to determine the most economically advantageous tender, as indicated in the contract notice or in the procurement procedure documents. If the numeric values assigned to the criteria are specified within a certain range, they shall be expressed to a specified value. Where variants are authorised, a separate formula shall be provided for each variant.

(8) Throughout each phase of an electronic auction the contracting authority shall instantaneously communicate to all tenderers information to enable them to ascertain their relative rankings at any moment. The contracting authority may, where this is provided for in the procurement procedure documents, communicate also information concerning other prices or values submitted. The contracting authority may also at any time announce the number of participants in that phase of the auction, however, it shall not be entitled to disclose the identities of the participants.

(9) The contracting authority shall close an electronic auction (observing one or several conditions):

1) at the previously indicated date and time;

2) after receipt of the final bid, if the time indicated in the invitation to auction has expired and no new bid is placed during this period;

3) when all of the previously indicated phases in the auction have been completed.

(10) Where the contracting authority intends to close an electronic auction in accordance with the provisions of both Clause 2 and Clause 3 of Paragraph nine of this Section, the invitation to auction shall indicate the timetable for each phase of the auction.

(11) When the electronic auction is completed, the contracting authority, using the results of this auction, shall select a tender in accordance with the specified tender evaluation criteria.

*[26 April 2018]*

**Section 59. Application of electronic catalogues**

(1) Where the use of electronic means of communication only is required for submission of the tender, the contracting authority may require the tender to be presented in the format of an electronic catalogue or to include an electronic catalogue. Where the presentation of tenders in the form of electronic catalogues is accepted or required, the contracting authority shall state to in the contract notice. The contracting authority shall indicate in the procurement procedure documents all the necessary information for the receipt of electronic documents in accordance with Section 36 of this Law, inter alia, concerning the necessary format, the electronic equipment to be used and the technical connection arrangements and specifications for the catalogue.

(2) A candidate or tenderer shall create an electronic catalogue in accordance with the requirements laud down in the procurement procedure documents. Tenders presented in the form of an electronic catalogue may be accompanied by other documents, completing the tender.

(3) The contracting authority may provide that the reopening of competition will take place on the basis of updated catalogues, where a framework agreement has been concluded with more than one supplier and the tenders had been submitted in the form of electronic catalogues, by using one of the following procedures:

1) the contracting authority shall invite the tenderers to resubmit their electronic catalogue, adapted to the requirements of the procurement contract in question;

2) the contracting authority shall notify tenderers that it intends to create from the submitted electronic catalogues the tenders adapted to the requirements of the procurement contract in question in accordance with the methodology for creation of the tenders as prescribed by the framework agreement, and shall specify the date and time of creation of the tenders and shall notify tenderers of the rights to express objections against the creation of such tenders and shall allow an adequate period for expression of objections.

(4) The contracting authority shall use the procedure referred to in Paragraph three, Clause 1 of this Section, if the tenderer objects against the use of the procedure referred to in Paragraph three, Clause 2 of this Section.

(5) The contracting authority shall notify the tenderer regarding the created tender and the content thereof and shall allow for adequate period for expression of objections or approval of the tender.

(6) The contracting authority may provide that within the dynamic purchasing system the tenders for a specific procurement contract shall be presented in the format of an electronic catalogue. If the procedure referred to in Paragraph three, Clause 2 of this Section is used within the scope of the dynamic purchasing system, the contracting authority shall attach to the request for participation in the dynamic purchasing system an electronic catalogue meeting the requirements set by the procurement procedure documents, to be completed subsequently by the candidates, when they are informed of the contracting authority’s intention to use the procedure set out in Paragraph three, Clause 2 of this Section.

**Chapter VII
Conclusion and fulfilment of the procurement contract**

**Section 60. Procurement contract**

(1) A procurement contract shall determine the legal relations between the contracting authority or contracting authorities and a supplier or suppliers. A procurement contract may determine the legal relations between the contracting authority or contracting authorities and a supplier or suppliers, and subcontractors.

(2) When preparing the procurement contract, the contracting authority shall take into account the requirements of the legal framework with respect to the works, supplies and services included in the subject-matter of the procurement and shall specify in the procurement contract:

1) the name of the contracting authority;

2) the name of the supplier;

3) the subject-matter of the procurement, the scope thereof, the quality requirements and other necessary information;

4) the contract price and the manner of payment thereof, as well as, if provided by the contracting authority, manner for payment to subcontractors in case referred to in Section 63 of this Law;

5) the time limit, location and conditions for implementation of the procurement contract;

6) liability of the contracting parties for the losses caused and the failure to implement the procurement contract;

7) procedure for replacement of the subcontractors and staff specified in the tender and attraction of new subcontractors and staff in accordance with the provisions of Section 62 of this Law;

8) procedure for amending the procurement contract and procedure under which the withdrawal from the procurement contract shall be permissible;

9) other provisions.

(3) The contracting authority shall be entitled to provide for special provisions of implementation of the procurement contract, mainly, with respect to economic and social circumstances, innovations or environmental protection requirements, observing the condition that such provisions are not contrary to the directly applicable legal acts of the European Union in the referred to fields and are indicated in the technical specifications or the contract notice, or the procurement procedure documents and are inked to the subject-matter or the procurement contract in question. The contracting authority, when preparing the procurement contract, may use the guidelines for performance of procurements and conclusion of contracts, as well as the standard form contracts developed by branch experts or organisations. When concluding the procurement contract, the commensurate observance of the rights and legal interests of the contracting parties shall be ensured.

(4) A procurement contract shall be concluded for a time period not longer than five years. The contracting authority shall be entitled to conclude a procurement contract for a longer period of time if any of the following conditions exists:

1) it is provided for in another law;

2) it is substantially necessary for ensuring the implementation of the procurement contract due to technical or economic circumstances directly related to the subject-matter of the procurement contract. In such case prior to commencing the procurement the contracting authority, which is a direct administration authority, must receive a permit of the Cabinet and the contracting authority, which is an indirect administration authority, – a permit of the body of the relevant derived public entity.

(5) In the cases referred to in Paragraph four of this Section the contracting authority shall indicate in the contract award notice, information notice on the concluded contract or notice on social and other services shall specify the justification for the existence of such circumstances, which authorise the conclusion of the procurement contract for a longer period of time.

(6) A procurement contract or a framework agreement shall be concluded no sooner than on the next business day following the end of the waiting period, if a complaint regarding infringements of the procurement procedure has not been submitted to the Procurement Monitoring Bureau in accordance with the procedure specified in Section 68 of this Law.

(7) The waiting period referred to in Paragraph six of this Section shall be:

1) 10 days after the day when the information referred to in Section 37, Paragraph two of this Law has been sent to all tenderers in electronic form, using secure electronic signature, or attaching a scanned document to the electronic mail message, by fax or handed over in person, and one additional business day;

2) 15 days after the day when the information referred to in Section 37, Paragraph two of this Law has been sent, if it has been sent by post to at least one tenderer, and one additional business day.

(8) If the tenth day referred to in Paragraph seven, Clause 1 of this Section and the fifteenth day referred to in paragraph seven, Clause 2 of this Section is Saturday, Sunday or statutory public holiday, a waiting period shall be extended for one business day.

(9) A procurement contract or a framework agreement may be entered into without complying with Paragraph six of this Section if:

1) the procurement contract is awarded to the sole tenderer and there are no candidates, which would be entitled to submit a complaint in accordance with the procedures specified in Section 68 of this Law;

2) the procurement of the social and other special services referred to in Annex 2 of this Law is being organised due to extraordinary circumstances unforeseen by the contracting authority;

3) a negotiated procedure is being applied;

4) the contract is concluded within the scope of a framework agreement in accordance with Section 56  or Section 59 of this Law;

5)the contract is concluded within the scope of the dynamic purchasing system in accordance with Section 57 of this Law.

(10) Not later than within 10 business days following the day, when the procurement contract or the modifications thereof took effect, the contracting authority shall post on its buyer, correspondingly, the body text of the of the procurement contract, framework agreement or the text of the procurement contract concluded on the basis of the framework agreement , if the contract price is equal to or exceeds the contract price thresholds established by the Cabinet, or the text of modifications of the procurement contract and the justification for the modifications of the procurement contract referred to in Paragraphs two and three of Section 61 of this Law, pursuant to the procedure laid down by the legal framework, observing the requirements for protection of a trade secret. The procurement contract and the text of modifications thereto shall be available in the buyer profile for at least the entire term of validity of the procurement contract, however not less than 36 months following the day of coming into effect of the procurement contract.

*[26 April 2018]*

**Section 61 Modification of a procurement contract or a framework agreement**

(1) Modifications of the procurement contract or the framework agreement shall be permissible, if they do not alter the overall nature of the procurement contract or the framework agreement (type and purpose specified in the procurement procedure documents) and meet one of the following instances:

1) modifications are minor;

2) modifications are substantial and are introduced only in cases referred to in Paragraph three of this Section;

3) modifications are introduced in cases referred to in paragraph five of this Section, irrespective of whether they are substantial or minor.

(2) Modifications of the procurement contract or the framework agreement shall be considered to be substantial in any of the following cases:

1) the modified provisions of the procurement contract or the framework agreement, had they been part of the initial procurement procedure documents, would have allowed for submission of different tenders or participation or selection of other candidates or tenderers in the procurement procedure;

2) the modification changes the economic balance (for example, risk allocation and the means compensating it) of the procurement contract or the framework agreement in favour of the interests of the tenderer selected within the procurement procedure;

3) the subject-matter of the procurement contract is extended to such supplies, services or works, which are not provided for in the initially concluded procurement contract or framework agreement;

4) the tenderer (contracting party) selected within the procurement procedure is replaced by another supplier.

(3) Substantial modifications of the procurement contract or the framework agreement shall be permissible in the following cases:

1) the procurement procedure documents and the procurement contract or the framework agreement clearly and unequivocally provides for a possibility of modifications, the cases when modifications are permissible, the scope and essence of modifications. Such provisions on modifications may refer to the revision of the contract price, exercise of the discretionary powers, as well as other aspects of the fulfilment of the procurement contract or the framework agreement;

2) the contracting authority needs additional works, services or supplies that were not included in the initial procurement where a change of the supplier would cause significant increase of costs, and it cannot be made due to economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or the change of the supplier would cause significant inconveniences;

3) the need for modifications of the procurement contract has been brought about by circumstances which the contracting authority could not foresee in advance;

4) the tenderer selected in the procurement procedure (contracting party) is replaced by another supplier in accordance with the provisions of the legal framework in the field of corporate law regarding reorganisation of economic operators and transfer of undertaking, and such supplier meets the qualification requirements laid down in the contract notice or the procurement procedure documents, and is not subject to exclusion grounds referred to in Paragraph two of Section 42 of this Law as well as not subject to such exclusion grounds referred to in Paragraph two of Section 42 of this Law, which the contracting authority has initially included in the contract notice or the procurement procedure documents.

(4) The increase in price set as the sum of the monetary values of all successive modifications may not exceed 50 per cent of the initial contract price of the procurement contract with respect to each case referred to in Paragraph three, Clauses 2 and 3 of this Section.

(5) Modifications of the procurement contract or the framework agreement shall be permissible, if the value of the modifications of the procurement contract or the framework agreement determined as the sum of monetary value of all consecutively performed modifications (without taking into account the value of modifications performed in accordance with paragraph three, Clauses 1, 2 and 3 of this Section) does not concurrently reach:

1) the contract price thresholds established by the Cabinet, from which the contract notice or the notice concerning social and other specific services is to be published in the Official Journal of the European Union;

2) 10 per cent of the initial contract price of the procurement contract or the framework agreement in the event of public supply and public service contract and 15 per cent of the initial contract price of the procurement contract or the framework agreement in the event of public works contract.

(6) Where the procurement contract provides for the indexation of the contract price, the initial contract price of the procurement contract or the framework agreement referred to in paragraphs four and five of this Section shall be the contract price which has been indexed.

(7) The contracting authority shall publish the notice of modifications during the term of the contract in accordance with Section 33.

(8) Modifications of the procurement contract and the framework agreement, which do not correspond to the cases referred to in Paragraph one of this Section, shall be subject to the procurement procedures laid down in this Law.

*[26 April 2018]*

**Section 62. Replacement of the staff and subcontractors involved in the fulfilment of the procurement contract and involvement of the new staff and subcontractors**

(1) The tenderer selected in the procurement procedure (the party to the procurement contract or framework agreement) shall not be entitled to carry out the replacement of the staff and subcontractors specified in the tender, as well as to involve additional staff and subcontractors in implementation of the procurement contract without co-ordination with the contracting authority. The contracting authority may ask for the opinion of the staff and subcontractors regarding the reasons for replacement. The contracting authority, in the procurement contract or the provisions of the framework agreement, may state that the tenderer selected in the procurement procedure (the party to the procurement contract or framework agreement) shall be obliged to coordinate with the contracting authority the involvement of additional staff in the implementation of the procurement contract.

(2) Replacement of the staff specified in the tender shall only be permissible under the procedure and in cases laid down in the procurement contract or the framework agreement. The contracting authority shall not agree to the replacement of the staff specified in the tender in cases laid down in the procurement contract or the framework agreement and in cases, where the offered staff does not meet the requirements set for the staff by the procurement procedure documents and it does not have at least the same qualification and experience as the staff that has been assessed, when determining the most economically advantageous tender.

(3) The contracting authority shall not agree to the replacement of the subcontractor specified in the tender, if any of the following conditions exists:

1) the tendered subcontractor does not meet the requirements set for the subcontractor in the procurement procedure documents;

2) the subcontractor whose capacities the tenderer selected in the procurement procedure has relied on to certify that the qualification thereof conforms to the requirements specified in the contract notice and the procurement procedure documents, is replaced and the tendered subcontractor does not have at least the same qualification which the tenderer selected in the procurement procedure has referred to, in certifying the conformity thereof to the requirements specified in the procurement procedure, or it is subject to exclusion grounds of the tenderers referred to in Paragraphs one or two of Section 42 of this Law (in accordance with that which is specified by the contracting authority in the contract notice or the procurement procedure documents);

3) the tendered subcontractor, where the value of the works to be performed or the services to be provided by it is at least 10 per cent of the total value of the procurement contract, is subject to exclusion grounds of the tenderers referred to in Paragraphs one or two of Section 42 of this Law (in accordance with that which is specified by the contracting authority in the contract notice or the procurement procedure documents);

4) as a result of the change of the subcontractor, there would be such modifications introduced to the tender of the tenderer, which, had they been initially included therein, would influence the selection of the tender in accordance with the tender evaluation criteria prescribed by the procurement procedure documents.

(4) The contracting authority shall not agree to the involvement of the new subcontractor in case, where such changes, had they been introduced in the initial tender, would have influenced the selection of the tender in accordance with the tender evaluation criteria prescribed by the procurement procedure documents.

(5) When verifying the conformity of the new subcontractor, the contracting authority shall apply the provisions of Section 42 of this Law. The time limits referred to in Paragraph three of Section 42 of this law shall be counted from the day, when the request for the replacement of the subcontractor is submitted to the contracting authority.

(6) The contracting authority shall, within as short period of time as possible, but not later than within five business days after it has received all information and documents necessary for taking of a decision in accordance with the provisions of this Section, take a decision to permit or refuse the replacement of the staff or subcontractors of the tenderer selected in the procurement procedure (the party to the procurement contract or framework agreement) or involvement of new subcontractors in the implementation of the procurement contract.

**Section 63. Subcontractors**

(1) In order to ascertain that a supplier will be able to implement a procurement contract, the contracting authority shall be entitled to request that the tenderer indicates in its tender those lots of the procurement contract, which it intends to transfer to subcontractors for implementation, as well as all anticipated subcontractors.

(2) The contracting authority shall request that the tenderer indicates in its tender all those subcontractors, where the value of the works to be performed or the services to be provided by them is 10 per cent of the total value of the procurement contract or more, and the lot of the procurement contract to be transferred to each such subcontractor.

(3) The total value of the works to be performed or the services to be provided by the subcontractor shall be determined, taking into account the value of the works to be performed or services to be provided by the subcontractor and by all associate undertakings thereof within the scope of the relevant procurement. For the purposes of this Section, the associate undertaking shall be considered to be the capital company, where the subcontractor in accordance with the legal framework governing the status of the group of companies holds a decisive influence, or which holds a decisive influence in the subcontractor, or a capital company, where the decisive influence is held by another company, which concurrently holds a decisive influence in the relevant subcontractor.

(4) In the case of public service contract, if the services are provided at a facility of the contracting authority, and in the case of public works contract, the contracting authority shall request that after the award of the procurement contract and at the latest when the performance of the procurement contract commences, the tenderer submits a list of subcontractors (if any) involved in the works or service provision, indicating the name, contact details and a representatives with signatory powers of its subcontractors, in so far as such information is known. The list shall also specify the subcontractors of the subcontractors of the supplier. The contracting authority shall require the supplier to notify the contracting authority of any changes to this information during the course of the fulfilment of the procurement contract as well as supplements the list with information regarding any subcontractor which it subsequently involves in the performance of works or provisions of services.

(5) The contracting authority may state in the procurement procedure documents that in the case of public works contract, at the request of a subcontractor, the payments for the service, supplies or works rendered by the subcontractor to the supplier, accepted by the supplier and the term for payment whereof is past due, if the contracting authority has not disbursed the entire contract price due to the supplier, shall be transferred by the contracting authority, on the basis of the invoice submitted by the subcontractor, directly to the subcontractor and shall deduct the next payment to the supplier for the sum in question. The contracting authority, prior to the payment of the invoice of the subcontractor, shall inform the supplier about such request and shall allow to express the opinion regarding the justification of the request. The contracting authority shall lay down in the procurement contract the procedures for performance of the payments and exchange of information with the supplier and its subcontractors.

(6) The procedure laid down in paragraphs one and five of this Section shall be without prejudice to the issues related to the liability of the supplier for the fulfilment of the procurement contract.

**Section 64. Early termination of a procurement contract**

(1) The contracting authority shall be entitled to unilaterally withdraw from the procurement contract prior to the expiry of the term thereof, by sending a written notice to the supplier in cases provided for in the procurement contract and in the following cases:

1) the procurement contract has been subject to a substantial modification, which is not admissible in accordance with Paragraph one of Section 61 of this Law;

2) the procurement contract has not been concluded in accordance with the provisions specified in the procurement procedure documents, or substantial provisions of the draft procurement contract contained in the procurement procedure documents have been modified;

3) the supplier has, at the time of procurement contract award, been subject to any of the exclusion grounds referred to in paragraph one of Section 42 of this Law and should therefore have been excluded from the procurement procedure;

4) the procurement contract should not have been awarded to the supplier in view of a serious infringement of the obligations under the Treaty on European Union, Treaty on the Functioning of the European Union and this Law that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 of the Treaty on the Functioning of the European Union.

(2) In the event of an early termination of the procurement contract in cases referred to in Paragraph one of this Section, the contracting authority shall pay for the works and supplies actually performed and the services actually provided by the supplier. The contracting authority and the supplier shall agree upon the amount and procedure for payment.

**Chapter VIII
Procurement Monitoring Bureau**

**Section 65. Legal status of the Procurement Monitoring Bureau**

(1) The Procurement Monitoring Bureau is a direct public administration authority under subordination of the Ministry of Finance, operating in accordance with this Law, the By-law of the Procurement Monitoring Bureau and other legal framework.

(2) The operations of the Procurement Monitoring Bureau are financed from the State budget.

(3) The Procurement Monitoring Bureau is functionally the highest authority in relation to implementation of the function referred to in Section 66, Paragraph one, Clause 2 of this Law.

**Section 66. Functions of the Procurement Monitoring Bureau**

(1) The Procurement Monitoring Bureau shall have the following functions:

1) to monitor the conformity of the procurement procedures, design contests referred to in Paragraph one of Section 8  of this Law and the procurements referred to in Section 10 of this Law to the requirements of the legal framework;

2) to examine complaints regarding infringements of the procurement procedures, design contests referred to in Paragraph one of Section 8 of this Law and the procurements referred to in Section 10 of this Law;

3) to provide methodological assistance and consultations, and to organise training for contracting authorities, product vendors, lessors, contractors of works and providers of services regarding the application of the legal framework governing public procurement;

4) to examine administration violation cases in the field of public procurements and public and private partnership and to impose administrative penalties;

5) to ensure entering and updating of information in online repository of certificates (e-Certis);

6) other functions prescribed by the legal framework;

(2) The Procurement Monitoring Bureau shall have the following rights:

1) to request and receive free of charge complete information regarding any procurement and concluded contract;

2) to co-operate with foreign authorities and non-governmental organisations;

3) to invite independent procurement specialists and experts.

**Section 67. Complaints examination commission**

(1) Complaints regarding infringements of the procurement procedure shall be examined by the complaints examination commission (hereinafter also referred to as the commission) established by the Procurement Monitoring Bureau in the composition of three members. Members of the commission shall be the officials of the Procurement Monitoring Bureau. The chairperson of the commission shall conform to the criteria referred to in Paragraph two of this Section, and at least one more member of the commission shall have an academic or a second level higher vocational education in law. In order to examine complaints, the Procurement Monitoring Bureau may invite a procurement specialist or expert.

(2) The work of the commission shall be managed by the chairperson of the commission conforming to the following criteria:

1) he or she has an academic or a second level higher vocational education in law or management or economics;

2) he or she has at least one-year experience in examination of complaints regarding infringements of the procurement procedure.

(3) A person who has previously provided consultations regarding a procurement referred to in a complaint or is interested in being awarded the rights to conclude the procurement contract or framework agreement or is connected to the submitter of the complaint or another tenderer, may not be a member of the commission, specialist or expert. Prior to examination of the complaint, all members of the commission, the specialist and expert shall sign a respective confirmation. Within the meaning of this Section, a member of the commission, specialist and expert is connected to the submitter of the complaint or another tenderer, if he or she is:

1) a relative of the owner or official of a legal person – submitter of the complaint or another tenderer;

2) a relative of a natural person – submitter of the complaint or another tenderer;

3) the current or former employee, official or owner of a legal person – submitter of the complaint or another tenderer, who has discontinued employment relations or ownership relations with the submitter of the complaint or another tenderer within a period of time, which is less than 24 months, or a relative of such persons.

(4) The commission shall take a decision by voting. When taking a decision, members of the commission shall be independent and subject only to the law. A specialist and an expert shall participate in the meetings of the commission without the voting right and shall express an independent professional opinion to the commission regarding the facts established during examination of the complaint or provide a statement regarding questions asked by the commission.

**Chapter IX
Procedure for examination of complaints regarding infringements of the procurement procedure**

**Section 68. Right to submit a complaint regarding infringements of the procurement procedure**

(1) A person who is or has been interested in being awarded a procurement contract or a framework agreement or who is qualifying for procurement contract award and who, in relation to the specific procurement procedure, subject to this Law, regards that his or her rights have been infringed upon or infringement of these rights is possible, caused by a potential infringement of the legal framework of the European Union or other legal framework, shall be entitled to submit a complaint regarding the provisions for selection of candidates or tenderers, technical specifications and other requirements, which relate to the specific procurement procedure, or regarding the activities of the contracting authority or the procurement commission during the course of the procurement procedure. Within the meaning of this Chapter, the procedure for performance of procurements referred to in Section 10 of this Law and the design contest shall also be regarded as the procurement procedure.

(2) A complaint regarding the infringements referred to in Paragraph one of this Section (except the cases referred to in Paragraph three of this Section) may be submitted to the Procurement Monitoring Bureau until entering into the procurement contract or framework agreement within the following time limits:

1) within 10 days after the day when the information referred to in Section 37 of this Law has been sent to the person concerned in electronic form, using secure electronic signature, or attaching a scanned document to the electronic mail message, or by fax or handed over in person;

2) within 15 days after the day when the information referred to in Section 37 of this Law has been sent to the person concerned by post;

3) within 10 days after the day when the notice referred to in Section 30, Paragraph one of this Law has been posted on the website of the Procurement Monitoring Bureau or in the Official Journal of the European Union, if the contract price of the procurement is equal to or higher than the contract price thresholds specified by the Cabinet.

(3) A complaint regarding the requirements contained in the procurement procedure documents may be submitted within the following time limits:

1) at least seven days prior to the expiry of the time limit for the submission of tenders – in relation to the requirements contained in the open procedure regulations and the contract notice;

2) at least four business days prior to the expiry of the time limit for the submission of requests to participate – in relation to the requirements contained in a restricted procedure regulations for the selection of candidates and in the contract notice, as well as in the documents of a competitive procedure with negotiation and in the contract notice, or the documents of an innovation partnership procedure and in the contract notice;

3) at least four business days prior to the expiry of the time limit for the submission of tenders - in relation to the requirements contained in the call to participate in a restricted procedure, competitive dialogue, competitive procedure with negotiation or innovation partnership procedure;

4) at least seven days prior to the expiry of the time limit for the submission of designs – in relation to the requirements contained in the design contest regulations and the notice of the design contest;

5) at least two business days prior to the expiry of the time limit for the submission of tenders - in relation to the requirements contained in the procurement documents in the case of the procurement referred to in Section 10 of this Law.

(4) A complaint to the Procurement Monitoring Bureau may be submitted, by delivering it in person or sending it by post, fax or electronically, using secure electronic signature or attaching a scanned document to the electronic mail message. A complaint shall be deemed submitted to the Procurement Monitoring Bureau within the time limit specified in Paragraphs two and three of this Section if it has been received at the Procurement Monitoring Bureau:

1) on the final day of the time limit at the latest, if sent by fax or electronically, using secure electronic signature or attaching a scanned document to the electronic mail message;

2) on the final day of the time limit at the latest, within the office hours of the Procurement Monitoring Bureau, if sent by post or delivered in person.

(5) A complaint shall be submitted in writing and shall include the following information:

1) the name and address of the submitter of the complaint;

2) the name and address of the contracting authority, regarding which the complaint has been submitted;

3) the title of the procurement procedure and the procurement identification number;

4) the facts, regarding which the complaint is being submitted, indicating the infringement;

5) the legal basis for the complaint;

6) the claim of the submitter of the complaint.

(6) The Procurement Monitoring Bureau shall, within one business day after the complaint regarding infringements of the procurement procedure has been received, post information to this effect on its website, indicating the submitter of the complaint, the contracting authority and the procurement procedure, the lawfulness whereof is contested by the submitter of the complaint, as well as shall inform the contracting authority regarding initiation of an administrative case, by sending a notice regarding the received complaint and a copy of the complaint to the fax number or electronic mail address indicated by the contracting authority, and the contracting authority shall not enter into a procurement contract or framework agreement until a decision of the commission on the results of examination of the complaint or termination of the administrative case is received.

(7) Where a complaint regarding the requirements prescribed by the open procedure regulations or the contract notice, or a call to submit tenders in the restricted procedure has been submitted, the contracting authority shall act under the procedure prescribed by the Cabinet.

(8) Where a complaint regarding the activities of the contracting authority in relation to the lawfulness of the procedure is submitted and a complaint regarding the same procurement procedure has already been submitted by another submitter of the complaint, but it has not been examined yet, such complaints may be combined and examined together.

(9) The submitter of a complaint shall be entitled to revoke the complaint submitted, in writing, at any time, while the commission has not taken a decision on the relevant complaint.

*[26 April 2018]*

**Section 69. Leaving complaints unexamined**

(1) The Procurement Monitoring Bureau shall be entitled to leave a complaint unexamined in any of the following cases:

1) the complaint does not conform to the requirements of Section 68, Paragraph one, two, three or five of this Law;

2) a complaint has already been submitted and examined with respect to a procurement procedure for the same subject-matter and on the same grounds;

3) the information included in the complaint is evidently insufficient to satisfy the requirements of the submitter or the complaint is evidently inadmissible on its merits;

4) in the cases referred to in Section 70, Paragraph four of this Law.

(2) A decision may be appealed in court in accordance with the procedure prescribed by the Administrative Procedure Law. Appeal of the decision shall not suspend the operation thereof.

**Section 70. Deposit**

(1) When submitting a complaint under the procedure laid down in Section 68 of this law, a deposit shall be paid in or submitted.

(2) The submitter of the complaint shall be entitled to pay in the deposit as the sum of money or submit it in the form of a bank guarantee or insurance policy.

(3) A deposit shall comprise 0.5 per cent of the estimated contract price, however not exceeding EUR 15, 000 in the event of the public works contract and EUR 840 in the event of the public service contract or supply contract. If it is not possible to determine the estimated contract price or it is not specified in the procurement procedure documents, in the event of the public works contract the deposit shall comprise EUR 3, 400, but in the event of the public service contract or supply contract - EUR 840.

(4) Following the receipt of the complaint the Procurement Monitoring Bureau, within one business day, shall verify the fact of receipt of the payment or the submission of the deposit. Where the payment of the deposit is not received, or the deposit is not submitted, the Procurement Monitoring Bureau shall be entitled to leave a complaint unexamined.

(5) The Procurement Monitoring Bureau shall repay the deposit payment or return the deposit to the submitter of the complaint within five days after:

1) the day of revocation of the complaint, if the submitter of the complaint has revoked the complaint up to the examination thereof in the commission, on the basis of the contracting authority having prevented he infringements specified in the complaint;

2) the receipt of the transcript of the court judgment, if the court, by the judgment that has taken effect, assigns to repay the paid in deposit to the submitter of the complaint;

3) the decision on leaving the complaint unexamined has been communicated;

4) the decision has taken effect to prohibit the contracting authority to conclude the procurement contract or the framework agreement or to cancel the decision of the contracting authority regarding the termination of the procurement procedure.

(6) This Section shall not be applicable, where the complaint contests the lawfulness of the termination of the procurement procedure or the requirements prescribed by the procurement procedure documents.

(7) Procedures for the payment or submission and repayment and return of the deposit shall be prescribed by the Cabinet.

**Section 71. Examination of the complaint**

(1) The commission shall examine a complaint within one month after receipt thereof in the Procurement Monitoring Bureau. If due to objective reasons it is not possible to observe this time limit, the commission may extend the time limit, notifying the submitter of the complaint, the tenderer, whose tender has been selected in accordance with the set tender evaluation criteria, (hereinafter - the participants) and the contracting authority thereof.

(2) When examining a complaint regarding infringements of the procurement procedure, the commission may, by a decision thereof:

1) allow to conclude a procurement contract or framework agreement and to leave the requirements specified in the procurement procedure documents or the decision of the contracting authority or the procurement commission in effect, if the complaint is not justified or is justified, however, the infringements established by the commission cannot affect the decision on awarding of the procurement contract;

2) prohibit concluding the procurement contract or framework agreement, if the contracting authority has not complied with the requirements specified in Section 37 of this Law;

3) prohibit concluding the procurement contract or framework agreement and to cancel the requirements specified in the procurement procedure documents or the decision of the contracting authority or the procurement commission in full or any part thereof, if the complaint is justified and the infringements established by the commission can affect the decision on awarding of the procurement contract;

4) leave the decision of the contracting authority or the procurement commission on termination or discontinuation of the procurement procedure in effect, if the complaint is not justified;

5) cancel the decision of the contracting authority or the procurement commission on termination or discontinuation of the procurement procedure, if the complaint is justified.

(3) In the cases referred to in Paragraph two, Clauses 2, 3 and 5 of this Section the commission may take a decision on the measures for elimination of the infringements established. The commission may assign the contracting authority to discontinue the procurement procedure only in case if it is not possible to otherwise eliminate the infringements of the procurement procedure committed by the contracting authority.

(4) When during examination of a complaint the commission establishes that the complaint should be left unexamined, it may take a decision on termination of the administrative case. If the submitter revokes a complaint, the relevant administrative proceedings shall be considered as terminated.

(5) The Procurement Monitoring Bureau shall invite the participants to the meeting, by posting an invitation on its website at least three business days before the meeting. The invitation shall be considered as notified on the next day of posting thereof on the website of the Procurement Monitoring Bureau. Where the electronic mail address, where invitation can be sent to, has been notified by participants to the Procurement Monitoring Bureau, the Procurement Monitoring Bureau shall send the information regarding the meeting dedicated to examination of the complaint to participants also by electronic mail not later than on the day when the invitation is posted on the website of the Procurement Monitoring Bureau.

(6) The commission shall hear the opinion of all participants present. After hearing the participants, it shall continue work without the presence of the participants.

(7) The commission shall evaluate a complaint on the basis of the facts referred to by the submitter thereof and participants, the explanations of the contracting authority and the opinion or statement of the expert. Where the participants have not arrived at the meeting of the examination of the complaint, the commission shall examine the complaint on the basis of the facts available thereto. The commission shall take a decision and, within three business days after taking thereof, shall prepare it and post it on the website of the Procurement Monitoring Bureau. The decision shall be considered as notified on the next day of posting thereof on the website of the Procurement Monitoring Bureau.

(8) The commission shall specify the following information in the decision:

1) the justification for the establishment of the commission;

2) the members of the commission and the expert who have participated in the meeting of the commission;

3) representatives of the submitter of the complaint, the contracting authority and other participants who have participated in the meeting of the commission;

4) the identification number of the procurement procedure, whereon the complaint has been submitted;

5) the facts, whereon the complaint has been submitted, and the claim of the submitter of the complaint;

6) the most important arguments of the submitter of the complaint and the contracting authority;

7) the justification of the decision;

8) the legal norms applied;

9) the duty imposed on the contracting authority and the time limit for the fulfilment thereof, if the commission takes a decision on measures for elimination of the infringements determined;

10) a prohibition or a permission for the contracting authority to conclude a procurement contract;

11) where and within what time limit such decision may be appealed.

(9) Where the commission has decided regarding measures for elimination of the infringements determined, the contracting authority shall eliminate the infringements, take a decision and notify regarding the modifications to the procurement procedure documents and submit the modifications thereto or notify of the procurement procedure. The decision shall be published in accordance with the procedures specified in Section 34 of this Law, as well as all information regarding taking of the decision and elimination of the infringements determined by the commission shall be sent to the Procurement Monitoring Bureau. In such case the procurement contract shall be concluded observing the conditions of Section 60, Paragraph six of this Law.

**Section 72. Appeal of the decision of the commission**

(1) A decision of the commission may be appealed in the Administrative District Court in accordance with the procedures prescribed by the Administrative Procedure Law. The case shall be examined by the court in the panel of three judges.

(2) A ruling of the Administrative District Court may be appealed under the cassation procedures in the Department of Administrative Cases of the Supreme Court.

(3) The appeal of the decision of the commission shall not suspend the operation thereof.

**Chapter X
Recognition of the procurement contract or framework agreement as invalid, modifying or cancelling the provisions thereof or reduction of the term of the procurement contract or framework agreement**

**Section 73. Submission of an application and examination of the case regarding recognition of the procurement contract or framework agreement as invalid, modifying or cancelling the provisions thereof or reduction of the term of the procurement contract or framework agreement**

(1) An application regarding recognition of the procurement contract or framework agreement as invalid, modifying or cancelling the provisions thereof or reduction of the term of the procurement contract or framework agreement may be submitted by the persons referred to in Paragraph one of Section 68 of this Law in the cases referred to in Paragraph one of Section 74 of this Law.

(2) The application shall be submitted to the Administrative District Court, which shall examine the case in the panel of three judges. The examination of the application and the case shall be subject to the norms of the Administrative Procedure Law, *inter alia*, the norms regarding examination of the public law contract in the court, in so far as not prescribed otherwise by this Law.

(3) An application in relation to the infringements referred to in Section 74, Paragraph one of this Law may be submitted within the following time limits:

1) within six months after the day when the procurement contract or framework agreement was concluded, except the cases referred to in Clause 2, Sub-clauses “a” and “b” of this Paragraph;

2) within 30 days after the day when:

a) such notice regarding the award of the procurement contract has been posted on the website of the Procurement Monitoring Bureau or the Official Journal of the European Union, where the procurement contract price is equal to or higher than the contract price thresholds specified by the Cabinet, where the contracting authority has included a justification for the decision to award the procurement contract or framework agreement without publishing a contract notice;

b) the contracting authority has informed the relevant tenderer regarding conclusion of the procurement contract or framework agreement, indicating the information referred to in Section 37, Paragraph two, Clause 1 or 2 of this Law thereto, or the relevant candidate regarding conclusion of the procurement contract or framework agreement, indicating the reasons for rejecting the request to participate submitted thereby. The above-mentioned shall also apply to the cases provided for in Section 74, Paragraph one, Clause 5 and 6 of this Law.

(4) Concurrently with submission of an application or during examination of the case the applicant may, in the cases and under the procedure specified in the Administrative Procedure Law, request that provisional regulation is applied.

(5) A ruling of the Administrative District Court may be appealed under the cassation procedures in the Department of Administrative Cases of the Supreme Court.

(6) Where an application regarding recognition of the procurement contract or framework agreement as invalid, modifying or cancelling the provisions thereof or reduction of the term of the procurement contract or framework agreement is based upon the case not referred to in Section 74 of this Law, the claim shall be brought to the court of general jurisdiction under the procedure prescribed by the Civil Procedure Law.

**Section 74. Cases, when the procurement contract or framework agreement may be recognised as invalid, the provisions thereof may be modified or cancelled, or the term of the procurement contract or framework agreement may be reduced**

(1) The court may recognise the procurement contract or framework agreement as invalid, modify or cancel the provisions thereof or reduce the term of the procurement contract or framework agreement in any of the following cases:

1) the procurement contract or framework agreement has been entered into without applying the procurement procedures specified in Section 8, Paragraph one of this Law or the procedures for performance of procurement referred to in Section 10 of this Law if the contracting authority had to apply it;

2) the procurement contract or framework agreement has been concluded, by unjustly awarding the procurement contract or framework agreement, without posting a contract notice on the website of the Procurement Monitoring Bureau or the Official Journal of the European Union, where the procurement contract price is equal to or higher than the contract price thresholds specified by the Cabinet;

3) the procurement contract or framework agreement has been concluded without complying with the time limit specified in Section 60, Paragraph six of this Law.

4) the procurement contract or framework agreement has been concluded, violating the prohibition specified in Section 68, Paragraph six of this Law to conclude the procurement contract or framework agreement;

5) the procurement contract has been concluded, without complying with the requirements of Section 56, Paragraph six of this Law, where the contract price of the particular procurement contract is equal to or higher than the contract price thresholds specified by the Cabinet;

6) the procurement contract has been concluded, without complying with the procedure laid down in the Cabinet regulation governing the establishment and operation of the dynamic purchasing system, where the contract price of the particular procurement contract is equal to or higher than the contract price thresholds specified by the Cabinet.

(2) In the cases referred to in Paragraph one, Clause 1 or 2 of this Section a procurement contract or framework agreement shall not be recognised as invalid, the provisions thereof shall not be modified or cancelled, the term of a procurement contract or framework agreement shall not be reduced, even though the law has been violated, if all of the following conditions are concurrently present:

1) the contracting authority has published the notice referred to in Section 30, Paragraph one of this Law;

2) the procurement contract or framework agreement has been concluded at least 10 days and additionally one business day after the day when the notice referred to in Section 30, Paragraph one of this Law has been posted on the website of the Procurement Monitoring Bureau or in the Official Journal of the European Union, where the contract price of the procurement is equal to or higher than the contract price thresholds specified by the Cabinet;

3) the prohibition specified in Section 68, Paragraph six of this Law to conclude a procurement contract or framework agreement has been complied with.

(3) In the cases referred to in Paragraph one, Clause 5 or 6 of this Section a procurement contract shall not be recognised as invalid, the provisions thereof shall not be modified or cancelled, the term thereof shall not be reduced, even though the law has been violated, if all of the following conditions are concurrently present:

1) the contracting authority has informed the tenderers in accordance with Section 37 of this Law;

2) the procurement contract concerned has been concluded in compliance with the time limit specified in Section 60, Paragraph six of this Law.

3) the prohibition specified in Section 68, Paragraph six of this Law to conclude a procurement contract has been complied with.

*[26 April 2018]*

**Section 75. Court judgment regarding a procurement contract or framework agreement**

(1) If a court establishes that a procurement contract or framework agreement has been concluded, violating the norms of this Law, and concludes that the application should be satisfied, it shall, in compliance with the conditions of this Law, by itself select one of the following types of judgment:

1) recognise the procurement contract or framework agreement as invalid from the moment of conclusion thereof;

2) modify or cancel the provisions of the procurement contract or framework agreement. When adopting such judgment, a court shall, in addition, reduce the term of the procurement contract or framework agreement;

3) reduce the term of the procurement contract or framework agreement.

(2) A court, when selecting one of the types of the judgment referred to in Paragraph one of this Section, shall not be bound by the subject-matter pf the application indicated by the applicant and the limits of the claim.

(3) A court, when selecting the type of the judgment referred to in Paragraph one, Clause 1 or 2 of this Section, shall assess, which type of the judgment is sufficiently commensurate, effective and preventive in the particular case in order to ensure that the contracting authority would not henceforth commit the violations of this Law. A court shall make the type of the judgment referred to in Paragraph one, Clause 3 of this Section only in the cases referred to in Paragraphs four and five of this Section.

(4) A court shall not make the judgment referred to in Paragraph one, Clause 1 or 2 of this Section if it is essential for the public interests to preserve the consequences caused by the procurement contract or framework agreement. Financial consequences (for example, costs due to delay of disbursement, change of the contractor, sanctions or other legal liabilities) per se shall not be deemed as sufficient grounds for not making the judgment referred to in Paragraph one, Clause 1 or 2 of this Section.

(5) Where a procurement contract or framework agreement has been concluded without complying with the time limit specified in Section 60., paragraph six of this Law, or violating the prohibition specified in Section 68, Paragraph six of this Law to conclude a procurement contract or framework agreement, and it is established that the procurement procedure until taking of the decision on determination of the winner has been performed in accordance with the requirements of this Law or the referred to decision has not affected the chances of the tenderer who has submitted an application to be awarded by the procurement contract, the court shall make the judgment referred to in Paragraph one, Clause 2 or 3 of this Section.

(6) When making any of the judgments referred to in Paragraph one, Clauses 1 and 2 of this Section, a court shall take a decision on validity of such procurement contracts, which have been concluded on the basis of the relevant framework agreement.

(7) A court shall send a transcript of the court judgment to the Procurement Monitoring Bureau and the Ministry of Finance.

*[26 April 2018]*

**Chapter XI
Compensation for losses**

**Section 76. Compensation for losses**

(1) Losses caused within the scope of administrative proceedings shall be compensated in accordance with the legal framework governing the administrative procedure and the procedure for reimbursement of losses caused by State administration authorities. Cases on compensation for losses shall be examined by the Administrative District Court under the litigation procedure, in the panel of three judges.

(2) If compensation is requested concurrently with the claim provided for in Section 73 of this Law, a court shall adjudge it, by examining the relevant application and making any of the judgments referred to in Section 75, Paragraph one of this Law. The burden of proof regarding existence of such losses and the amount of compensation shall lie with the applicant. After the day when the judgment entered into effect compensation for such losses may be requested in accordance with civil legal procedures.

(3) When submitting a complaint to the Procurement Monitoring Bureau in accordance with Section 68 of this Law, compensation for losses shall not be requested. Compensation for losses caused by the contracting authority may be requested concurrently with submitting an application to a court or addressing the contracting authority in accordance with the legal framework governing the reimbursement of losses caused by State administration authorities.

**Chapter XII
Statistical reports and administrative liability**

**Section 77. Statistical reports**

The contracting authority shall, by April 1 every year, submit statistical reports to the Procurement Monitoring Bureau under the procedure laid down by the Cabinet. The Cabinet shall prescribe the content of the statistical reports.

**Section 78. Online repository of certificates**

The contracting authority shall have recourse to online repository of certificates (e-Certis), in order to obtain information regarding the certificates and other documents to be issued by the competent authorities to the suppliers registered (permanently residing) in a member State of the European Union.

**Section 79. Administrative cooperation for ensuring exchange of information**

For the purposes of reaching the aim of this Law, the competent authorities of Latvia shall cooperate with and consult the responsible authorities of other Member States of the European Union, to obtain and clarify the necessary information regarding the documents issued by the Member States of the European Union and the content thereof.

**Chapter XIII
Other provisions**

**Section 80. Procedure for enforcement of the decision on prohibition to hold to positions of a public official**

(1) The Procurement Monitoring Bureau, within one business days after the decision in the administrative violation case has been communicated to a person subject to prohibition to hold the positions of a public official, the adopted decision shall be communicated all the authorities, where such person holds the position of a public official, as well as supreme bodies of such authorities (except in cases, when there is no supreme body or the supreme body is the Cabinet) or the owners or holders of the capital shares thereof, where the relevant authority is the capital company.

(2) After the decision in the administrative violation case, where the prohibition to hold the positions of a public official has been imposed, has taken effect, a person subject to administrative liability, shall be prohibited by the time limit set by the decision to hold such positions of a public official, whose duties include decision-taking in the field of public procurement and public and private partnership or the award of the procurement contracts, framework agreements, partnership procurement contracts or concession contracts, as well as taking relevant decisions and award relevant contract. It shall be the duty of the authority, where the referred to person holds the positions of a public official, to ensure that the person does not hold the above-mentioned positions, does not adopt the decision and does not award (conclude) the contracts.

(3) Within the business days after the information has been received that the decision in the administrative violation case, where the prohibition to hold the positions of a public official has been imposed, has taken effect, the Procurement Monitoring Bureau shall transmit this information to the authorities referred to in Paragraph one of this Section, as well as shall publish in the publication management system the name, surname of the person subject to administrative liability,, the position held by him or her at the moment of commitment of the violation and the authority, where such position was held, as well as the time period by which the enforcement of the penalty takes place. The referred to information shall be available in the publication management system till the day, when the enforcement of the penalty is terminated.

**Section 81. Application of the works contract vocabulary**

If the data of the common procurement vocabulary CPV referred to in Annex 1 to this Law differ from the NACE vocabulary, which is specified in Commission Regulation (EC) No 29/2002 of 19 December 2001 amending Council Regulation (EEC) No 3037/90 on the statistical classification of economic activities in the European Community, the relevant CPV vocabulary shall be applied.

**Section 82. List of low-tax or tax-free countries or territories not considered to be offshore**

The Procurement Monitoring Bureau shall compile and post on its website the list of those low-tax and tax-free countries and territories, which are not considered to be offshore, within the meaning of Section 1, Clause 3.1 of this Law.

*[26 April 2018]*

**Transitional provisions**

1. With the coming into force of this Law, the Public Procurement Law (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs* (Bulletin of the Parliament and of the Cabinet of the Republic of Latvia), 2006, No. 10; 2007, No. 6; 2009, No. 17; *Latvijas Vēstnesis*, 2010, No. 91; 2012, No. 24, 109; 2013, No. 129, 183, 194; 2014, No. 175, 204; 2015, No. 107, 242; 2016, No. 52, 95) is repealed.

2. Where the procurement or the procurement procedure has been announced or the decision on commencement of the procurement or the procurement procedure, if it is not required to announce the procurement or the procurement procedure, has been taken prior to the day of coming into force of this Law, then the procurement or the procurement procedure must be shall be completed, inter alia, contested or appealed, in accordance with the provision of the Law, which had been in force on the day of announcement of the relevant procurement or the procurement procedure or taking of the decision on commencement thereof, except for the provisions contained in Section 28, Paragraph two, Section 29, Section 30, Paragraph one and Section 31, Paragraph two of this Law. The concluded framework agreements shall be administered in accordance with the provisions of the Law, which had been in force on the day of announcement of the relevant procurement or the procurement procedure, as a result whereof the framework agreement has been concluded.

3. Section 39, Paragraph one of this Law shall be applied:

1) with respect to the procurement procedures carried out by the central purchasing bodies, where the estimated contract price is equal to or higher than the contract price thresholds specified by the Cabinet - starting from 18 April 2017;

2) with respect to the procurement procedures, where the estimated contract price is equal to or higher than the contract price thresholds specified by the Cabinet - starting from 1 October 2017;

3) with respect to the procurement procedures, where the estimated contract price is less than the contract price thresholds specified by the Cabinet - starting from 1 April 2018;

4) with respect to the procurements referred to in Section 9 and Section 10 of this Law - starting from 1 January 2019, in so far as not stated otherwise in Sub-clauses 5 and 6 of this Clause;

5) with respect to the procurements referred to in Section 9 and Section 10 of this Law, carried out by derived public entities and their authorities - starting from 1 October 2019;

6) with respect to the procurements referred to in Section 9 and Section 10 of this Law, carried out by legal persons subject to private law - starting from 1 July 2020.

*[20 September 2018]*

4. The Cabinet shall issue the regulations referred to in Section 44, Paragraph three of this Law by 30 April 2019.

5. Section 18, Paragraph one of this Law shall be applied from 1 June 2017.

6. The Procurement Monitoring Bureau shall publish in the publication management system information referred to in Section 80, Paragraph three of this Law regarding all decisions in the administrative violation cases in the field or public procurements and public and private partnership, where the prohibition is imposed to hold the positions of a public official, which have come into force and the enforcement whereof has not be terminated.

7. If a decision in the administrative violation case in the field or public procurements and public and private partnership, where the prohibition is imposed to hold the positions of a public official, has been communicated to a person subject to administrative liability, prior to coming into force of this Law, and it has not yet come into force, the Procurement Monitoring Bureau shall fulfil duty referred to in Section 80, Paragraph one of this Law with respect to such decision by 10 March 2017.

8. The contracting authorities shall submit the statistical reports for 2016, by applying the 1 March 2016 Cabinet Regulation No. 121 Regulations on the Templates for Official Statistical Forms in the Field of Procurement and Procedures for Submission and Completion of the Forms.

9. Amendments to Clause 23 of Section 1 of this Law shall be applied from 1 January 2019.

*[26 April 2018]*

10. The exclusion grounds of the candidates or tenderers referred to in Section 9, Paragraph eight, Clause 5 and Section 42, Paragraph one, Clause 12, 13 and 14 shall not apply to such procurements or such procurement procedures, which were commenced or announced prior to the day of coming into force of these norms.

*[26 April 2018]*

11. Amendments to this Law regarding stating Section 42, Paragraph one, Clause 1, Sub-clause "d" in the new wording shall come into force on 1 January 2019.

*[20 September 2018]*

**Informative Reference to European union Directives**

This Law contains legal norms arising from:

1) Council Directive 89/665/EC 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;

2) 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;

3) Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles;

4) Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals;

5) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC un 2006/32/EC;

6) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

The Law shall come into force on 1 March 2017.

The Law has been adopted by the Saeima on 15 December 2016.

President R. Vējonis

Riga, 29 December 2016

 Public Procurement Law
Annex 1

**Works Contract Vocabulary**

|  |  |
| --- | --- |
| Classification of Economic Activities in the European Union (NACE) | CPV code |
| Section F | CONSTRUCTION |
| Division | Group | Class | Subject | Notes |
| 45 |   |   | Construction | This division include:construction of new buildings and works, restoring and common repairs | 45000000 |
|   | 45.1 |   | Site preparation |   | 45100000 |
|   |   | 45.11 | Demolition and wrecking of buildings; earth moving | This class includes:1) demolition of buildings and other structures,2) clearing of building sites,3) earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc.,4) site preparation for extraction of mineral deposits (mining): overburden removal and other preparatory works in the sites of mineral beds and quarries.This class also includes:1) building site drainage,2) drainage of agricultural or forestry land. | 45110000 |
|   |   | 45.12 | Test drilling and boring | This class includes:test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes.This class excludes:1) drilling of production oil or gas wells,see 11.20,2) water well drilling,see 45.25,3) shaft sinking, see 45.25,4) oil and gas field exploration, geophysical, geological and seismic surveying,see 74.20 | 45120000 |
|   | 45.2 |   | Building of complete constructions or parts thereof; civil engineering |   | 45200000 |
|   |   | 45.21 | General construction of buildings and civil engineering works | This class includes:1) construction of all types of buildings construction of civil engineering constructions,2) bridges, including those for elevated highways, viaducts, tunnels and subways,3) long-distance pipelines, communication and power lines,4) urban pipelines, urban communication and power lines,5) other ancillary urban works,6) assembly and erection of prefabricated constructions on the site.This class excludes:1) service activities incidental to oil and gas extraction,see 11.20,2) erection of complete prefabricated constructions from self-manufactured parts not of concrete,see divisions 20, 26 and 28,3) construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations,see 45.23,4) building installation,see 45.3,5) building completion,see 45.4,6) architectural and engineering activities,see 74.20,7) project management for construction,see 74.20 | 45210000Except:45213316452200004523100045232000 |
|   |   | 45.22 | Erection of roof covering and frames | This class includes:1) erection of roofs,2) roof covering,3) waterproofing | 45261000 |
|   |   | 45.23 | Construction of highways,roads, airfields and sport facilities | This class includes:1) construction of highways, streets, roads, other vehicular and pedestrian ways,2) construction of railways,3) construction of airfield runways,4) construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations,5) painting of markings on road surfaces and car parks.This class excludes:preliminary earth moving,see 45.11 | 45212212 and DA0345230000Except:452310004523200045234115 |
|   |   | 45.24 | Construction of water projects | This class includes:1) construction of waterways, harbour and river works, pleasure ports (marinas), locks, etc.,2) construction of dams and dykes,3) dredging,4) subsurface works. | 45240000 |
|   |   | 45.25 | Other construction work involving special trades | This class includes:1) construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment,2) construction of foundations, including pile driving,3) water well drilling and construction, shaft sinking,4) erection of non-self-manufactured steel elements,5) steel bending,6) bricklaying and stone setting,7) scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms,8) erection of chimneys and industrial ovens.This class excludes:renting of scaffolds without erection and dismantling,see 71.32 | 4525000045262000 |
|   | 45.3 |   | Building installation |   | 45300000 |
|   |   | 45.31 | Installation of electrical wiring and fittings | This class includesinstallation in buildings or other construction projects of:1) electrical wiring and fittings,2) telecommunications systems,3) electrical heating systems,4) residential antennas and aerials,5) fire alarms,6) burglar alarm systems,7) lifts and escalators,8) lightning conductors,etc. | 4521331645310000Except:45316000 |
|   |   | 45.32 | Insulation work activities | This class includes:installation in buildings or other construction projects of thermal, sound or vibration insulation.This class excludes:waterproofing,see 45.22 | 45320000 |
|   |   | 45.33 | Plumbing | This class includes installation in buildings or other construction projects of:1) plumbing and sanitary equipment,2) gas fittings,3) heating, ventilation, refrigeration or air-conditioning equipment and ducts,4) sprinkler systems.This class excludes:installation of electrical heating systems,see 45.31 | 45330000 |
|   |   | 45.34 | Other building installation | This class includes:1) installation of illumination and signalling systems for roads, railways, airports and harbours,2) installation in buildings or other construction projects of fittings and fixtures n.e.c. | 452341154531600045340000 |
|   | 45.4 |   | Building completion |   | 45400000 |
|   |   | 45.41 | Plastering | This class includes:application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials. | 45410000 |
|   |   | 45.42 | Joinery installation | This class includes:1) installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials,2) interior completion such as ceilings, wooden wall coverings, movable partitions, etc.).This class excludes:laying of parquet and other wood floor coverings,see 45.43 | 45420000 |
|   |   | 45.43 | Floor and wall covering | This class includes laying, tiling, hanging or fitting in buildings or other construction projects of:1) ceramic, concrete or cut stone wall or floor tiles,2) parquet and other wood floor coverings carpets and linoleum floor coverings,3) floor covering of rubber or plastic,4) terrazzo, marble, granite or slate floor or wall coverings,5) wallpaper. | 45430000 |
|   |   | 45.44 | Painting and glazing | This class includes:1) interior and exterior painting of buildings,2) painting of civil engineering structures,3) installation (of glass, mirrors, etc.).This class excludes:installation of windows,see 45.42 | 45440000 |
|   |   | 45.45 | Other building completion | This class includes:1) installation of private swimming pools,2) steam cleaning, sand blasting and similar activities for building exteriors,3) other building completion and finishing work n.e.c.This class excludes:interior cleaning of buildings and other structures,see 74.70 | 45212212 and DA0445450000 |
|   | 45.5 |   | Renting of construction or demolition equipment with operator |   | 45500000 |
|   |   | 45.50 | Renting of construction or demolition equipment with operator | This class excludes:renting of construction or demolition machinery and equipment without operators, see 71.32 | 45500000 |

Public Procurement Law
Annex 2

**Social and other specific services**

|  |  |  |
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| **No.** | **Description** | **CPV code** |
| 1. | Health, social and related services | 75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 (Supply services of domestic help personnel),79624000-4 (Supply services of nursing personnel) and 79625000-1 (Supply services of medical personnel) from 85000000-9 to 85323000-9; 98133100-5, 98133000-4; 98200000-5; 98500000-8 (Private households with employed persons) and 98513000-2 to 98514000-9 (Manpower services for households, Agency staff services for households, Clerical staff services for households, Temporary staff for households, Home-help services and Domestic services) |
| 2. | Administrative social, educational, healthcare and cultural services | 85321000-5 and 85322000-2, 75000000-6 (Administration, defence and social security services),75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4 (Education and training services) to 80660000-8; from 92000000-1 to 92700000-8;79950000-8 (Exhibition, fair and congress organisation services), 79951000-5 (Seminar organisation services), 79952000-2 (Event services), 79952100-3 (Cultural event organisation services), 79953000-9 (Festival organisation services), 79954000-6 (Party organisation services), 79955000-3 (Fashion shows organisation services), 79956000-0 (Fair and exhibition organisation services) |
| 3. | Compulsory social security services | 75300000-9 |
| 4. | Benefit services | 75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1 |
| 5. | Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services | 98000000-3, 98120000-0, 98132000-7, 98133110-8, 98130000-3 |
| 6. | Religious services | 98131000-0 |
| 7. | Hotel and restaurant services | From 55100000-1 to 55410000-7; 55521000-8 to 55521200-0,55521000-8 (Catering services for private households),55521100-9 (Meals-on-wheels services), 55521200-0 (Meal delivery service), 55520000-1 (Catering services), 55522000-5 (Catering services for transport enterprises), 55523000-2 (Catering services for other enterprises or other institutions), 55524000-9 (School catering services); 55510000-8 (Canteen services), 55511000-5 (Canteen and other restricted-clientele cafeteria services), 55512000-2 (Canteen management services), 55523100-3 (School-meal services) |
| 8. | Legal services | From 79100000-5 to 79140000-7, 75231100-5 |
| 9. | Other administrative services and government services | From 75100000-7 to 75120000-3, 75123000-4, from 75125000-8 to 75131000-3, |
| 10. | Provision of services to the community | From 75200000-8 to 75231000-4 |
| 11. | Prison related services, public security and rescue services to the extent not excluded by Section 3, Paragraph one, Clause 10 of this Law | From 75231210-9 to 75231230-5, from 75240000-0 to 75252000-7, 794300000-7, 98113100-9 |
| 12. | Investigation and security services | 79700000-1 to 79721000-4 (Investigation and security services, Security services, Alarm-monitoring services, Guard services, Surveillance services, Tracing system services, Absconder-tracing services, Patrol services, Identification badge release services, Investigation services and Detective agency services) 79722000-1(Graphology services), 79723000-8 (Waste analysis services) |
| 13. | International services | 98900000-2 (Services provided by extra-territorial organisations and bodies), 98910000-5 (Services specific to international organisations and bodies) |
| 14. | Postal services | 64000000-6 (Postal and telecommunications services), 64100000-7 (Post and courier services), 64110000-0 (Postal services), 64111000-7 (Postal services related to newspapers and periodicals), 64112000-4 (Postal services related to letters), 64113000-1 (Postal services related to parcels), 64114000-8 (Post office counter services), 64115000-5 (Mailbox rental), 64116000-2 (Post-restante services),64122000-7 (Internal office mail and messenger services) |
| 15. | Miscellaneous services | 50116510-9 (Tyre-remoulding services), 71550000-8 (Blacksmith services) |