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The Saeima has approved, and the President of Latvia hereby proclaims the following law:

## Law on Public Procurement

### Chapter I. General Rules

#### Article 1. Terminology used in the law

This law contains the following terms:

- 1) **Centralised procurement institution:** A procurement institution which:
  - a) Purchases goods or services for the needs of other procurers or;
  - b) Engages in procurement procedures in the context of public construction work, delivery or service contracts, or general contracts concluded on behalf of other procurers.
- 2) **Dynamic procurement system:** A fully electronic process that is used for frequently used and widely available purchases which are in line with the client’s demands – a process that is limited in terms of time and is open to all suppliers which comply with demanded requirements and have submitted an informative bid that is in compliance with specifications.
- 3) **Electronic auction:** Use of electronic resources to indicate new values of declining prices or parts of specific offers after a full assessment of offers, thus using these resources to arrange offers in accordance with prices or the value of specific parts of the offers. Individual public construction contracts or public service contracts in which the object is intellectual work (e.g., design) shall not be the object of electronic auctions.
- 4) **Electronic resources:** Electronic communications resources that are appropriate for the storage and processing of data that have been received or sent via communications networks (including the process of digital compression), as well as for the transmission of data across electronic communications networks.
- 5) **Procurement nomenclature (CPV):** A European Union-approved nomenclature that is applied in public procurement procedures.
- 6) **Procurement procedure:** A procedure whereby a client selects suppliers and awards the right to conclude public construction, delivery or service contracts.
- 7) **Informational bid:** A bid which describes the bidder’s range of offered construction work, goods or services in a dynamic procurement system or price survey, but which creates no obligations for the bidder or client.
- 8) **Candidate:** A supplier taking part in a closed bid for tenders or negotiating procedure until such time as bid is submitted.
- 9) **Contract price:** The total cost of performing contractual obligations, without taking into account the value added tax.
- 10) **Client:** The state or local government institution, local government, other derived public person or institution thereof, or a legal entity with private rights – one which simultaneously corresponds to the following criteria:
  - a) It has been established or operates so as to provide for public needs that are not of a commercial or industrial nature;
  - b) Is subordinate to or decisively influenced by a state or local government institution, local government, other derived public person or institution thereof, or is

decisively influenced by a legal entity with private rights which is in compliance with these criteria (influence is expressed as a majority of voting rights in electing members of supervisory or executive institutions or other members of management), or else receives more than 50% of its financing from the state, a local government, another derived public person or institution thereof, or a legal entity with private rights which is in compliance with these criteria.

11) **Supplier:** A natural or legal entity or any type of combination thereof which offers construction work, delivery of goods or provision of services in the relevant market.

12) **Buyer's profile:** A publicly available Internet homepage put up by the client, one in which the client posts a preliminary informational announcement, information about further invitations for bids, information about planned purchases, concluded contracts and suspended procedures, as well as other, general information related to procurement.

13) **Bidder:** A supplier which has submitted a bid.

14) **Public construction, delivery and service contracts:** Procurement contracts which have been concluded for financial purposes and in writing among one or more clients and one or more suppliers and which have the following subject:

a) For public construction contracts – performing the construction work referred to in Appendix 1 to this law, performing the construction work together with building design, a building or any other transaction as a result of which the client receives rights to the building that has been erected in accordance with the client's specifications;

b) For public delivery contracts – purchase of products, purchase on time, leasing or leasing with purchase rights. A public delivery contract is also a contract in which the subject is delivery of products and in which an insignificant component is the installation or assembly of the product;

c) For public service contracts – services as referred to in Appendix 2 to this law. If the subject of the contract involves both products and services that are referred to in Appendix 2, then the contract is to be considered a public service contract, provided that the value of services referred to therein is, in cash terms, greater than the value of the products. If the subject of the agreement is the services that are referred to in Appendix 2 to this law, and if it also covers work that is referred to in Appendix 1 to this law and is an insignificant component of the subject of the contract, then such a contract is also seen as a public service contract.

15) **General agreement** – Agreement among one or more clients and one or more suppliers with the aim of defining and describing contracts that are to be concluded over a specific period of time, also setting out rules on the basis of which the said contracts are to be concluded (particularly with respect to price and, if necessary, the anticipated volume).

## **Article 2. The purpose of the law**

The purpose of this law is to ensure:

- 1) Transparency in procurement procedures;
- 2) Free competition among suppliers, as well as equal and honest attitude vis-à-vis suppliers;
- 3) Effective use of state and local government resources, reducing the client's risk as much as possible.

### **Article 3. Exceptions to the application of the law**

(1) The terms of this law shall not be applied if the client has concluded a contract on:

1) Purchase or lease of land, existing buildings or other real estate, or, alternatively, any other rights to such real estate, irrespective of the financial resources that are used. This exception shall not apply to financial services agreements which have to do with the purchase, lease or other obtaining of rights to real estate and which have been concluded before, after or during the conclusion of a purchase or loan agreement;

2) Establishing, improving, staging or transforming programme materials that are to be broadcast by a broadcasting organisation or on the relevant broadcasting time

3) Arbitration court services and services that are aimed at reaching agreement between parties;

4) Financial services related to monetary policy, currency exchange rate policy, management of national debt, management of reserves, or implementation of financial management policies which have to do with the emission, purchase, sale or transfer to other persons of securities or other financial instruments, including cash or capital, as well as the services of the Bank of Latvia;

5) Services rendered by natural persons in accordance with labour agreements;

6) Scientific research agreements, except research services with respect to which full payment has been made and which are used by the procurer for the procurer's own interests;

7) Building work, deliveries or services provided by an institution that has been established in support of the procurer's functions, is completely under the control or subordination of the procurer, and mostly (more than 80% in cash terms) does building work or provides deliveries or services exclusively to the procurer, and that is also considered to be a procurer in the sense of this law;

8) Services offered by another institution or person who is a procurer in terms of this law and, in accordance with relevant normative acts, has exceptional rights to provide the relevant services;

9) Purchases that satisfy requirements referred to in Articles 3, 4, 5, 6 and 7 of the law "On procurement for the needs of public service providers";

10) Service and construction concessions in accordance with the law which regulates the awarding of concessions.

(2) This law shall not be applied if contracts are concluded in accordance with other procedural rules and if the right to conclude the contracts is awarded:

1) In accordance with international agreements which, in accordance with the founding treaty of the European Communities, has been concluded by a European Union member state with one or more countries that are not member states of the European Union, the reference in the relevant contract being to construction work, deliveries or services in terms of the countries which have signed the agreement taking part in a joint project or the use of its results. The procurer shall report to the European Commission on any and all such agreements;

2) In accordance with an international agreement that relates to the placement of military forces and companies located in a member state of the European Union, or companies located in a country that is not a member state of the European Union;

3) In accordance with the special procedures of an international organisation.

(3) This law shall not be applied if the Cabinet of Ministers, in accordance with normative acts, declares a regime of confidentiality with respect to this agreement, if implementation of the agreement has to do with special protections of state secrets, or if it is necessary in support of fundamental state interests. The Cabinet of Ministers shall, in each instance, define the concept of supporting fundamental state interests.

(4) This law shall not be applied when the primary purpose of the procurement agreement is to support the procurer's public electronic communications networks, or one or more publicly available electronic communications services that are offered by the procurer. This exception shall not apply to television and radio broadcasting.

#### **Article 4. Procurement in the defence sector**

This law shall be applied to contracts in the defence sector. If necessary, the procurer shall have the right not to apply the terms of this law to contracts which are related to military goals and the object of which are products of a military nature, as referred to in a special list in accordance with Article 296 of the founding treaty of the European Communities. The Cabinet of Ministers shall take decisions on the said exceptional cases.

#### **Article 5. Exceptions to the application of procurement procedures**

The procurer shall not apply the procurement procedures referred to in this law if the sum of the contract is below LVL 70,000, and if the object of the contract is:

1) Deliveries or services which a public services provider offers in accordance with requirements referred to in Articles 3, 4, 5, 6 and 7 of the law "On procurement for the needs of public service providers";

2) Procurement of print works, electronic publications, manuscripts and other documents with the aim of supplementing the collections of libraries, or the organising of research processes at educational institutions and scientific institutions established by the state or by a university;

3) Procurement of objects with the aim of supplementing museum collections, provided that such objects are of artistic, cultural, historical, scientific or memorial value;

4) Procurement of goods and services from institutions of incarceration which use incarcerated individuals as labour, provided that such objects are procured for the need of the relevant institution itself or for another institution of incarceration;

5) Procurement by the diplomatic, consular and other representations of the Republic of Latvia or the National Armed Forces of the Republic of Latvia which are taking part in international operations, when such procurement is arranged abroad.

#### **Article 6. Contracts with more than 50% financing from the procurer**

The requirements of this law shall be applied in the concluding of contracts when:

1) More than 50% of the price of a building contract is financed directly by the procurer, and the price of the contract is equal to or greater than the limit on contract prices defined by the Cabinet of Ministers, provided that the contract relates to engineering or technical works in accordance with Appendix 1 to this law, or to the

construction of sports, medical or recreational facilities, including hospitals, schools, universities and administrative buildings;

2) More than 50% of the price of a building contract is financed directly by the procurer, and the price of the contract is equal to or greater than the limit on contract prices defined by the Cabinet of Ministers, provided that the contract has to do with a construction agreement, as referred to in the first part of this article.

#### **Article 7. Other projects financed by the procurer**

Where the procurer finances projects that are not referred to in Article 6 of this law, making use of its own financing or co-financing from the European Union's policy instruments or national co-financing, procurement procedures, application thereof, and individuals who apply the said procedures shall be defined by the Cabinet of Ministers.

#### **Article 8. Types of procurement procedures and application of same**

(1) There are the following kinds of procurement procedures:

- 1) Open bid for tenders;
- 2) Closed bid for tenders;
- 3) Price survey;
- 4) Negotiating procedure;
- 5) Blueprint competition.

(2) This law shall be applied to procurement procedures where the price of the procurement contract is LVL 10,000 or higher.

(3) An open or closed bid for tenders shall be applied if the price of the contract or of the service contract referred to in Section A of Appendix 2 to this law is LVL 50,000 or higher; in the case of public construction contracts, the price of the contract must be LVL 120,000 or higher.

(4) A price survey shall be applied if the price of the contract or of the service contract referred to in Section A of Appendix 2 to this law is LVL 10,000 or higher, but lower than LVL 50,000; in the case of a public construction contract, the price of the contract must be higher than LVL 10,000, but lower than LVL 120,000.

(5) Negotiating procedures shall be applied in those cases that are referred to in Article 62 and 63 of this law, provided that the price of a public procurement contract or a service or construction contract referred to in Section A of Appendix 2 to this law is LVL 10,000 or higher.

(6) A blueprint competition shall be implemented when conditions referred to in Article X of this law prevail.

(7) Where a contract is concluded with respect to services referred to in Section B of Appendix 2 to this law, and where the anticipated contract price is higher than LVL 50,000, the procurer can decline to apply the procurement procedures referred to in this law, excepting the requirements referred to in Article 17 and 27 of this law.

(8) Where the object of the contract is a service referred to in Section A and Section B of Appendix 2 to this law, the procurer shall apply the procurement procedures referred to in this law, provided that the contract price for services referred to in Section A of Appendix 2 of this law exceeds the contract price for services referred to in Section B of the same appendix. Where the contract price of services referred to in Section B of Appendix 2 to this law exceeds the price of services

referred to in Section A of the appendix, the procurer shall apply the requirements referred to in the seventh section of this article.

(9) Where the anticipated contract price in a procurement process is lower than the contract price referred to in the second section of this article but is higher than LVL 1,000, the procurer shall, at least five days before the procurement itself, publish the relevant information on its Internet homepage. Where the procurer does not have an Internet homepage, the announcement shall be published in the local newspaper, stating the object of the procurement contract and the anticipated contract price. No later than five days after a decision has been taken on concluding a contract, the procurer shall publish on its Internet homepage or, where no such homepage exists, in the local newspaper an announcement with information about the procured object, the signer of the relevant contract, and the contract price. Terms referred to in this section of the law do not apply to those cases when the procurer is engaging in the procurement procedures referred to in Article 3, 4, 5 or 8.7 of this law.

(10) Procedures related to procurements of the type referred to in the ninth section of this article shall be specified by the Cabinet of Ministers.

#### **Article 9. Specification of the anticipated contract price**

(1) The anticipated contract price shall be defined so as to determine the necessary type of procurement.

(2) The anticipated contract price is equal to the total sum that the procurer plans to pay in return for implementation of the relevant contract. In planning the total sum, the procurer shall take any and all opportunities or choice and any and all possible appendices to the contract into account.

(3) The anticipated contract price shall be specified before the announcement of the contract is disseminated or, where no such announcement is necessary, before the relevant procurement procedure is begun.

(4) Construction projects, deliveries and services may not be split up into sections with the aim of avoiding the relevant procurement procedure. In defining the anticipated contract price, no method shall be applied that is aimed at ignoring the procurement procedures that are defined by law.

(5) In a public construction agreement, the anticipated contract price is the total value of all construction work and buildings, including the contract price for those deliveries and services that are needed so as to implement the public construction contract and which the procurer plans to handle or submit to the relevant construction company. The procurer shall not include in the anticipated contract price of a public construction contract the anticipated contract price of such deliveries and services which are not necessary to implement the specific public construction agreement if this would mean avoiding the application of the requirements of this law to the relevant delivery or service contracts. The procedure for defining the anticipated contract price in a construction contract shall be defined by the Cabinet of Ministers.

(6) If a possible public construction or service contract can be divided into parts, with a separate contract being concluded for each part, the anticipated contract price shall be the total sum of all of the parts. The procurer shall apply the requirements of this law to each part if the total sum of all of the parts is equal to or higher than the limits on contract prices that are referred to in Article 8 of this law. Where a part has a contract price that is lower than the contract price limits set by the

Cabinet of Ministers, the procurer shall have the right to apply a procurement procedure which applies to the anticipated contract price of the said part, if the proportion of the said part in the total contract price is lower than 20 percent of the total anticipated contract price of all of the parts.

(7) If there are plans to purchase similar products while simultaneously concluding several public procurement contracts so that they are contracts referring to parts of the products, then the anticipated contract price shall be defined as the total sum of all of the parts. The procurer shall apply the requirements of this law to each part if the total sum of all of the parts is equal to or higher than the limits on contract prices that are referred to in Article 8 of this law. Where a part has a contract price that is lower than the contract price limits set by the Cabinet of Ministers, the procurer shall have the right to apply a procurement procedure which applies to the anticipated contract price of the said part in accordance with Article 8 of this law, if the proportion of the said part in the total contract price is lower than 20 percent of the total anticipated contract price of all of the parts.

(8) The anticipated contract price of public delivery contracts which speak to lease, lease with purchase rights or payment over time shall be defined as possible:

1) For contracts with a specific period during which they are in effect:

a) If the period is 12 months or less – as the total contract price during the term in effect of the contract;

b) If the period is longer than 12 months – as the total contract price during the term in effect of the contract, taking the remaining value into account.

2) For contracts without a specific period during which they are in effect and for contracts in which the said period cannot be defined – as the anticipated monthly payment multiplied by 48.

(9) If regular public delivery or service contracts are concluded or if the term of a contract is extended for a specific period of time, then the anticipated contract price shall be defined as follows:

1) As the total and real value of successive contracts of an identical kind that have been concluded during the previous 12 months or during the previous fiscal year, taking into account possible changes in volumes and value over the subsequent 12 months;

2) As the total anticipated value of successive contracts that are to be concluded in the subsequent 12 months after the first delivery or in the subsequent fiscal year (if it is longer than 12 months).

(10) The anticipated contract price for services shall be defined as follows:

1) For insurance services – as the total sum of insurance premiums that are to be paid and other forms of compensation that are to be paid;

2) For bank and other financial services – as the total sum of service fees, commission fees, interest payments and other forms of compensation

3) For public service contracts which relate to construction or the design of modelling of architectural or construction buildings – as the total sum of services, commission fees and other forms of compensation.

(11) Where the total contract price for a public service contract has not been defined, the anticipated contract price shall be defined as follows:

1) For contracts with a specific term of implementation of 48 months or less – as the total contract price during the term in effect of the said contract;

2) For contracts with no specific term or for a term that exceeds 48 months – the anticipated monthly fee, multiplied by 48.

(12) With respect to a general agreement or a dynamic procurement system, the anticipated contract price shall be the total contract price of all anticipated contracts to be concluded during the general agreement or the dynamic procurement system.

#### **Article 10. Limits on contract prices**

Limits on contract prices as referred to in Articles 6, 9.6, 9.7, 25.1.1., 25.1.2, 25.1.3, 28.1., 28.3, 29.2, 29.3, 29.4, 29.5, 29.6, 87.1.a, and 87.1.b shall be defined by the Cabinet of Ministers, which shall act on the basis of international requirements defined by the European Union in relation to limits on contract prices that must be observed by the procurer. The Cabinet of Ministers shall set the said limits on contract prices at least once every two years, doing so within one month's time after the European Commission has announced the limits on contract prices in the Official Herald of the European Union.

#### **Article 11. General requirements for the supplier**

(1) The procurer shall not reject any candidate, bidder or participant in a blueprint competition if, in accordance with the norms of the Republic of Latvia, the said candidate, bidder or participant does not have a specific legal status but at the same time does have the right to engage in construction work, to deliver products or to deliver services in accordance with the laws of that European Union member state in which it has been established. The procurer also shall not limit participation in procurement procedures by making reference to a country's territory or a segment thereof.

(2) Where public construction or service contract is to be concluded or where the public delivery contract includes the installation of the relevant product, the procurer may demand that bidders or candidates for participation in the procurement procedure state the persons who shall be responsible for implementing the terms of the contract, as well as the professional qualifications of the said persons.

(3) Alliances of suppliers can submit bids or apply as candidates. The procurer shall have no right to demand that the said alliances organise a specific legal status so as to submit a bid for tenders or to become a candidate for participation in the procurement procedures. At the same time, however, the procurer may require that an alliance with which a contract is to be concluded establish itself in accordance with a specific legal status if this is necessary for the implementation of the terms of the relevant contract.

(4) A supplier which has taken part in a previous phase of the relevant procurement project or in the drafting of procurement procedure documents shall not have the right to take part in the next phases of the same project or in the relevant procurement procedure if the aforementioned circumstances afford any advantages to the supplier in the procurement procedure, thus limiting competition. Phases in a procurement project are several successive procurements which ensure one and the same final result.

(5) Where a procurer has determined that the circumstances referred to in the fourth section of this article prevail, the procurer shall allow a potential candidate or bidder to provide evidence to the effect that there are no circumstances which might afford any advantages to the candidate or bidder, thus limiting competition. The procurer shall not reject the candidate or bidder before the said evidence is provided.



## **Article 12. Confidentiality**

(1) The procurer shall have the right to define rules related to the protection of information that has been delivered to suppliers along with technical specifications, as well as during procurement procedures.

(2) When announcing the conclusion of a contract and providing information to candidates and bidders, the procurer shall have no right to disclose information which has been entrusted to the procurer as a commercial secret or as confidential information by other suppliers.

(3) Limitations on the availability of information in accordance with the first and second part of this article shall not apply to information that is universally available in accordance with the requirements referred to in this law or in other normative acts.

## **Article 13. Requirements related to World Trade Organisation rules concerning state contracts**

When the procurer receives deliveries from the member states of the European Union, terms related to the deliveries shall be at least as favourable as terms applied to suppliers from third party countries (countries that are not member states of the European Union) to which the rules of the World Trade Organisation with respect to state contracts apply.

## **Article 14. Privileged contracts**

(1) Where the subject of an anticipated contract permits this, the procurer shall have the right to reserve the right to take part in procurement procedures for only those candidates or bidders which mostly (more than 50% of the average number of employees per year) employ differently abled persons who cannot be employed under normal circumstances.

(2) When the terms referred to in the first section of this article are applied, the procurer shall make reference to this article in the announcement of the relevant contract.

## **Article 15. Awarding special or exceptional rights to a subject that is not the procurer**

Where the procurer awards special or exceptional rights in terms of implementing public service processes to a subject that is not considered to be the procurer, the procurer shall specify that when delivery contracts are concluded with third persons, the said subject shall observe the ban on discrimination based on the country of origin.

## **Article 16. Procurement by centralised procurement institutions**

(1) The procurer may purchase goods and services from a centralised procurement institution or receive construction work, deliveries or services with its involvement.

(2) Where the procurer purchases construction work, goods or services from a centralised procurement institution or with its involvement, it shall be considered that it has applied the requirements of this law, provided that the centralised procurement institution, in making the relevant purchases or organising the relevant procurement procedures, has applied the requirements of this law.

(3) The procurer may decline to apply the requirements of this law where the procurement is conducted by a centralised procurement institution that is located in another European Union member states and, in dealing with the relevant procurement, applies the requirements of norms which correspond to European Union law in the area of public procurement.

## **Chapter II. Requirements Concerning Technical Specifications and Procurement Procedure Documents**

### **Article 17. Technical specifications**

(1) Technical specifications shall be included in procurement procedure documents. Technical specifications shall ensure equal opportunities for all bidders and shall not set out any unjustified limitations on competition in procurement procedures.

(2) Technical specifications for public construction contracts shall be defined as a set of technical descriptions which define the procurer's requirements vis-à-vis materials, products, technologies or objects and which describe the materials, products, technologies or objects in such a fashion as to ensure that when they are obtained, they are in accordance with the anticipated goals of the procurer. The said descriptions shall cover environmental protection rules, design requirements (including requirements related to access by differently abled persons), conformity assessment and performance requirements, security rules, quality assessment systems, terminology, sizes, symbols, inspection requirements and methods, packaging, marking, and manufacturing processes and methods. Technical specifications shall also make reference to inspections of the performance of work, the acceptance of results, requirements vis-à-vis the methods and technologies of the construction work, and any and all other technical requirements which the procurer has applied to construction work, the building, or the materials and objects that are to be used in the building. The amount of construction work shall be determined in accordance with the technical design and shall be referred to in the list of construction work volumes.

(3) In technical specifications for public delivery and service contracts, requirements shall be stated with respect to the said deliveries and services. For public service agreements, there shall also be a definition of the goal of the services, the methods and resources that are to be applied (if necessary), and the final result. In technical specifications for public delivery and service agreements, there shall also be inclusion of technical descriptions which describe the procurement's requirements vis-à-vis the goods or services in terms of quality levels, requirements related to environmental protection, construction requirements (including those related to access by differently abled individuals), performance requirements, product use requirements, security requirements, size, terminology, symbols, inspection rules and methods, requirements related to the name under which the product is sold, packaging and marking, user instructions, manufacturing processes and methods, and methods used to determine conformity.

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

1) With reference made to the technical specifications referred to in the second and third parts of this article and to standards, listing these in the following order: European standards and European technical confirmations adapted to the status of a Latvian national standard, general technical specifications, other international standards, as well as other systems of technical reference that have been established by Europe's standardisation institutions. Where no such standards exist, the following order shall be observed: Latvian national standards, national technical confirmations, or national technical specifications. In each reference, the words "or the equivalent" shall be included;

2) When specifying functional requirements or operating requirements, environmental protection requirements may also be included. The said requirements shall be formulated precisely so that the bidder can define the subject of the contract an the procurer can compare bids;

3) When specifying functional requirements or operating requirements in accordance with the second part of this section and making reference to specifications referred to in the first part of this section so as to ensure conformity with functional or operating requirements;

4) When making reference to specifications in accordance with the first part of this section, but specifying other requirements as functional or operating requirements in accordance with the second part of this section;

(5) Where a procurer prepares technical specifications in accordance with the terms referred to in the first part of the fourth section of this article, the procurer shall not reject a bid because offered goods or services are not in line with the standards or technical specifications referred to in the reference, provided that the bidder can present manufacturer's documents or confirmation of test results as provided by a competent institutions, thus proving that the bid is equivalent and would satisfy the procurer's requirements, as defined in the technical specification.

(6) Where a procurer prepares technical specifications and defines functional or operating requirements, the procurer shall not reject bids which are in line with European standards and European technical confirmations adapted to the status of a Latvian national standard, general technical specifications, other international standards, other systems of technical reference that have been established by Europe's standardisation institutions, Latvia's national standards or other systems of technical references, if these standards, technical specifications and systems of reference set out the same functional or operating requirements that have been defined by the procurer. In that case the bidder shall offer manufacturer's documents or confirmation of test results as provided by a competent institutions, thus proving that the offered construction work, goods or services which are in line with the aforementioned standards would satisfy the procurer's functional and operating requirements.

(7) Where a procurer defines environmental protection requirements as functional or operating requirements in accordance with the second part of the fourth section of this article, the procurer shall be allowed to apply detailed specifications, as defined by European multinational or any other ecological marking or specification or part thereof, provided that:

1) The said specifications are sufficient to describe the goods or services that are the object of the anticipated contract;

2) Requirements for the ecological marking have been prepared on the basis of scientific information;

3) The ecological marking has been approved through the application of procedures in which all interested organisations may take part – government institutions, consumers, manufacturers, distributors and environmental organisations;

4) Specifications defined by ecological markings shall be made available to all interested parties.

(8) In applying the terms referred to in the seventh section of this article, the procurer may indicate that it will assume that products or services with ecological markings are in line with the requirements contained in the relevant technical specifications and procedural documents. The procurer shall accept manufacturer's documents or confirmation of test results issued by a competent institution as proof of conformity.

(9) Technical specifications shall be prepared in cognisance of the requirement that access for differently abled persons be ensured if that is necessary in the specific project.

(10) Unless it is of decisive information in the existence of the subject of the contract, the technical specifications shall not include specific statements concerning place of origin, special processes, brand names, patents or specific types of products which create advantages or reasons for rejection for specific suppliers or products. In exceptional cases, such indications may be included if it is impossible to prepare a sufficiently precise and clear description of the subject of the contract in accordance with the fourth and fifth section of this article. In this case, references shall be stated along with the words "or the equivalent."

#### **Article 18. Availability of technical specifications**

(1) At the request of interested suppliers, the procurer shall issue to them the technical specifications which are regularly used for public construction work, delivery or supply contracts, or the specifications that are to be applied to contracts with respect to which a previous informational announcement has been made.

(2) Where technical specifications have been prepared on the basis of documents that are available to the interested supplier, the procurer shall make reference to the said documents, as well.

#### **Article 19. Options for bids**

(1) If the criterion for selecting a bid is that the economically most advantageous bid is to be accepted, the procurer may provide for a system in which various versions of bids can be submitted.

(2) In the announcement of the contract, the procurer shall state whether it is possible to submit various versions of bids. Without such a statement, versions shall not be submitted.

(3) In procurement procedure documents, the procurer shall define the minimum level of requirements of versions and the specific requirements for indicating versions in the bid that is submitted.

(4) The procurer shall review only those versions of bids which are in line with the defined minimal level of requirements.

(5) Where procurement procedures involve the conclusion of a public delivery or service agreement and the procurer has allowed the submission of versions of bids in accordance with the second section of this article, the procurer shall not reject a version of a bid just because a public service agreement is to be concluded in

place of a public delivery agreement or a public delivery agreement is to be concluded in place of a public service agreement.

#### **Article 20. Contracts with subcontractors**

(1) In procurement procedure documents, the procurer may demand that all bidders state in their tenders those parts of the contract which shall be assigned to subcontractors. The procurer may also demand that all subcontractors be stated.

(2) In the case of public construction contracts, subcontractors shall not be assigned more than 70% of the total amount of construction work that is to be done.

#### **Article 21. Requirements concerning the implementation of the contract**

The procurer shall have the right to implement special requirements in terms of implementing the terms of the contract, primarily in relation to social conditions or environmental protection requirements, keeping in mind the requirement that these requirements must not be in violation of European Union law and that they are referred to in the relevant technical specifications or contract announcement.

### **Chapter III. Procurement Commissions**

#### **Article 22. Establishment of a procurement commission**

(1) In terms of procurement procedures referred to in the first, second, third and fourth parts of the first section of Article 8 of this law, the procurer shall establish a procurement commission. A procurement commission shall be established separately for each procurement, for a specific period of time, or as a permanent institution.

(2) When establishing a procurement commission, the procurer shall ensure that members of the commission are competent in that area of procurement in which the contract is to be concluded. In carrying out its duties, the procurement commission shall have the right to ask for the help of relevant experts.

(3) The procurement commission that is established by a procurer shall have at least three members. If the contract price in a procurement project is anticipated to be higher than LVL 500,000, the procurer shall establish a procurement commission with no fewer than five members.

#### **Article 23. Basic principles for the operations of a procurement commission**

(1) Members of procurement commissions and their invited experts shall not represent the interests of a candidate or an bidder, nor shall they have any links to a candidate or bidder. In the sense of this article, a commission member or expert is said to be linked to a candidate or bidder if the said member or expert is:

1) An existing or former employee, official, participant, shareholder or member of the legal entity that is the candidate, the bidder or the subcontractor, if the relationship with the legal entity has ended during the previous 24 months;

2) The father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or married partner of a shareholder with at least 10% of shares, participant or official in the legal entity that is the candidate, bidder or subcontractor (hereafter referred to as relative);

3) A relative of a natural person who is a candidate, bidder or subcontractor.

(2) The relationship between a commission member or expert with a candidate or bidder shall also apply to cases in which the candidate or bidder is an alliance of individuals whose participants are natural or legal persons with whom a commission member or expert has links as referred to in the first, second and third parts of the first section of this article.

(3) Procurement commission members and experts shall sign a document to confirm that there is no reason to believe that they have an interest in the selection or operations of a specific candidate or bidder or that they are linked to the said candidate or bidder in accordance with the terms referred to in the first section of this article.

(4) The procurement commission shall ensure the drafting of procurement procedure documents, shall take minutes with reference to the procurement process, and shall be responsible for the procurement procedure.

(5) The procurement commission shall select candidates and evaluate applications and their submitted bids, doing so in accordance with this law, the relevant procurement procedure documents, and all other relevant normative acts. Decisions taken by a procurement commission shall be obligatory for the procurer if a procurement contract is concluded.

(6) The chairman of the procurement commission shall organise and direct the work of the commission, specifying the time, place and agenda for commission meetings, and summoning and chairing the meetings of the relevant commission.

#### **Article 24. Decision making procedures for procurement commissions**

(1) A procurement commission shall take decisions at meetings. A procurement commission shall have decision making rights if at least two-thirds of commission members and no fewer than three members are taking part in the decision making process. A procurement commission shall take decisions by simple majority vote. Where votes are divided equally, the vote of the commission chairperson shall be decisive.

(2) Where the criterion for selecting a bid is the determination of the most economically advantageous bid, each member of the procurement commission shall assess the bid individually and in accordance with all of the criteria for evaluation referred to in the procurement procedure documents. The bid which is most economically advantageous shall be the bid which has been given the highest assessment by individual members of the procurement commission.

### **Chapter IV. Requirements Concerning Proclamation and Transparency**

#### **Article 25. Preliminary informational announcements**

(1) At least once pre year, procurers shall publish preliminary informational announcements in accordance with the requirements referred to in Article 28 of this law. Alternatively, the said announcements may be published in the buyer's profile. Publication of the said announcement is mandatory if the procurer makes use of reduced deadlines for submission of bids in accordance with Article 28.9 of this law, except for cases in which a negotiating procedure is applied with no preliminary announcement of the contract. The following information shall be indicated in preliminary informational announcements:

1) For public procurement contracts – the anticipated price of the contracts or general agreements which the procurer plans to conclude over the next 12 years with reference to a specific group of products [as referred to in common procurement vocabulary (CPV)], provided that the anticipated contract price of these contracts and general agreements is equal to or higher than the limits set by the Cabinet of Ministers with respect to contract prices;

2) For public service contracts – the anticipated price of the contracts or general agreements which the procurer plans to conclude over the next 12 months with reference to a specific category of services as defined in Section A of Appendix 2 to this contract, provided that the anticipated contract price of these contracts and general agreements is equal to or higher than the limits set by the Cabinet of Ministers with respect to contract prices;

3) For public construction agreements – a general description of the contractors or general agreements which the procurer plans to conclude over the next 12 months, provided that the anticipated contract price of these contracts and general agreements is equal to or higher than the limits set by the Cabinet of Ministers with respect to contract prices.

(2) With respect to public delivery and service agreements, the procurer shall publish a preliminary informational announcement in accordance with the requirements referred to in Article 28 of this law, or, alternatively, publish the said announcement in the buyer's profile immediately after the approval of the budget for the relevant year.

(3) With respect to public construction agreements, the procurer shall publish a preliminary informational announcement in accordance with the requirements referred to in Article 28 of this law, or, alternatively, publish the said announcement in the buyer's profile as soon as possible after a decision has been taken on the need to implement a procurement procedure or to conclude a public construction contract or general agreement.

(4) A procurer which has published a preliminary informational announcement in a buyer's profile shall submit to the Procurement Monitoring Board an announcement of the buyer's profile in accordance with Article 28 of this law.

## **Article 26. Announcement of a contract and simplified announcement of a contract**

(1) Where the procurer is implementing an open or closed bid for tenders, a price survey (in the case referred to in Article 59 of this law), or a negotiating procedure (excepting the terms referred to in Article 63 of the law), an announcement of the contract shall be published.

(2) Where the procurer is establishing a dynamic procurement system, the procurer shall publish an announcement of the contract. Within the context of a dynamic procurement system the procurer shall, when announcing a bid for tenders, publish a simplified announcement of the contract.

## **Article 27. Announcements of procurement procedure announcements**

(1) No later than 48 days after a decision has been taken on concluding a contract or a general agreement, the relevant procurer shall submit for publication an announcement of the results of the relevant procurement procedure. This requirement

shall not apply to contracts that are concluded within the context of a general agreement.

(2) When a decision is taken in the context of a dynamic procurement system, the procurer shall submit information about procurement procedure results vis-à-vis each separate contract, doing so within 48 days' time after the decision is taken. The procurer may merge announcements about procurement procedure results in a single quarter of a single year. Such merged announcements of procurement procedure results shall be submitted for publication within 48 days' time after the end of each quarter.

(3) Where the object of the contract is the provision of services as referred to in Section B of Appendix 2 to this law, the procurer shall, in the announcement of the procurement procedure results, state whether it agrees to the publication of the announcement.

### **Article 28. Publication of announcements**

(1) Forms which must be filled out so as to make the announcement referred to in the first and fourth section of Article 25 of this law have been defined by European Commission Regulation No. 1564/2005 of September 7, 2005. The regulation defines standard forms to be filled out for the publication of announcements in the context of procurement procedures, taking into account European Parliament and Council Directives 2004/17/EC and 2004/18/EC (hereafter – Regulation (EC) No. 1564/2005). Forms which must be filled out so as to make the announcement referred to in Article 58.1, 59.1 and 60.5 shall be approved by the Cabinet of Ministers. Forms which must be filled out so as to make the announcement referred to in Article 26, 27.1, 75 and 79.6 have been defined by Regulation (EC) No. 1564/2005 if the anticipated contract price for public construction, delivery or service agreements is equal to or higher than the limit on contract prices that has been defined by the Cabinet of Ministers. Where the anticipated contract price is lower than the limit on contract prices that has been defined by the Cabinet of Ministers, the forms that must be filled out to make the announcements referred to in Article 26, 27.1, 75 and 79.6 shall be approved by the Cabinet of Ministers.

(2) The announcement referred to in the first section of this article shall be submitted by the procurer to the Procurement Monitoring Bureau for the purpose of publication. The Procurement Monitoring Bureau shall, within three business days' time after the announcement referred to in the first section of this article, check its conformity to the requirements of this law and then post it on the Internet homepage of the Procurement Monitoring Bureau.

(3) Where the anticipated contract price is equal to or higher than the limits on contract prices that have been defined by the Cabinet of Ministers, the Procurement Monitoring Bureau shall send the announcements for publication in the Official Herald of the European Union while simultaneously posting them on the Procurement Monitoring Bureau's Internet homepage.

(4) Where publication of information about a contract or general agreement might hinder the implementation of the law, hinder competition among suppliers, or harm the justified public or private commercial interests of suppliers, the said information need not be published.

(5) The procurer shall have the right to publish announcements in the Official Herald of the European Union and post them on the Internet homepage of the



Procurement Monitoring Bureau even if this law does not oblige the procurer to publish the said announcements.

#### **Article 29. Deadlines for submitting applications or bids**

(1) In setting deadlines for the submitting of applications or bids, the procurer shall take into account the complexity of the contract, the amount of time that is necessary to prepare a bid, and the limitations on deadlines that are referred to in this law.

(2) In an open bid for tenders, the deadline for submitting bids may not be shorter than 52 days after the announcement of the contract has been published on the Internet homepage of the Procurement Monitoring Bureau, provided that the anticipated contract price for public construction, delivery or service contracts is equal to or higher than the limit on contract prices which has been defined by the Cabinet of Ministers. After the announcement of the contract has been published on the Internet homepage of the Procurement Monitoring Bureau, the deadline for submitting bids may not be shorter than 30 days if the anticipated contract price for public construction, delivery or service contracts is lower than the limit on contract prices which has been defined by the Cabinet of Ministers.

(3) The procurer may amend documents related to procurement procedures if that does not significantly change technical specifications or other requirements. Where procurement procedure documents are amended and one-half of the period of time referred to in the second section of this article or a longer period of time has expired, the deadline for submitting bids shall not be shorter than 26 days after the repeat announcement of a contract has been published on the Internet homepage of the Procurement Monitoring Bureau, provided that the anticipated contract price for public construction, delivery or service contracts is equal to or higher than the limit on contract prices which has been defined by the Cabinet of Ministers. Where the anticipated contract price for public construction, delivery or service contracts is lower than the limit on contract prices which has been defined by the Cabinet of Ministers, the deadline for submitting bids shall not be shorter than 15 days after the day when the announcement of the contract has been published on the Internet homepage of the Procurement Monitoring Bureau.

(4) In a negotiating procedure with preliminary publication of an announcement of the contract, and in a closed bid for tenders, the deadline for submitting bids after the announcement of the contract has been published on the Internet homepage of the Procurement Monitoring Bureau may not be shorter than 37 days, provided that the anticipated contract price for public construction, delivery or service contracts is equal to or higher than the limit on contract prices which has been defined by the Cabinet of Ministers. Where the anticipated contract price for public construction, delivery or service contracts is lower than the limit on contract prices which has been defined by the Cabinet of Ministers, the deadline for submitting bids shall not be shorter than 25 days after the day when the announcement of the contract has been published on the Internet homepage of the Procurement Monitoring Bureau.

(5) The procurer may amend documents related to procurement procedures if that does not significantly change technical specifications or other requirements. Where procurement procedure documents are amended and one-half of the period of time referred to in the fourth section of this article or a longer period of time has expired, the deadline for submitting bids shall not be shorter than 21 days after the repeat announcement of a contract has been published on the Internet homepage of

the Procurement Monitoring Bureau, provided that the anticipated contract price for public construction, delivery or service contracts is equal to or higher than the limit on contract prices which has been defined by the Cabinet of Ministers. Where the anticipated contract price for public construction, delivery or service contracts is lower than the limit on contract prices which has been defined by the Cabinet of Ministers, the deadline for submitting bids shall not be shorter than 13 days after the day when the announcement of the contract has been published on the Internet homepage of the Procurement Monitoring Bureau.

(6) In a closed bid for tenders, the deadline for submitting bids after an invitation to submit bids has been sent to the selected bidders may not be shorter than 40 days, provided that the anticipated contract price for public construction, delivery or service contracts is equal to or higher than the limit on contract prices which has been defined by the Cabinet of Ministers. Where the anticipated contract price for public construction, delivery or service contracts is lower than the limit on contract prices which has been defined by the Cabinet of Ministers, the deadline for submitting bids shall not be shorter than 25 days after the day when the invitations have been sent out.

(7) The procurer may change the indicated deadline for submitting applications and bids by publishing the same announcement which was initially published with respect to information about submitting applications or bids. The extension of the deadline shall not be considered to be an amendment of procurement procedure documents in terms of the requirements referred to in the third and fifth section of this article.

(8) Where a procurer has published a preliminary informational announcement, the minimum deadline for submitting bids in an open or closed bid for tenders shall be 36 days after the day when the relevant announcement of an open bid for tenders has been published on the Internet homepage of the Procurement Monitoring Bureau or the invitation to submit bids has been sent to candidates in a closed bid for tenders. In emergency situations which have occurred for reasons that are independent of the procurer, the minimum deadline shall be after 22 days. In that case, the procurer shall preserve all documents which explain the shortening of the term for submission.

(9) The minimum deadline for submitting bids which is referred to in the eight section of this article may be specified if the preliminary informational announcement contains all of the information that is to be included in the said announcement, insofar as it has been available at the moment of publication, as well as if the preliminary informational announcement has been published on the Internet homepage of the Procurement Monitoring Bureau no less than 52 days and no more than 12 months before the day when the contract announcement has been published on the Internet homepage of the Procurement Monitoring Bureau.

(10) Where an announcement of a contract is prepared and sent to the Official Herald of the European Union electronically and through the use of the system whereby the Official Herald of the European Union receives electronic documents, the deadline for submitting bids in an open bid for tenders as defined in the first sentence of the second section of this article and in the eight section of this article and the deadline for submitting bids in a closed bid for tenders or negotiating procedure, as defined in the first sentence of the fourth section of this article, may be reduced by seven days.

(11) Where a procurer ensures free and direct electronic access to procurement procedure documents and all necessary supplementary documents, the

deadline for submitting bids as referred to in the first sentence of the second and the first sentence of the sixth section of this article may be reduced by five days. In the announcement, the procurer shall state the Internet address at which the relevant information can be viewed. The reduction in the deadline that is referred to in this section of this article may be added to the reduction in deadline that is referred to in the tenth section of this article.

(12) If, for any reason, technical specifications, other documents or additional information is requested but not released during the term referred to in Article 30 of this law, if bids can be prepared only after the location at which the terms of the contract are to be implemented has been inspected, or if bids can be prepared only after an on-site review of additional procurement procedure documents, the procurer shall extend the deadline for submitting bids so that suppliers can learn all of the information that is needed to prepare a bid.

(13) If a procurer makes use of the negotiating procedure with preliminary publication of a contract announcement, or if the procurer makes use of a closed bid for bids and, for absolute reasons, cannot implement the deadlines that are referred to in this article, then the procurer may specify:

1) A deadline for submitting bids which must not be shorter than 15 days after the date upon which the contract announcement has been sent to the Official Herald of the European Union or published on the Internet homepage of the Procurement Monitoring Bureau;

2) A deadline for submitting bids in a closed bid for tenders which must not be shorter than 10 days after the date after an invitation to submit bids has been sent to the selected candidates.

### **Article 30. Release of procurement procedure documents**

(1) Where the procurer does not ensure free and direct electronic access to procurement procedure documents and all additional necessary documents, the procurer shall send these to interested suppliers within three business days after the said documents are received, keeping in mind the requirement that the request for documents has been submitted in a timely way in advance of the deadline for submitting bids. The procurer shall, however, make it possible for interested suppliers to study the procurement procedure documents on site, beginning on the day on which the relevant procurement procedure has been announced.

(2) Where an interested supplier has requested additional information in a timely way, the procurer shall release the said information on later than six days before the deadline for submitting bids. Where a candidate has requested additional information in a timely way in a closed bid for tenders or sped-up procedure in accordance with Article 29.13 of this law, the procurer shall release the information on later than four days before the deadline for submitting bids.

### **Article 31. Invitations to submit bids or take part in negotiations**

(1) In the case of a negotiating procedure with preliminary publication of a contract announcement, or in the case of a closed bid for tenders, the procurement shall simultaneously issue written invitations to all selected candidates to submit bids or to take part in negotiations.

(2) In the said invitation, the procurer shall state the volume of procurement, the technical specifications and other necessary documents, or the Internet address at

which the documents are available, provided that the procurer has ensured free and direct electronic access to the procurement procedure documents and all other necessary documents.

(3) An invitation to submit bids or to take part in negotiations shall include, at the minimum, the following information:

- 1) Reference to the published contract announcement;
- 2) The deadline for submitting bids, the address to which bids are to be sent, and the language or languages in which bids are to be submitted; in the case of a negotiating procedure – information, too, about the time and place of the initial negotiations;
- 3) In the case of a closed bid for tenders – requirements for preparing and submitting the bid, the form for financial bids, the date on which bids will be opened, the time and place where the bids shall be opened, as well as information about guaranteeing the bid, if such rules are in place, and the form of the guarantee;
- 4) The term in effect of the bid;
- 5) On the basis of requirements referred to in Article 41 and 42 of this law – reference to any additional documents that must be submitted to supplement guarantees in accordance with Article 37 of the law or to submit documents which contain the information referred to in this article;
- 6) In the case of a bid that is the most economically advantageous bid – evaluation criteria and the ranking and proportion of criteria in terms of importance;
- 7) A draft procurement contract and other necessary information about the object of the procurement.

### **Article 32. The procedure for informing candidates and bidders of the results**

(1) Within three business days, the procurer shall release simultaneous information to all candidates or bidders with respect to decisions that have been taken in selecting candidates, concluding a contract or general agreement, or inclusion in the dynamic procurement system. This information shall be released no later than the announcement submitted for publication with respect to procurement procedure results. The procurer shall announce the names of selected candidates, the selected bidder or the selected participants of a general agreement, or else the procurer shall state all of the reasons why a decision on a winner has not been taken, the procurement procedure is being suspended, or the dynamic procurement system is not being established.

(2) Within three business days after a motivated request to this effect is received, the procurer shall release information:

- 1) To a rejected candidate, stating the reason why the candidate was rejected;
- 2) To an bidder, stating the reason why the bid was rejected; where the case relates to the requirements referred to in Article 17.5 and 17.6, the procurer shall explain the decision that there is a lack of conformity with the equivalent or that the bid is not in conformity with functional or operational requirements;
- 3) To an bidder which has submitted an appropriate bid, characterising the selected bid and its conditional advantages;

(4) The procurer may decide not to disclose information that is referred to in the first section of this article if disclosure would harm the public interest, violate the lawful commercial interests of the supplier, or violate the rules of honest competition.

### **Article 33. Exchange of information**

(1) Information between the procurer and the suppliers shall be disseminated via post, fax, electronic means (in accordance with requirements referred to in the fifth and sixth section of this article), or telephone (in accordance with requirements referred to in the first and second part of the eighth section of this article), depending on the procurer's choice.

(2) The procurer shall select resources for exchange of information that are universally available so as not to hinder the ability of the supplier to access procurement procedures. The procurer shall select one of the methods for sending documents that is referred to in this law, choosing the one which will ensure that the addressee receives the information as quickly as possible.

(3) Exchange and storage of information shall be handled so as to ensure that all data included in bids and applications are protected and so that the procurer can inspect the content of bids and offers only after the deadline for their submission has expired.

(4) Between the time when bids or applications are submitted and the time when they are opened, the procurer shall disclose no information about the existence of other bids or offers. Between the time when bids or applications are evaluated and the time when results are announced, the procurer shall disclose no information about the evaluation procedure.

(5) Where electronic resources are used for the exchange of information, resources shall be selected which are publicly accessible and compatible with universally used information and communications technologies, thus preventing any discrimination against some suppliers on this basis.

(6) Electronic equipment that is used to receive and disseminate bids and applications shall be in compliance with the requirements referred to in Article 34 of this law.

(7) Where bids or applications are submitted electronically, candidates or bidders shall also submit the certificates, guarantees and other documents referred to in Article 39, 40, 41, 42, 43 and 44, doing so before the deadline for submitting bids and applications, provided that the said documents are not available in electronic form.

(8) The following requirements shall be observed in sending applications:

1) Applications for participation in procurement procedures may be sent in writing or announced by telephone;

2) Where the application is announced by telephone, written confirmation shall be submitted before the deadline for submitting applications;

3) The procurer may demand that applications that are sent by fax are confirmed by mail or electronically if this is necessary for them to take legal force (or to be used as legal evidence). The procurer shall include any such requirement, along with the deadline for submitting confirmation, in the contract announcement.

#### **Article 34. Requirements for receiving electronic documents**

When making use of electronic equipment with which bids and applications, as well as plans and designs, are received in procurement procedures, the following requirements shall be observed:

1) All interested suppliers shall have access to information about specifications that apply to the electronic submission of bids and applications;

- 2) The electronic signature shall be used in accordance with the requirements referred to in the law on electronic documents;
- 3) It shall be possible to determine, precisely, the date and time when bids and applications, as well as plans and designs, are to be submitted;
- 4) The procurer shall ensure that no one has access to information that has been submitted before the deadline has expired;
- 5) It must be possible to discover any violation of the requirements referred to in the fourth section of this article;
- 6) Only authorised individuals shall have the right to specify or change the time when received documents are to be opened;
- 7) During various phases in a procurement procedure, access to documents or parts thereof shall be possible after authorised individuals simultaneously conduct relevant activities;
- 8) Access to submitted documents shall be possible only on a specific date after authorised individuals simultaneously conduct relevant activities;
- 9) Access to submitted and opened documents shall be preserved only for those authorised persons for whom such access has been permitted.

### **Article 35. Documentation and reporting in procurement procedures**

(1) The procurer shall ensure full documentation of each phase of a procurement procedure, also documenting a procurement procedure which is being implemented through the use of electronic resources.

(2) A procurement procedure report is a report which reflects the implementation of the procurement procedure. The said report shall be prepared with respect to each procurement procedure after a decision on the results of the said procedure has been taken.

(3) Protocols which reflect the various phases of the procurement procedures, the aforementioned reports, and documents related to the procurement procedure (except for bids) – these shall all be freely available.

(4) A report on a procurement procedure shall, at the minimum, include the following information:

1) The name and address of the procurer, the procurement identification number, as well as the object of the contract, general agreement or dynamic procurement system;

2) The date upon which the relevant contract announcement was published on the Internet homepage of the Procurement Monitoring Bureau. If a price survey is used – a statement as to whether an informational announcement about the price survey has been published;

3) Membership of the procurement commission and an explanation of why the specific commission members were selected;

4) Defined requirements related to the qualifications of candidates or bidders, the criteria for selecting the winning bid, as well as evaluation criteria and their ranking and proportional importance in the decision making system if the criterion for selection has been the bid that is of greatest economic advantage.

5) The deadline for submitting bids and applications;

6) The name of individuals who applied for candidate selection in a closed bid for tenders or negotiating procedure;

7) The place, date and time for opening bids and proposals;

8) The name of the bidder (bidders) with which the procurement contract is to be concluded, the price of the contract, a summary of the evaluation of bids, and an explanation of why the specific bid was accepted if the criterion for selection has been the bid that is of the greatest economic advantage;

9) The names of those persons who have been selected in accordance with candidate selection requirements and have been invited to submit bids, along with an explanation of how these decisions were made;

10) Information (if known) about the section of the contract or general agreement which the selected supplier plans to transfer to subcontractors;

11) An explanation of the decision on rejected candidates or bidders and of those bids that have been found to be not in compliance with the procurement procedure documents;

12) An explanation if the procurer has decided to suspend the procurement procedure;

13) An explanation of the rejection of a bid if the procurer has declared the bid to be unacceptably low;

14) Where a negotiating procedure is used – an explanation of why the procedure has been selected, bearing in mind the requirements referred to in Article 62 and 63 of this law.

(5) The procurer shall prepare the said report no later than on the day when the announcement of the results of the procurement procedure is released. The report shall, upon request, be released within two business days.

(6) The procurer shall submit the report to the European Commission if the Commission so requests.

### **Article 36. Storage of procurement procedure documents**

The procurer shall store the originals of all documents referred to in Article 35.3 of this law, as well as all originals of bids, doing so for 10 years after the procurement contract has been concluded, the general agreement has been concluded, or the dynamic procurement system has been established.

## **Chapter V. Selection of candidates, bidders and bids**

### **Article 37. Selection of candidates and bidders, conformity inspection and selection of bids**

(1) The procurer shall select candidates and bidders in accordance with the qualification requirements defined in Article 40, 41, 42, 43 and 44 of this law, examine the conformity of the bid to the requirements defined in procurement documents, and choose the bid or bids in accordance with the defined selection criteria.

(2) The procurer may define a minimum level of conformity in accordance with the requirements referred to in Article 41 and 42 of this law. The extent of requirements and the required minimum level of capacity in implementing the specific contract shall be defined so that it is commensurate with the object of the contract. These minimal conformity requirements shall be included in the announcement of the contract (if the relevant form provides for such a statement) and in procurement procedure documents.

(3) Reports and other documents which, in instances defined in this law, are released by competent institutions shall be received and recognised by the procurer if they have been released no more than six months before the date of submission.

(4) The procurer shall have the right to inspect the necessary information through the services of a competent institution, a publicly accessible database or any other publicly accessible source. Where the procurer has obtained information in this way, the relevant candidate or bidder shall have the right to submit a report or other document with respect to the relevant fact if the procurer's information is not in line with the actual situation.

(5) Where the procurer has reason to question the authenticity of a submitted copy of a document, the procurer shall demand that the candidate or bidder present the original document or submit a notarised copy of the document.

(6) Where the negotiating procedure is applied with preliminary announcement of the contract or where a closed bid for tenders is applied, the procurer shall be allowed to predetermine the number of candidates who will be invited to take part in negotiations or to submit a bid, provided that the necessary number of candidates is available. In the contract announcement (if the relevant form provides for the recording of such information) and in the procurement procedure documents, the procurer shall state objective and non-discriminatory criteria or rules that are to be applied, as well as the minimum and, if necessary, maximum number of candidates who are to be invited.

(7) Where the terms referred to in the sixth section of this article are applied in a closed bid for tenders, the procurer shall invite at least five candidates to take part. Where a negotiating procedure is applied with preliminary announcement of the contract, the procurer shall invite at least three candidates to take part. In any event, a sufficient number of candidates must be selected so as to ensure competition.

(8) Where the requirements of the sixth and seventh section of this article are applied, the procurer shall invite a specific number of candidates – a number that must not be lower than the number that has been stated in the announcement of the contract. If there are fewer candidates who conform to qualification requirements and abilities than had been expected, the procurer may invite other candidates who do satisfy the requirements. The procurer may decline to invite suppliers who have not submitted applications or who are not in line with requirements.

### **Article 38. Ending of procurement procedures**

(1) The procurer shall decide to end a procurement procedure if no bids or applications have been submitted, if all submitted bids are not in compliance with requirements defined in the procurement procedure documents, or if all candidates are not in compliance with qualification requirements.

(2) The procurer may suspend the procurement procedure at any time with objective cause. The procurer shall public an announcement of the results of the procurement procedure in accordance with the requirements referred to in Article 28 of this law. The procurer shall also send an explanation of the suspension to the Procurement Monitoring Bureau and to all candidates or bidders. In the said explanation, the procurer shall explain the reasons for why the procedure was suspended.

### **Article 39. Requirements for excluding candidates and bidders**



(1) A procurer shall exclude a candidate or bidder from further participation in a procurement procedure and shall refuse to consider the said bidder's bid if:

1) The candidate or bidder has, by court ruling, been found to be guilty of participating in a criminal organisation, in corruption, in financial fraud, or in money laundering;

2) The candidate or bidder has been declared to be insolvent, its economic activities have been suspended or ended, or legal procedures have begun on the candidate's or bidder's bankruptcy;

3) The candidate or bidder has debts related to taxes or mandatory social contributions in Latvia or in the country in which the candidate or bidder has been registered;

4) Via a valid court ruling or a conclusion drawn by another competent institution, the candidate or bidder has been found to have violated key normative acts which regulate the relevant sector, to have violated key requirements related to environmental protection, competition and labour law, or has been found to have violated professional rules at any time during the three years which succeed the date upon which the bid or application has been submitted;

5) The candidate or bidder has filed false information with respect to its qualifications or has not submitted the required information at all.

(2) Where sanation has been ordered as a part of an insolvency process, the procurer shall evaluate relevant economic risks and the object of the contract, after which the procurer may decide not to exclude the relevant candidate or bidder from the procurement procedure.

(3) Requirements referred to in the first part of the first section of this article may apply to the candidate or bidder, as well as to natural and legal persons, including persons with right of representation and persons who have right of decision making and supervision with respect to the relevant candidate or bidder.

(4) In order to assess a candidate or bidder in accordance with the second and third part of the first section of this article, the procurer may demand:

1) A report from a competent institution to confirm that the candidate or bidder has not been declared to be insolvent, is not under a process of liquidation, and has not had its economic operations suspended or ended;

2) A report from the State Revenue Service or another tax administration institution in Latvia, or an equivalent tax administration institution in another country in which the bidder is registered, the aim being to confirm that the bidder does not owe any taxes or mandatory social insurance contributions.

(5) Where the procurer has information to suggest that the candidate or bidder has engaged in violations referred to in the first and fourth part of the first section of this article, the procurer shall exclude the relevant candidate or bidder from further participation in the procurement procedure, but doing so exclusively on the basis of a court ruling that has taken force or of a document that has been issued by a competent institution in the relevant country.

(6) Where there are documents with which a supplier can prove that the circumstances referred to in the first section of this article do not apply to the said supplier, where the said documents are not released, or where the said documents are insufficient to prove that the circumstances referred to in the first section of this article do not apply to the said supplier, the said documents may be replaced with an oath or, if the norms of the relevant country do not provide for an oath, a confirmation

from the supplier to executive authorities, courts, sworn notaries or competent organisations in the relevant sector in the country of origin of the supplier.

#### **Article 40. Conformity with professional requirements**

(1) Bidders shall be registered, licensed or certified in accordance with the requirements referred to in the normative acts of the relevant country.

(2) The procurer may demand evidence to show that a supplier which wishes to take part in a procurement procedure, is registered in the Commercial Register (or equivalent register in another country) or in a professional register, or that the supplier is a member of a specific organisation. The procurer may also demand evidence to show that the relevant supplier or other persons involved in the specific procurement procedure have a license, certificate, patent or other document which authorises the handling of specific construction work, the sale or leasing of specific goods, or the provision of specific services, where the need for such documents is specified in relevant normative acts.

#### **Article 41. Economic and financial status**

(1) A supplier may prove that its economic and financial status is in conformity with stated requirements primarily by submitting the following documents:

1) Confirmation from credit institutions or, if necessary, evidence issued by a relevant professional risk insurance company;

2) A financial report or extract from same;

3) A report on overall financial turnover or, of necessary, financial turnover that has to do with a specific procurement, but covering no more than the three previous years;

(2) A procurer may specify the minimum average financial turnover of the supplier during the course of a year or the minimum average financial turnover of the supplier in relation to a specific procurement during the period of the supplier's operations, but not for more than the three previous years. The procurer shall declare a minimum sum that does not exceed the offered contract price by more than three times.

(3) The supplier may base its thinking on the capacities of other companies if this is necessary for implementation of the terms of the specific contract and irrespective of the legal nature of the existing relationship. In this case, the supplier shall prove to the procurer that it will have access to the necessary resources, submitting as evidence confirmation from the relevant companies or an agreement with the relevant companies on co-operation in the implementation of the terms of the relevant contract.

(4) In an announcement of a contract (if the relevant form provides for such information), in an invitation to submit bids, and in all documents related to the procurement procedure, the procurer shall specify those documents from among those which are referred to in the first section of this article and those other documents which shall be necessary.

(5) If, with cause, the supplier cannot submit the documents requested by the procurer, the supplier shall have the right to prove its economic or financial status with any other documents, provided that the procurer considers these to be adequate.

## **Article 42. Technical and professional abilities**

(1) The supplier's technical and professional abilities shall be assessed and inspected in accordance with the requirements referred to in the second and third section of this article.

(2) The supplier's technical and professional abilities with respect to the nature, quantity and importance of the construction work, deliveries or services can be confirmed via:

1) Information about construction work that has been done before, attaching reports and references about the performance of the most important duties and covering no more than the previous five years. Such reports shall include information about the size of the construction projects, the types of buildings that were erected, the place and date of the work that was done, and the issue of whether all work was done and completed in accordance with the relevant normative acts. Where necessary, the procurer of the construction work shall submit the said information directly to the procurer;

2) Information about key deliveries or services over no more than the previous three years, stating sums, times and recipients (public or private entities). Such a report shall include references from buyers or confirmations from suppliers;

3) Information about technical personnel and institutions which are responsible for quality control. If construction work is to be done – information about technical personnel or institutions that will be involved in the construction work;

4) Descriptions of the technical equipment and resources to be used by the supplier of products or services so as to ensure quality.

5) An inspection that is conducted by the procurer or, in the procurer's name, by a competent institution in the relevant country, provided that the goods or services that are to be delivered are of a complicated nature or are meant for specific purposes. The said inspection shall apply to the supplier's manufacturing capacities, to the service provider's technical abilities and, if necessary, to quality control steps that are being taken;

6) Documents which confirm the education or professional qualifications of senior personnel at the relevant construction company or service provider, particularly with reference to individuals who are responsible for managing the construction work or providing the services;

7) For public construction and service contracts – a description of steps that are to be taken in order to satisfy environmental protection requirements, making reference only to those steps of which the supplier is capable in implementing the terms of the contract;

8) Information about the average number of employees of the construction company or service provider over the course of a year and about the number of management personnel over the previous three years;

9) Information about instruments, equipment and technologies that will be available to the construction company or service provider so as to implement the terms of the contract;

10) A statement of that part of the contract which the construction company or service provider intends to transfer to subcontractors;

11) With respect to goods that are to be delivered;

a) Samples, descriptions and photographs, the authenticity of which are to be proven on demand by the procurer;

b) Certificates from recognised quality control institutions to confirm that the goods are in compliance with defined technical specifications or standards;

(3) The supplier may base its thinking on the capacities of other companies if that is necessary in implementing the terms of the specific contract, irrespective of the legal nature of relations with the other companies. In that case the supplier shall prove to the procurer that it will have access to the necessary resources, submitting from the relevant companies confirmation or agreement to the fact that the necessary resources will be at the disposal of the supplier.

(4) Information about which evidence referred to in the second part of this article is to be submitted by the bidder shall be indicated by the procurer in the announcement of the contract or, if the relevant form does not provide for such information, in the relevant procurement procedure documents.

#### **Article 43. Standards for ensuring quality**

If the procurer demands that there be a tested quality system related to the supplier, then this refers to quality assurance systems which are in line with specific European certification standards and which have been certified by institutions which are in line with European certification standards. The procurer shall recognise equivalent certificates that have been issued by institutions in other European Union member states, and the procurer shall also accept all other evidence delivered by the supplier with respect to steps that have been taken to ensure quality.

#### **Article 44. Environmental management standards**

A bidder may prove its ability to handle the obligations referred to in Article 42.2.7 by:

1) Registering with the Environmental Management and Audit System (EMAS);

2) Receiving a certificate from a competent institution in Latvia or another European Union member state so as to prove the bidder's conformity with European or international environmental management system standards;

3) Receiving a comparable evaluation of the extent to which its operations are in conformity with environmental protection requirements which, in Latvia, is in line with the environmental management systems referred to in the first or second section of this article.

#### **Article 45. Additional documents and information**

The procurer may ask the supplier or the relevant competent institution to supplement or explain certificates and documents that have been submitted in accordance with the requirements referred to in Article 39, 40, 41, 42, 43 and 44 of this law. In evaluating bids, the procurer may also require samples of goods.

#### **Article 46. Criteria for selecting a bid**

(1) In comparing and assessing bids, the procurer shall select one of the following criteria:

1) The bid which is economically most advantage, one in which considered factors include the deadline for delivery or implementation of the terms of the

contract, usage costs and other costs, effectiveness of costs, the quality of construction work, goods or services, aesthetic and functional considerations, observance of environmental requirements, technical advantages, availability of spare parts, security of deliveries, price, and other factors related to the object of the contract, also taking into account the average social contribution per employee;

2) The bid with the lowest price.

(2) Where the procurer selects the bid that is of greatest economic advantage, the procurer shall, in the announcement of the contract or in the procurement procedure documents, state all of the assessment criteria, arranging them in order of importance, the proportion of each criterion's importance, and the algorithm for making the selection in accordance with the relevant criteria. The procurer shall also inform bidders that if there are two equally acceptable bids, the winning bid will be selected in accordance with the requirements referred to in Article 49 of this law. The numerical values attached to criteria may be stated in a specific range.

#### **Article 47. Use of electronic auctions**

(1) Where technical specifications for an open or closed bid for tenders or for a negotiating procedure with preliminary publication of an announcement of the contract can be defined very precisely, the procurer may decide that before selecting the winning bid, an electronic auction may be used. An electronic auction may also be organised before the selection of the winning bid in the context of a general agreement in compliance with the requirements referred to in Article 65.7 of this law, or before the selection of the winning bid in the context of a dynamic procurement system in compliance with the requirements referred to in Article 66 of this law.

(2) The object of an electronic auction may be:

1) The price or, alternatively the price plus the new value of the characterisation referred to in technical specifications, where the criterion for selecting the winning bid is the bid that is of greatest economic advantage;

2) Only price, if the criterion for selecting the winning bid is just the lowest bid.

(3) Where a decision has been taken to organise an electronic auction, the procurer shall so state in the announcement of the contract.

(4) Where an electronic auction is being organised, the procurement procedure documents shall, in addition to other information, contain reference to the following:

1) A description of the objects of the electronic auction if the description is measurable and the values can be expressed in numbers or percentages;

2) Any limits on values (which can be submitted and changed), taking into account the technical specifications of the subject of the agreement;

3) Information that will be submitted to applicants during the auction and, if possible, the time when this information is to be released;

4) All necessary information with respect to the way in which the electronic auction is to be organised;

5) Requirements which applicants must obey in the electronic auction, especially with reference to minimum increases in bid sums, if that proves to be necessary;

6) Necessary information about the electronic systems that are to be used, as well as the specifications and organisation of the connection.

(5) Before the electronic auction is started, the procurer shall conduct a full evaluation of initial bids, doing so in accordance with the defined criterion for selecting the winning bid.

(6) The procurer shall simultaneously invite all applicants which have submitted appropriate bids to submit new prices or prices and values electronically. The invitation shall include all necessary information about the electronic equipment that is to be used for an auction with individual connections, also specifying the date and time at which the electronic auction will begin. The electronic auction can be held in several successive phases. The electronic auction shall not be started sooner than two business days after the invitation to take part in the auction has been distributed.

(7) If the aim is to select the bid that is of greatest economic advantage, the invitation shall be accompanied by a statement about the way in which bids are evaluated. The invitation shall include the mathematic formula or algorithm that is to be used in the electronic auction, defining the conditional values of all of the criteria and making a clear statement of what, given the initially defined proportion of criteria, will determine the redistribution of rankings on the basis of newly submitted values and prices or just prices. If versions of bids have been permitted, then a separate formula shall be defined for each version.

(4) During any phase in the electronic auction, the procurer shall constantly issue information to all bidders so that they may, with certainty and at any point, determine their relative ranking in the process. The procurer may also submit information about other proposed prices or values if procurement procedure documents permit this. The procurer may also, at any time, announce the number of participants in the auction during any specific phase of the auction. The procurer shall not, however, have any right to disclose the identity of the said participants.

(9) The procurer shall bring an electronic auction to a close (and in compliance with one or more conditions):

1) On the date and at the time that has been specified in the invitation to take part in the auction;

2) After the last bid has been received if the amount of time since the invitation to take part has expired and new bids have not been submitted during this period;

3) If all of the auction phases cited in the invitation have been completed.

(10) Where a procurer wishes to bring an auction to an end in compliance with the requirements referred to in the second and third parts of the ninth section of this article, then the procurer must state the time for each phase of the auction in the invitation to take part in the auction.

(11) Upon completion of the electronic auction, the procurer shall make use of the results of the auction so as to select a bid in accordance with the criteria that have been defined in advance.

(12) No procurer shall make use of an electronic auction so as to limit competition or to avoid competition, or to change the object of procurement that has been defined in the announcement of the contract and in the procurement procedure documents.

#### **Article 48. An unjustifiably low bid**

(1) Where the bid related to a specific public construction, delivery or service agreement is unjustifiably low, the procurer shall, before the possible rejection of the bid, file a written request for detailed explanations of the key aspects of the bid.

(2) This detailed explanation may, specifically, refer to:

1) The cost of manufacturing processes, construction methods or services that are to be provided;

2) The technological solutions that have been selected, pointing to particularly advantageous conditions for construction work, delivery of goods or services that are available to the bidder;

3) The properties and originality of the proposed construction work, goods or services;

4) Labour protection rules and the conformity of working conditions to the place where construction work is done or goods or services are provided;

5) The ability of the bidder to receive support for commercial operations.

(3) The procurer, in consultation with the bidder, shall evaluate all of the factors referred to in the second section of this article.

(4) Where the procurer finds that a bid is unjustifiably low because the applicant has received government aid, the bid may be rejected after consultations with the bidder simply because the bidder cannot, in a sensible period defined by the procurer, prove that the received aid has been lawful. If the procurer rejects a bid for this reason, then it shall inform the European Commission and Procurement Monitoring Bureau to the effect that the bid has been rejected, explaining the reason for the rejection.

#### **Article 49. Evaluation of bids when there are two equal bids**

(1) Where a procurer finds before the taking the decision to conclude a procurement agreement that two or more bidders have submitted equal bids, the procurer shall choose the one bid in which the average social contributions paid per employee over the last six months by the employer have been the highest.

(2) Where the terms referred to in the first section of this article are to be implemented, the procurer shall demand from all bidders information about the average social contributions paid per employee over the last six months and about the number of employees.

### **Chapter VI. Open and Closed Bids for Tender**

#### **Article 50. An open and a closed bid for tenders**

(1) An open bid for tenders is a procurement procedure in which all interested suppliers have the right to submit bids. Where a procurer chooses a dynamic procurement system, the requirements referred to in Article 66 of this law shall be observed.

(2) A closed bid for tenders is a procurement procedure in which all interested suppliers may ask for the right to take part, but bids may only be submitted by those candidates who are invited to do so by the procurer.

#### **Article 51. Rules for open bids for tender and for selecting candidates**

(1) Before an announcement of a contract is published, rules for an open bid for tenders must be prepared. These rules must include:

1) General information:

a) The procurement's identification number, including the procurer's full name or abbreviation (the first capital letters), the year and the number of the round, in increasing succession;

b) The procurer's name, address and other information;

c) Information about the location, date, time and procedure for submitting and opening bids;

d) Information about how long the offer will be valid;

e) Guarantees for the bid, if necessary, and information about the type of guarantee;

f) Requirements vis-à-vis the preparation and submitting of bids, the type of financial bid that is to be made, and the language or languages in which the bid must be submitted;

g) Other information;

2) Information about the object of procurement:

a) A description of the procurement object and its size;

b) Technical specifications;

c) The time and place for fulfilling the terms of the contract;

d) Other information about the procurement object;

3) Requirements on the basis of Article 39 of this law, as well as information which must be submitted so that the bidder can be evaluated in accordance with the said article;

4) Requirements vis-à-vis the ability of the bidder to do the professional work, the economic and financial status of the bidder, the technical and professional abilities, the requirements referred to in Article 43 and 44 of this law, as well as the information that must be submitted so that the bidder can be evaluated in accordance with the said articles;

5) Criteria for selecting and evaluating bids in accordance with the requirements referred to in Article 46 of this law, as well as instructions to say whether the bidder may submit versions of the bid in accordance with the requirements referred to in Article 19 of this law;

6) A draft version of the procurement contract.

(2) Before an announcement of a contract is published, the procurer shall prepare rules for the selection of candidates for a closed bid for tenders. These rules shall include:

1) The procurer's name address and other information;

2) The procurement's identification number;

3) The object of the procurement;

4) Information about the location, date, time and procedure for submitting and opening bids;

5) Requirements on the basis of Article 39 of this law, as well as information which must be submitted so that the bidder can be evaluated in accordance with the said article;

6) Requirements vis-à-vis the ability of the bidder to do the professional work, the economic and financial status of the bidder, the technical and professional abilities, the requirements referred to in Article 43 and 44 of this law, as well as the information that must be submitted so that the bidder can be evaluated in accordance with the said articles;



- 7) Information about the methodology for evaluating candidates if the terms referred to in Article 37.6 of this law are applied;
- 8) Other information about selecting candidates.

#### **Article 52. Guarantees of bids**

(1) A guarantee of a bid is a guarantee that is stated in the procurement procedure documents, or a comparable assurance of a specific sum which the bidder offers together with the bid so as to guarantee that the bid is valid.

(2) The procurer may demand guarantees of bids from bidders if the following requirements are observed:

- 1) The request must apply to all bidders equally and without exception;
- 2) Procurement procedure documents must contain instructions as to the terms for guaranteeing bids, along with information about those institutions or organisations which can offer guarantees of the relevant bid.

(3) The guarantee of a bid shall remain in force until one of the following deadlines, depending on which one comes first:

- 1) Until the expiration of the deadline as referred to in the procurement procedure documents, setting that deadline from the date on which bids are opened, or any extension in the term of validity of the bid which has been submitted in writing to the procurer by the bidder of the issuer of the guarantee;

- 2) If the procurer has declared a bidder to have won in the procurement procedure – until the day when the selected bidder submits the guarantee for the contract (if the procurement procedure documents and contract speak to such a guarantee). The guarantee of the contract is a form of strengthening the contractual obligations that are set out in the contract between the procurer and the bidder that has been selected in the bid for tenders;

- 3) Until the procurement contract is concluded.

(4) The institution or organisation which issues the guarantee shall pay the guarantee sum of the bid to the procurer if:

- 1) The bidder withdraws the bid while the guarantee remains in effect;
- 2) The selected bidder has not submitted the contract guarantee to the procurer in accordance with the terms of the relevant contract;
- 3) The selected bidder has not signed the contract during the term indicated by the procurer.

(5) The bid guarantee shall not exceed five percent of the anticipated contract price. The size and type of contract guarantees must be commensurate to the contract price and contract object of the relevant procurement procedure.

#### **Article 53. Opening of bids in a closed bid for tenders**

(1) At the time and place that is stated in the rules for candidate selection, the procurer shall organise the opening of bids. The opening of bids shall be an open procedure.

(2) Bids shall be opened in the order that they were received. After the bid is opened, the procurer states the candidate and the date and time when the bid was submitted.

#### **Article 54. Selection of candidates in a close bid for tenders**

After the deadline for submitting bids, the procurer shall select candidates in accordance with the qualification requirements referred to in the rules of the candidate selection process, and in accordance with the methodology of the system for evaluating clients if the terms referred to in Article 37.6 of this law are applied.

**Article 55: Meetings of interested suppliers, submission of bids and opening of bids in an open and closed bid for tenders**

(1) Where the procurer has planned to organise a meeting of interested suppliers, the invitation to take part in an open or closed bid for tenders shall include information about when and where the meeting will take place. The meeting shall take place no more than 10 business days before bids are opened. The procurer shall distribute additional information and answer questions posed at the meeting.

(2) In the rules for an open bid for tenders or the invitation to take part in a closed bid for tenders, the supplier shall, at the indicated place and time, submit the bid and the guarantee of the bid (if that is provided for). The bid and guarantee shall be prepared in accordance with prevailing requirements.

(3) If, with respect to the object of procurement or any component thereof, it is necessary to preserve commercial secrets, the supplier shall so state in the relevant bid.

(4) The procurer shall open submitted bids immediately after the expiration of the deadline for submitting bids, as stated in the rules of an open bid for tenders, or at the time and place that is stated in an invitation to take part in a closed bid for tenders. The procurer shall organise a meeting to open the bids. The opening of bids shall be an open process.

(5) Bids shall be opened in the order that they were received, stating each time the bidder, the time when the bid was submitted, the price that is offered, and other information to describe the bid. Should a participant in the meeting so request, the procurer shall present the financial bid in which, in accordance with the required form for making a financial offer, the offered price is stated.

**Article 56. Evaluation of bids, taking of decisions and opening of tender results in an open or closed bid for tenders**

(1) In an open bid for tenders, the procurer shall select bidders in accordance with stated qualifications requirements. The procurer shall check to make sure that all bids are in accordance with requirements referred to in the rules for an open bid for tenders, then selecting the bid or bids in accordance with the stated criteria for assessing bids.

(2) In a closed bid for tenders, the procurer shall ascertain that bids are in accordance with the requirements referred to in the invitation to take part in a closed bid for tenders, then selecting the bid or bids in accordance with the stated criteria for assessing bids.

(3) As bids are being examined, the procurer shall check to make sure that there are no arithmetical errors in the bid. Where such errors are found, the procurer shall fix the errors. The procurer shall inform the bidder in whose bid the errors were discovered of the errors and of the fact that they have been fixed. In assessing the financial bid, the procurer shall take the amended figures into account.

(4) Where, in accordance with the rules for an open bid for tenders or an invitation to take part in a closed bid for tenders, the object of procurement is divided

up into parts, the procurer shall take the decision to conclude a procurement contract for each part separately. The procurer may send out announcements of the results of the procurement procedure separately for each part.

(5) Where a selected bidder refuses to conclude the procurement contract with the procurer, the procurer shall decide to conclude the contract with the next bidder which offered the next lowest price or the next most advantageous bid in economic terms. Alternatively, the procurer may decide to suspend the bid for tenders without selecting any bid. Where the decision is taken to conclude the contract with the next bidder which offered the next lowest price or the next most advantageous bid in economic terms, but where the next bidder also declines to conclude the contract, the procurer shall take the decision to suspend the bid for tenders without selecting any bid.

## **Chapter VII. Price surveys and negotiating procedures**

### **Article 57. Making use of price surveys**

(1) A price survey is a procurement procedure in which all interested suppliers have the right to submit bids, with the lowest-priced bid being selected.

(2) A procurer shall make use of a price survey where the circumstances referred to in Article 8.4 of this law are in effect. When using a price survey, the criterion in bid selection shall be the bid in which the lowest price is offered. If it proves impossible to make objective judgments about the procurement after the criterion of selecting the bid with the lowest price is defined, the procurer shall then organize an open or closed bid for tenders.

(3) In selecting the bid with the lowest price, the procurer shall make use of such indicators of price as costs after the expiration of the guarantee deadline, costs of delivery and installation, costs of training personnel, and other costs which apply to a period not longer than four years. Indicators for specifying the price shall be stated in the announcement of the contract or in the invitation.

### **Article 58. Price surveys after information has been published about same**

(1) At least once per year, the procurer shall publish information about price surveys, stating therein construction contracts, groups of products and categories of services and, if possible, the volume of same with respect to which suppliers may submit bids over the next 12 months when submitting informational bids in a price survey. The procurer shall publish this informational announcement in accordance with the requirements referred to in Article 28 of this law.

(2) For those suppliers which have submitted an informational bid with respect to the relevant construction contract, group of products or category of services, the procurer shall send out an invitation to submit a bid for the anticipated public construction, delivery or service contract, doing so in accordance with requirements referred to in the invitation.

(3) In the invitation, the procurer shall state the volume of procurement, the technical specifications, the form that must be filled out in submitting a technical and financial bid, the indicators for specifying price in accordance with the requirements referred to in Article 57.3 of this law, and, if necessary, other requirements, as well.

(4) The procurer shall send out this invitation no sooner than 20 business days after the informational announcement about the relevant construction contract,

product group or service category has been published on the Internet homepage of the Procurement Monitoring Bureau.

(5) The deadline for submitting bids shall be set at a date that is at least 10 business days away from the date upon which the invitation was sent out.

(6) Bidders shall submit their bids within the term that is stated in the invitation.

(7) Where the procurer has not published an informational announcement about the price survey, or where the deadline referred to in the fourth section of this article has not expired, or where no supplier has submitted an informational bid about the relevant construction contract, product group or service category, a price survey shall be applied to the necessary procurement, doing so in accordance with the requirements referred to in Article 59 of this law.

#### **Article 59. Price surveys after no information announcement about same has been published**

(1) The procurer shall publish an announcement of the contract, doing so in accordance with the requirements referred to in Article 28 of this law.

(2) In the said announcement, the procurer shall state where and when technical specifications, forms that must be filled out for technical and financial bids, and other information, if necessary, can be received.

(3) The deadline for submitting bids shall be set at a date which is no sooner than 15 business days after the date upon which the announcement was published on the Internet homepage of the Procurement Monitoring Bureau.

(4) Bidders shall submit their bids within the term that is stated in the announcement of the contract.

#### **Article 60. Decisions on price survey results**

(1) The procurer shall check to make sure that each bid is in accordance with technical specifications and other requirements, if any, then selecting the bid with the lowest price, taking into account pre-defined indicators for determining price.

(2) The procurer shall conclude a contract with the selected bidder, unless the requirements referred to in Article 39 with respect to the exclusion of bidders prevail, and only if the bidder satisfies the requirements referred to in Article 40 of this law.

(3) The procurer shall announce the relevant decision to all bidders within three business days after the decision has been taken to conclude the procurement contract or to suspend the price survey as a result of no bids having been received.

(4) Where a selected bidder refuses to conclude the procurement contract with the procurer, the procurer shall decide to conclude the contract with the next bidder which offered the next lowest price. Alternatively, the procurer may decide to suspend the price survey without selecting any bid. Where the decision is taken to conclude the contract with the next bidder which offered the next lowest price, but where the next bidder also declines to conclude the contract, the procurer shall take the decision to suspend the price survey without selecting any bid.

(5) The procurer shall publish an announcement of the results of the procurement procedure, doing so in accordance with the requirements referred to in Article 28 of this law.

#### **Article 61. Negotiating procedures**

A negotiating procedure is a procurement procedure in which the procurer talks with suppliers selected by the procurer, then selecting one or more suppliers for negotiations about the relevant contract requirements.

**Article 62. Use of negotiating procedures when an announcement of a contract has been published**

(1) A procurer may use the negotiating procedure when an announcement of a contract has been published if:

1) An open or closed bid for tenders or a price survey has been held, and no bid which satisfies the requirements referred to in the procurement procedure documents has been submitted, or else candidates or bidders have not satisfied the qualification requirements issued by the procurer, and the rules for the procurement contract are not substantially different from the requirements for implementation of the contract that were previously proclaimed in the relevant procurement procedure. The procurer does not have to publish an announcement of the contract if it issues invitations to take part in the negotiations to all bidders who, in the previously announced procurement procedure, were not excluded in accordance with Article 39 of this law and were in line with stated qualification requirements;

2) The object for the procurement consists of services, particularly the services that are listed in Category 6 of Appendix 2 of this law and intellectual services (such as designing) of a nature which does not make it possible to forecast the requirements related to implementation of the contract with sufficient precision, thus making it impossible to select the best bid in an open or closed bid for tenders or a price survey;

3) The object of the contract is construction work that is done for purposes of science, research or innovation, without the goal of earning a profit or recouping the relevant expenditures.

(2) During the term that has been defined in the announcement of a contract, bidders shall submit bids which include the information defined in the announcement of the contract and in the procurement procedure documents. The procurer shall select candidates in accordance with the defined qualification requirements and then invite the selected candidates to take part in negotiations. The procurer shall reach agreement with all candidates on the deadline for submitting bids. The deadline shall be stated in the invitation. Where agreement cannot be reached, the deadline will be no earlier than 10 days from the date of the negotiations.

(3) Where circumstances referred to in the first section of this article prevail, the procurer and the bidders shall discuss all submitted bids so as to compare them to the requirements referred to in the announcement of the contract and in other procurement procedure documents and then to select the most appropriate bid in accordance with previously defined criteria for selecting bids.

(4) During negotiations, the procurer shall ensure an equal attitude vis-à-vis all bidders, guaranteeing equal access for all bidders to information about the procurement. The procurer shall not create more favourable circumstances for any bidder.

**Article 63. Use of negotiating procedures when an announcement of a contract has not been published**

(1) In public construction, delivery and service contracts, the procurer may make use of a negotiating procedure without pre-publication of an announcement of the contract if:

1) There has been a pre-announced open or closed bid for tenders or price survey, but no one has submitted a bid or an application to become a candidate. In that case, the procurer may not substantially change the requirements related to the previously announced open or closed bid for tenders or price survey. At the request of the European Commission, the procurer shall send a report to it to this effect;

2) There are technological or artistic reasons, or reasons which have to do with protection of exceptional rights so as to ensure that the contract can be concluded only with a specific supplier;

3) There is an objective situation that has occurred independently of the procurer and that is urgent enough to make it impossible to use an open or closed bid for tenders, a price survey or a negotiating procedure with pre-publication of an announcement of the contract. The circumstances which create this emergency situation may not be dependent upon the activities of the procurer.

(2) With regard to public delivery contracts, in addition to the instances referred to in the first section of this article, the procurer may make use of a negotiating procedure without pre-publication of an announcement of the contract, if:

1) The necessary products are meant particularly for research or experimentation. This norm does not apply to the manufacturing of products so as to investigate their sales or to cover research and experimentation costs;

2) The procurer needs additional deliveries from an initial supplier (manufacturers) of a product so as to supplement or partly replace existing products or equipment that is at the procurer's disposal, because by choosing a different supplier (manufacturer) of the products or equipment, the procurer would have to buy products which are technically different from the products that are already at its disposal, this meaning that there would be difficulties in the maintenance and use of the said products or equipment. The term in effect of such a contract or any repeated contract may not exceed three years;

3) The object of the contract is the purchase of a product that is sold on a product exchange;

4) It is possible to buy products at particularly advantageous terms from a supplier who is ending commercial operations and has organised a sale, or from liquidators or creditors who are selling off a bankrupt company's assets in accordance with prevailing normative acts.

(3) In addition to the circumstances referred to in the first section of this paragraph, a procurer may make use of a negotiating procedure without pre-publication of an announcement of the contract when the issue concerns public service contracts that are concluded with the winner of a bid for tenders to find a design or with one of the winners of such a bid for tenders if a design competition has been organised in accordance with the requirements referred to in this law. If several winners have been selected in a design competition, then all winners must be invited to take part in negotiations.

(4) In addition to the circumstances referred to in the first section of this paragraph, a procurer may make use of a negotiating procedure without pre-publication of an announcement of the contract for public construction and service contracts if:

1) The procurer requires additional construction work or services which were not initially included in the contract or the construction design but which, for

unforeseen reasons, have become necessary so as to complete implementation of the previously concluded contract, provided that the following rules are observed:

a) The total contract price for additional purchases does not exceed 50 percent of the contract price of the previously concluded contract;

b) The additional construction work is done or the services are provided by the signatory of the previous contract;

c) The additional construction work or services cannot technically or economically be split off from the construction work or services referred to in the previously concluded contract without creating significant difficulties for the procurer, or else additional construction work or services are fundamentally necessary to complete the implementation of the previous contract, even though they can be split off from the construction work or services referred to in that previous contract;

2) The object of the contract is a repeated performance of construction work or service provision, as referred to in the previously concluded contract, with the said work entrusted to the implementer of the contract, and with the repeatedly necessary construction work or services being in compliance with the project that is at the basis of the previously concluded contract. This requirement shall apply to instances in which the procurer announces a procurement procedure in the announcement of a contract for the first project and determines the anticipated contract price while providing for the conclusion of a second contract and for the anticipated total value of the construction work or services. The negotiating procedure may be applied within three years' time after the conclusion of the initial contract.

#### **Article 64. Agreeing on the use of a negotiating procedure**

(1) Where a procurer chooses to apply a negotiating procedure in accordance with the requirements referred to in Article 63.1.1, 63.1.2, 63.2.1 or 63.2.2, 63.3 or 63.4, then before making use of the procedure, the procurer shall submit to the Procurement Monitoring Bureau an explanation of why this procedure has been chosen.

(2) Within three days after receiving the explanation referred to in the first section of this article, the Procurement Monitoring Bureau shall send to the procurer a written answer as to it is permissible to make use of the negotiating procedure.

### **Chapter VIII. General agreements and dynamic procurement systems**

#### **Article 65. General agreements**

(1) In order to conclude a general agreement, the procurer shall observe the procurement procedures referred to in this law through all phases and until the conclusion of a contract in the context of a general agreement. The procurer shall define the participants in the general agreement, taking into account the specified criterion for choosing the bid.

(2) In the context of a general agreement, contracts shall be concluded in accordance with the requirements referred to in the fifth, sixth and seventh section of this article. The said procedures shall be applied only to those procurer and suppliers which have acceded to the terms of the general agreement upon the date of its conclusion.

(3) When concluding contracts in the context of general agreements, parties to the contract shall make no substantial amendments to the rules regarding general

agreements, particularly under the circumstances referred to in the fifth section of this article.

(4) A general agreement shall be concluded for a period of up to four years, except for those cases in which for objective reasons (and particularly if this is required by the object of the contract) a longer term is needed. Procurers shall not use general agreements to limit competition.

(5) Where a general agreement is concluded with a single supplier, contracts within the context of the said agreement shall be concluded in accordance with the requirements referred to in the general agreement. When concluding such agreements, the procurer may engage in written consultations with the supplier, if necessary, so as to request a supplementation to the relevant bid.

(6) Where a general agreement is concluded with multiple suppliers, the number of the said suppliers shall not be fewer than three if a sufficient number of suppliers operate in the market and satisfy the defined qualification requirements, or if it is possible to receive a sufficient number of acceptable bids.

(7) Where a general agreement has been concluded with multiple suppliers, the contracts related to the general agreement shall be concluded on the basis of the requirements of the general agreement, without a secondary review of the bids. Where the requirements of a general agreement do not speak to all necessary requirements, and bids must be reviewed for another time, the said requirements shall be supplemented on the basis of the same requirements (regulating them in greater detail, if necessary), or on the basis of other requirements in accordance with the specifications of the general agreement. The procedure in that case shall be the following:

1) In order to conclude the specific contract, the procurer shall engage in written consultations with suppliers which can satisfy the terms of the contract;

2) The procurer shall set an appropriate deadline for submitting bids, taking into account such factors as the complexity of the object of the contract and the amount of time that is necessary to prepare bids;

3) Bidders shall submit their bids in writing, and the confidentiality of the said bids shall be preserved until the expiration of the relevant deadline for submitting bids;

4) The procurer shall conclude a contract with the bidder which has submitted the most appropriate bid, defining the said bidder on the basis of the criterion for selecting bids, as defined in the specifications of the general agreement.

## **Article 66. A dynamic procurement system**

(1) A dynamic procurement system includes all bidders which are in compliance with defined qualification requirements and have submitted an informational bid that is in accordance with the relevant procurement's procedural documents. Bidders may supplement their informational bids at any time if the bids are in accordance with specifications. From the moment when the dynamic procurement system is established until the moment that the relevant contracts are concluded, the procurer shall exclusively use electronic resources in accordance with the requirements referred to in Article 33.2, 33.3, 33.5 and 33.6 of this law.

(2) The procurer shall do the following in order to establish a dynamic procurement system:

1) Publish an announcement about the contract, indicating that a dynamic procurement system is being established;



2) State in the procurement procedure documents the nature of the procurement that is planned, including, too, necessary information about the system itself, the electronic systems that are to be used, the connection requirements, and the relevant specifications;

3) Throughout the term in effect of the system (beginning with the publication of the announcement of the contract), the procurer shall offer unlimited, direct and complete access to procurement procedure documents, making use of electronic resources for this purpose. The procurer shall, in the announcement, state the Internet address at which the said documents are available.

(3) Throughout the term in effect of the dynamic procurement system, the procurer shall make it possible for any supplier to submit an informational bid and to be included in the system in accordance with the requirements referred to in the first section of this article. An informational bid shall be evaluated within 15 days' time after the date upon which it has been submitted. The procurer may extend the deadline for evaluating informational bids if during the relevant time no invitation has been sent within the system to ask suppliers to submit bids. The procurer shall issue information to applicants without delay about their inclusion in the dynamic procurement system or about the rejection of their informational bid.

(4) The procurement shall call for bids related to each specific contract within the context of a dynamic procurement system. Before distributing the said invitation, the procurer shall publish a simplified announcement of the contract in accordance with the requirements referred to in Article 28 of this law, inviting all interested suppliers to submit informational bids in accordance with the third section of this article. The deadline for submitting informational bids shall be set at a date that is no sooner than 15 days after the simplified announcement of the contract has been sent to the Official Herald of the European Union or has been published on the Internet homepage of the Procurement Monitoring Bureau. The procurer shall not commence the evaluation of bids before evaluation of all informational bids which have been received during the specified term have been evaluated.

(5) For the purpose of concluding each specific contract within the context of a dynamic procurement system, the procurer shall invite all suppliers included in the dynamic procurement system to submit bids, also setting a deadline for the submission of the said bids. The procurer shall conclude the contract with the supplier which has submitted the most appropriate bid in accordance with the criteria for selecting and evaluating bids that have been defined in the announcement on establishing the dynamic procurement system. If necessary, the procurer may present more precise criteria in the invitation.

(6) The term in effect of a dynamic procurement system shall not exceed four years.

(7) The dynamic procurement system shall not be used to limit competition.

(8) The procurer shall accept no payment from interested suppliers in return for their inclusion in a dynamic procurement system, nor from any suppliers already included in the said system.

(9) The procedure for suspending or cancelling the participation of a supplier in a dynamic procurement system shall be defined by the Cabinet of Ministers.

## **Chapter IX. Requirements for Procurement Contracts**

### **Article 67. A procurement contract**

(1) A procurement contract shall be used to specify the legal relationship between the procurer or procurers and the supplier or suppliers.

(2) The procurer shall draft a procurement contract, specifying therein:

- 1) The name of the procurer;
- 2) The name of the supplier;
- 3) The object of procurement, its volume, relevant quality requirements and other necessary information;
- 4) The contract price and the payment procedure;
- 5) The term, place and conditions for implementing the terms of the contract;
- 6) The liability of parties to the contract for failing to implement its terms;
- 7) Procedures for amending the contract and for abrogating the contract;
- 8) Other terms.

(3) A public service contract shall be concluded for a term not to exceed five years. Service contracts involving public-private partnerships may be concluded for a term of up to 30 years if the said term is fundamentally necessary for the existence of the contract and if, in each specific instance, a decision to that effect has been taken by the Cabinet of Ministers.

(4) A procurement contract shall be concluded no sooner than on the eleventh day after the date upon which an announcement on the results of the procurement procedure has been published in accordance with the requirements referred to in this law, but no later than on the date when the validity of the offer has expired. The exception to this rule relates to cases when a negotiating procedure is being implemented in accordance with Article 63.1.3, 63.2.2, 63.2.3, 63.2.4, 63.3 and 64.4.

#### **Article 68. Replacement of personnel and subcontractors involved in the implementation of the terms of the contract**

The personnel of the supplier who are involved in implementing the terms of the contract and with respect to whom the supplier has presented information in accordance with the requirements referred to in Article 42.2.3 and 42.2.6 of this law, as well as all subcontractors with respect to which the supplier has informed the procurer in accordance with the requirements referred to in Article 20 of this law, may be replaced after the conclusion of the contract only with the written agreement of the procurer.

#### **Article 69. Availability of information about procurement agreements**

The following types of information from procurement contracts shall be freely and universally available:

- 1) The name of the procurer;
- 2) The name of the supplier;
- 3) The object of procurement, its volume, relevant quality requirements and other necessary information;
- 4) The contract price and the payment procedure;
- 5) The term, place and conditions for implementing the terms of the contract;
- 6) The liability of parties to the contract for failing to implement its terms;
- 7) Procedures for amending the contract and for abrogating the contract;

### **Chapter X. Implementation and Use of Design Competitions**

## **Article 70. General requirements related to design competitions**

(1) A design competition is a procurement procedure which allows the procurer to receive the design (plan, draft) which a jury commission has chosen as the best in a competition with or without a prize. The said procedure most often relates to urban or other territorial planning, architecture, construction or data processing (including processing of national information systems).

(2) Information about a design competition shall be available to all interested parties expressing a desire to take part in the relevant competition.

## **Article 71. Limits on the contract price in design competitions**

(1) A design competition shall be used if the anticipated contract price is LVL 10,000 or more.

(2) The requirements referred to in this chapter apply to the following kinds of design competitions:

1) Ones in which participants are to receive prizes or payments;

2) Ones which have been organised as a part of a public service contract procurement procedure.

(3) Under the circumstances referred to in the first part of the second section of this paragraph, the anticipated contract price shall be defined in cognisance of all possible prizes and payments to participants. Under the circumstances referred to in the second part of the second section of this paragraph, the anticipated contract price shall be defined in cognisance of the total volume of prizes and payments, as well as in accordance with the anticipated contract price of the public service contract that is to be concluded in accordance with Article 63.3 of this law, provided that the procurer has, in the announcement of the design competition, stated that such a contract shall be concluded.

## **Article 72. The jury commission and the executive secretary**

(1) In order to ensure a professional assessment of contributed designs, the procurer shall establish a jury commission with at least three members. The jury commission shall be independent in taking decisions and expressing views.

(2) The procurer shall appoint an executive secretary to ensure that the design competition takes place. The said executive secretary shall be responsible for ensuring the anonymity of submitted designs and their authors until such time as all designs have been evaluated. The executive secretary shall not be a member of the jury commission.

(3) Members of the jury commission shall only be natural persons who do not represent the interests of any participants. Where participants in the competition are required to have a specific professional qualification, at least one-third of the jury commission members shall have the same or an equivalent professional qualification.

## **Article 73. Exchange of information in a design competition**

(1) Exchange of information in a design competition shall occur in accordance with the requirements referred to in Article 33.1, 33.2 and 33.5 of this law.

(2) Exchange and storage of information shall be conducted so as to ensure that all data which are transferred by participants to the procurer during the course of the competition are protected, and so that the jury commission can study the content of the designs only after the deadline for submitting designs has expired.

(3) Information with respect to specifications and requirements vis-à-vis the presentation of designs via the use of electronic resources, including coding of data, shall be available to all interested persons. Equipment used for the electronic receipt of designs shall satisfy the requirements referred to in Article 34 of this law.

#### **Article 74. Statutes of design competitions**

(1) In advance of a design competition, the procurer shall ensure the preparation of statutes for the competition.

(2) Within the statutes, the following information shall be included:

1) General information:

a) An identification number which includes the full name or abbreviated name (first capital letters) of the procurer, the year and the number in growing succession;

b) The procurer's name, address and other information;

c) The location, term and procedure for submitting the design and its code;

d) Other information;

2) A description of the project and its goal;

3) The requirements for the design (drawings, blueprint, explanatory information), the size and level of development of the drawing or blueprint, and all requirements for the explanatory information;

4) Requirements as to the professional qualifications of participants, if any;

5) Requirements concerning the preparation of the design and its code;

6) Criteria for evaluating designs;

7) Information about the number and value of prizes and payments, if any, and principles for the distribution of same, also including information referred to in Article 79.9 of this law, if necessary;

8) The deadline by which additional questions about the statutes of the design competition may be posed;

9) The procedure whereby designs that have not received awards may be received after the results of the design competition have been announced;

10) Instructions as to whether prize winners have the right to conclude additional contracts, as well as information about the number of winners who will be invited to take part in the negotiating procedure;

11) The membership of the jury commission.

(3) The statutes of the design competition shall be distributed at the time and place that are indicated in the announcement of the design competition.

(4) The statutes of the design competition shall be accompanied by all necessary materials for the design (topographic map, situation plan, technical rules, photographs and other materials).

#### **Article 75. Announcements of design competitions**

A procurer which wants to organise a design competition shall publish an announcement to that effect. The announcement of the design competition shall be published in accordance with the requirements referred to in Article 28 of this law.

## **Article 76. Deadlines for submitting designs**

(1) In the announcement of the design competition, a deadline for submitting designs shall be defined in accordance with the requirements referred to in Article 29.2 of this law.

(2) In defining the deadline for submitting designs, the procurer shall take into account the complexity of the project and the amount of time that is necessary to prepare the designs.

## **Article 77. Submission of designs**

(1) In order to ensure the anonymity of participants, designs and supplementary materials shall be submitted in a sealed envelope and with a code. The code shall be a set of letters or words which do not identify the participant and which is used to ensure anonymity.

(2) Information about the design and code shall be submitted anonymously in accordance with the place, date and procedure defined in the statutes of the design competition. Information about the identity of the submitter shall be submitted along with the design in a separate, sealed envelope.

(3) On the sealed envelope which contains information about the designer, the designer shall write the name and identification of the design competition and the text "Decoding of code". The author and code shall not be indicated on the said envelope.

(4) No markings shall be placed on a submitted design or supplementary materials which could be used to identify the participant.

(5) The decoding of the code shall present information about the author or authors of the relevant design.

(6) The executive secretary shall register contact persons who submit designs, accepting the designs in the order that they are submitted and ensuring that they are stored properly.

## **Article 78. Evaluation of designs**

(1) Upon the expiration of the deadline for submitting designs, the executive secretary shall organise the work of the jury commission.

(2) The jury commission shall evaluate the submitted designs in accordance with the criteria defined in the statutes of the design competition, observing the principle of anonymity until such time as a decision is taken.

(3) The jury commission shall determine the results of the design competition, take a decision on the best designs, propose the said designs for awarding, decides on the distribution of prizes, and prepares recommendations for the further use of the designs.

(4) The jury commission may decide to award more than one first prize. Where the jury commission finds that no design is acceptable, it shall not award a first prize.

(5) The jury commission shall prepare a conclusion which contains:

- 1) Information about the evaluated designs;
  - 2) The judgement of the jury commission vis-à-vis each design;
  - 3) The decision on distributing prizes, if any;
  - 4) A recommendation to the procurer on the further use of the designs.
- (6) The jury shall submit the said report to the executive secretary.

## **Article 79. Announcement of results**

(1) The executive secretary shall contact all contact persons who were registered in accordance with the requirements referred to in Article 77.6 of this law so as to announce the place, date and time of the meeting at which code envelopes are to be opened. The said information shall be sent out no later than five business days before the meeting.

(2) The meeting to open the envelopes shall be open.

(3) The executive secretary shall first state the codes of the winners and those who have received prizes. Then the executive secretary shall open the envelopes related to those codes and name the winners and recipients of prizes.

(4) The executive secretary shall prepare a report on the design competition to which the report prepared by the jury commission in accordance with the requirements referred to in Article 78.5 of this law. The said report from the executive secretary shall at least contain the following information:

1) A description of the project and its aims;

2) The procurer's name, address and other information;

3) Information about participants in the design competition;

4) Information about the winners and about the distribution of prizes, if any;

(5) The procurer shall distribute the report on the design competition to all who request it. The procurer shall keep the design competition report for 10 years after the decision on the competition's results has been taken.

(6) Within three business days after the taking of the decision, the procurer shall publish an announcement on the results of the design competition, doing so in accordance with the requirements referred to in Article 28 of this law.

(7) The procurer shall publish no information about the results of a design competition if the publishing of the said information would hinder the implementation of the requirements of law, would harm the lawful commercial interests of suppliers, or would harm free competition among service providers.

(8) The copyright of participants with respect to participation in the further development of the design and the further use of the design shall be observed in accordance with the Latvian law on copyright.

(9) Prizes shall be awarded during the period of time that is defined in the statutes of the design competition. Designs which have received prizes shall become the property of the procurer, provided that the statutes of the design competition do not indicate otherwise. The participant shall preserve copyright in accordance with the law on copyright.

## **Chapter XI. The Procurement Monitoring Bureau**

### **Article 80. The legal status of the Procurement Monitoring Bureau**

(1) The Procurement Monitoring Bureau is an institution of direct state governance that is subordinated to the Finance Ministry and operates in accordance with this law, the statutes of the Procurement Monitoring Bureau and all other relevant normative acts.

(2) The work of the Procurement Monitoring Bureau shall be financed from the national budget.

## **Article 81. The functions of the Procurement Monitoring Bureau**

The Procurement Monitoring Bureau shall have the following functions:

- 1) To oversee procurement procedures so as to ascertain that they are in compliance with the requirements of the law;
- 2) Work with relevant foreign institutions in the area of its competence;
- 3) At any state of a procurement procedure, demand and receive, at no charge to itself, full information about the procurement;
- 4) Bring in independent procurement specialists and experts;
- 5) Correlate and analyse statistical information about procurements in Latvia and to prepare reports about same;
- 6) Offer methodological assistance, consultations and training for procurers, sellers and renters of products, providers of construction services and other services;
- 7) Review complaints about violations of procurement procedures;
- 8) Publish reports referred to in this law on the Internet homepage of the Procurement Monitoring Bureau, submit them for publication in the Official Herald of the European Union, and send to the European Commission all information that it requests;
- 9) Handle other functions as defined in the relevant normative acts.

## **Article 82. The Complaints Review Commission**

(1) In order to review complaints about violations of procurement procedures, the Procurement Monitoring Bureau shall establish a Complaints Review Commission (hereafter – Commission) with no fewer than three members. Members of the Commission shall include officials from the Procurement Monitoring Bureau. At least one of the said officials shall have a higher education in the law (the person having completed an academic programme of study in the law or a second-level higher professional programme of study in the law so as to become a lawyer). In order to review complaints, the Procurement Monitoring Bureau shall bring in procurement specialists or experts. The said specialists or experts shall take part in the work of the Commission without any voting rights, expressing independent and professional views to the Commission about facts that have been noted during the review of the complaint, also offering responses to questions that are posed by members of the Commission.

(2) No person shall serve as a Commission member, specialist or expert who has previously provided consultations on the procurement that is cited in the complaint, who is interested in receiving the right to receive the procurement order, or who is related to the submitter of the complaint or other applicant. Prior to the review of a complaint, all Commission members, specialists and experts shall sign confirmation in this regard. In the context of this article of the law, a Commission member, specialist or expert is related to the submitter of the complaint or other applicant if the said individual is:

- 1) A relative of the owner or official of a legal entity that is the submitter of the complaint or another applicant;
- 2) A relative of a natural person who is the submitter of the complaint or another applicant;
- 3) An existing or former employee, official or owner of a legal entity that is the submitter of the complaint or another applicant – someone who has ended the

labour or property relationship with the submitter of the complaint or another applicant any time within the preceding 24 months, or a relative of such a person.

(3) The work of the Commission shall be chaired by a chairman appointed by the Procurement Monitoring Bureau from among the members of the Commission. The Commission shall take decisions by voting. A decision shall be taken with a majority of votes by Commission members. Where the vote is divided equally, the vote of the Commission's chairman shall be decisive.

## **Chapter XII. Procedures for reviewing complaints about violations of a procurement procedure**

### **Article 83. The right to submit a complaint regarding a violation of a procurement procedure**

(1) An individual who is or has been interested in receiving the right to conclude a procurement contract, is seeking victory in this regard, or is related to a specific procurement procedure with respect to which this law applies may, if he or she believes that his or her rights have been violated or may have been violated through a violation of the normative acts of the European Union or of other normative acts, submit a complaint about the rules for selecting candidates or applicants, the technical specifications, or other requirements which have to do with the specific concrete procurement procedure, or about the activities of the procurer or the procurement commission during the implementation of the relevant procurement procedure. In the context of this article of the law, a procurement procedure is also defined as the application of requirements referred to in Article 8.7 of this law.

(2) A complaint related to the possible violations referred to in the first section of this article may be submitted until such time as the relevant procurement contract is concluded. After the conclusion of the procurement contract, the complainant may appeal decisions take by the procurer in court, doing so in accordance with the requirements referred to in relevant laws.

(3) Where a complaint has been submitted to the Procurement Monitoring Bureau before such time as the conclusion of the procurement contract, the Procurement Monitoring Bureau shall so inform the procurer, and the procurer shall refrain from concluding a procurement contract until such time as a Commission judgment on the results of a review of the complaint has been received.

(4) A complaint about requirements included in the rules for an open bid for tenders, in an invitation or in other procurement procedure documents may be submitted to the procurer no later than six business days before the deadline for submitting bids. Where the procurer has not, within two business days after receiving the complaint, reversed the violations indicated in the complaint or has not submitted a written response to the complainant, the complainant shall, until the expiration of the term for submitting bids, have the right to submit a complaint to the Procurement Monitoring Bureau.

(5) The Procurement Monitoring Bureau shall refuse a complaint if, with respect to the procurement procedure relevant to one and the same object and one and the same reason, another complaint has been received and reviewed.

(6) Where a complaint is submitted about the procurer's activities vis-à-vis the lawfulness of the procurement procedure, and a complaint about one and the same procurement procedure has, previously, been submitted by another service provider,



but the said complaint has not yet been reviewed, the complaints may be merged and considered together.

(7) Complaints shall be submitted in writing, and they shall include the following information:

- 1) The name and address of the complainant;
- 2) The name and address of the complainant with respect to which the complaint has been submitted;
- 3) Facts with respect to which the complaint about a violation has been submitted;
- 4) The demands of the complainant.

(8) The complainant shall have the right to request the withdrawal of the relevant complaint, doing so in writing at any time before the Commission has taken a decision on the relevant complaint.

(9) Where a complaint has been received, the Procurement Monitoring Bureau shall post information about it on its Internet homepage, stating therein the complainant, the procurer and the procurement procedure that is being disputed by the complainant. The Bureau shall also post information as to the date upon which the complaint shall be reviewed.

#### **Article 84. Consideration of complaints**

(1) The Commission shall review a submitted complaint within one month's time after it is received by the Procurement Monitoring Bureau. If this term proves impossible for objective reasons, the Commission shall have the right to extend the term, so reporting to the complainant and the procurer.

(2) The Commission shall authorise the conclusion of a contract if the complaint is:

- 1) Unjustified;
- 2) Justified, but the violations determined by the Commission are not significant and cannot influence a decision on awarding procurement rights.

(3) The Commission shall prohibit the conclusion of a contract if the violations determined by the Commission are significant and may influence a decision on awarding procurement rights. At such times, the Commission shall take decisions on what is to be done to reverse the violations that have been determined.

(4) The Commission shall invite to the meeting at which a complaint is to be reviewed the complainant, the procurer, and all suppliers (hereafter – participants) whose interests might be affected by the Commission's decision. The Commission shall invite participants to the said meeting at least three days in advance.

(5) The Commission shall hear the views of all participants who are present. After the presentation of such views, the Commission shall continue its work without the presence of the participants.

(6) The Commission shall evaluate the complaint on the basis of facts offered by the complainant and the participants, the explanations offered by the procurer, and the views or conclusions offered by experts. Where participants have not arrived for the review of a complaint, the Commission shall review the said complaint on the basis of the facts that are at its disposal. The Commission shall take a decision and distribute it to all participants within three business days.

(7) The Commission's decision, in addition to the basic components of an administrative act, shall include information about the following:

- 1) The reason why the Commission was established;

- 2) The Commission's members and experts who took part in the Commission's work;
- 3) Representatives of the complainant, the procurer and the other participants who took part in the Commission meeting;
- 4) The identification number of the procurement procedure with respect to which the complaint was submitted;
- 5) Facts with respect to which the complain was submitted and the demand of the complainant;
- 6) An explanation of the decision that has been taken;
- 7) The legal norms that have been applied in taking the decision;
- 8) Obligations applied to the procurer and the term for implementing those obligations, provided that the Commission has decided to order the reversal of defined violations;
- 9) A ban or permission for the procurer to conclude a procurement contract;
- 10) When and where the decision can be appealed.

(8) Where the Commission has decided that steps are to be taken to reverse defined violations, the procurer shall reverse the violations, take a decision, and announce the results of the procurement procedure. The decision shall be published in accordance with the requirements referred to in Article 28 of this law, and it shall also be sent to the Procurement Monitoring Bureau with all information about the decision making process and the reversal of the violations that have been defined by the Commission. The procurement contract shall, in that case, be concluded in accordance with the requirements referred to in Article 67.4 of this law.

(9) The Commission shall take minutes with respect to the review of complaints. Minutes and information obtained during the process shall be stored for 10 years. At such times as violations related to the requirements referred to in the third section of this article are determined, the Commission's decision and copies of the minutes shall be forwarded by the Procurement Monitoring Bureau to the Corruption Prevention and Combating Bureau.

#### **Article 85. Appealing Commission decisions**

(1) Commission decisions may be appealed by participants in accordance with the procedure referred to in the Law on Administrative Procedure.

(2) Any appeal of a Commission decision shall not suspend the implementation of the said decision.

### **Chapter XIII. Statistical reports**

#### **Article 86. Statistical reports**

By April 1 of each year, the procurer shall submit to the Procurement Monitoring Bureau a statistical report concerning procurement procedures that have been implemented, doing so in accordance with the requirements referred to in Article 87 of this law.

#### **Article 87. The content of the statistical report**

- (1) Statistical reports shall contain at least the following information:

1) The number of contracts concluded in accordance with the requirements referred to in this law, along with information about the contract sums if the anticipated contract price for public construction, delivery or service agreements:

a) Is lower than the limits on contract prices as defined by the Cabinet of Ministers;

b) Is equal to or higher than the limits on contract prices as defined by the Cabinet of Ministers.

2) The number of contracts that have been concluded on the basis of exceptions as defined by the World Trade Organisation's rules on government contracts, as well as the total contract sums;

3) The total sum for public construction, delivery and supply contracts that have not been concluded in accordance with the requirements referred to in this law only because the limits on contract prices are lower than those referred to in Article 8.2 of this law;

4) The total contract sum for public construction, delivery and service contracts that have been concluded in accordance with the requirements referred to in Article 5 of this law;

5) The total contract sum for contracts that have been concluded in accordance with the requirements referred to in Article 8.7 of this law.

(2) Information referred to in Part 1"b" of the first section of this article shall be divided up into categories:

1) On the basis of the procurement procedures that have been implemented;

2) For each procedure in accordance with categories of construction work, products and services, as referred to in the procurement nomenclature (CPV);

3) In accordance with the countries of origin of suppliers with whom procurement contracts have been concluded.

(3) Where contracts have been concluded in accordance with negotiating procedures, the information referred to in Part 1"b" of the first section of this article shall also be divided up into categories in accordance with the requirements referred to in Article 62 and 63 of this law, including within this information the number of contracts and the contract sum, as grouped on the basis of the countries of origin of the suppliers;

(4) Other information shall be included in the statistical report if it is required by the World Trade Organisation's rules on government contracts or if it is required by the European Commission.

### **Transitional rules**

1. Upon the taking effect of this law, the law "On procurement for state or local government needs" (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, No. 16, 2001; No. 23, 2002; No. 14, 2003; No. 8, 2004) shall be declared null and void.

2. An announced open or closed bid for tenders, design competition or negotiating procedure with respect to which information has been published on the Internet, as well as a price survey that has been begun, shall be completed in accordance with the requirements referred to in that law which was in effect upon the date when the relevant procurement procedure was announced.

3. The Cabinet of Ministers shall, by April 30, 2006, approve the regulations referred to in Article 10 and the first and fourth sentence of Article 28 of this law.

4. The Cabinet of Ministers shall, by November 1, 2006, issue the regulations referred to in Article 7, Article 9.5 and Article 66.9 of this law.

5. Until such time as the Cabinet of Ministers regulations referred to in Article 7 of this law take effect, but no longer than until November 1, 2006, the requirements referred to in Cabinet of Ministers Regulation No. 603, "Requirements concerning procurement procedures and their application to procurer-financed projects" (July 13, 2004), shall be applied, insofar as they are not in contradiction to the requirements referred to in this law.

6. Where data from the procurement nomenclature CPV that is referred to in Article 25.1.1, Article 87.2.2 and the first and second appendices to this law differ from the United Nations Central Product Classification (CPC) nomenclature or the NACE nomenclature defined in the European Commission's Regulation No. 29/2002 of December 19, 2001, by which Council Regulation (EEK) No. 3037.90 on the statistical classification of economic activities in the European Communities, the relevant CPC or NACE nomenclature shall be applied.

### **Informational References to the Directives of the European Union**

Legal norms included in this law relate to:

1) Council Directive 89/665/EC (December 21, 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) European Parliament and Council Directive 2004/18/EC (March 31, 2004) on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts;

3) European Commission Directive 2005/51/EC (September 7, 2005), amending Appendix XX of the European Parliament and Council Directive 2004/17/EC and Appendix VIII of Directive 2004/18/on procurement;

4) European Parliament and Council Directive 2005/75/EC (November 16, 2005) on amendments to Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

The law took effect on May 1, 2006

The law was approved by the Saeima on April 6, 2006

On behalf of the President of Latvia  
Ingrīda Ūdre, speaker of Parliament

Rīga, April 25, 2006

*Note: The law took effect on May 1, 2006.*