

Public Procurement Act

Promulgated, SG No. 13/16.02.2016, effective 15.04.2016, supplemented, SG No. 34/3.05.2016, amended and supplemented, SG No. 63/4.08.2017, effective 30.06.2017, amended, SG No. 85/24.10.2017, supplemented, SG No. 96/1.12.2017, effective 1.01.2018, amended and supplemented, SG No. 102/22.12.2017, effective 22.12.2017, amended, SG No. 7/19.01.2018, amended and supplemented, SG No. 15/16.02.2018, effective 16.02.2018, supplemented, SG No. 17/23.02.2018, effective 23.02.2018, SG No. 24/16.03.2018, effective 23.05.2018, SG No. 30/3.04.2018, amended and supplemented, SG No. 49/12.06.2018, amended, SG No. 77/18.09.2018, effective 1.01.2019, supplemented, SG No. 80/28.09.2018, effective 28.09.2018, amended and supplemented, SG No. 86/18.10.2018, effective 1.03.2019, amended, SG No. 102/11.12.2018, effective 1.01.2019

*Note: An update of the English text of this Act is being prepared following the amendments in SG No. 105/18.12.2018, effective 1.01.2019, SG No. 17/26.02.2019, effective 2.03.2019

Text in Bulgarian: Закон за обществените поръчки

PART ONE GENERAL DISPOSITIONS

Chapter One SUBJECT, PURPOSE AND PRINCIPLES

Subject and Purpose

Article 1. (1) This Act establishes the terms and procedure for the award of public works procurements, public supply procurements or public service procurements and for the carrying out of design contests by contracting entities for the purpose of ensuring efficiency in the spending of:

1. public resources;
2. resources provided by the European funds and programmes;
3. resources associated with the pursuit of activities in the water, energy, transport and postal services sectors;
4. resources of corporations and undertakings which are contracting entities within the meaning given by this Act.

(2) Public procurement shall be the acquisition by means of a public procurement contract of works, supplies or services by one or more contracting entities from contractors, suppliers or service providers chosen by the said contracting entities, where the works, supplies or services are intended for a public purpose or for the needs of public contracting entities and, in the case of sector contracting entities, intended for the pursuit of sector activities.

Principles

Article 2. (1) Public procurements shall be awarded in accordance with the principles of the Treaty on the Functioning of the European Union (TFEU) and in particular the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and the principle of mutual recognition, as well as with the principles deriving therefrom:

1. equal treatment and non-discrimination;
2. free competition;

3. proportionality;
4. publicity and transparency.

(2) When awarding public procurements, contracting entities shall not have the right to narrow competition by including any conditions or requirements unduly favouring or restricting the participation of business entities in the public procurements and such that do not take into account the subject-matter, value, complexity, quantity or extent of the public procurement.

Chapter Two

SCOPE

Public Procurement Objects

Article 3. (1) The following shall be objects of public procurement:

1. works, including:

- (a) the execution, or both the design and execution, of works related to one of the activities under Annex I hereto;
- (b) the execution, or both the design and execution, of a work;

2. supply of products, performed through purchase, leasing, rental or hire-purchase, with or without the option to buy, as well as all preliminary operations as shall be necessary for the actual utilisation of the products, such as installation or siting operations, testing of machinery and plant, etc.;

3. provision of services.

(2) The realisation of a work on the type or design whereof the contracting entity exercises a decisive influence, regardless of the form of cooperation and the origin of the resources used, shall likewise be considered as works under Item 1 (b) of Paragraph (1).

Nomenclatures

Article 4. (1) The nomenclature codes in the Common Procurement Vocabulary, as adopted by Regulation (EC) No. 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV), shall be used when awarding public procurements.

(2) Where contracting entities use other nomenclatures in the activity thereof, the equivalence of the said nomenclatures with the Common Procurement Vocabulary shall mandatorily be indicated when awarding public procurements.

Public Procurement Contracting Entities

Article 5. (1) Contracting entities shall be responsible for the proper forecasting, planning, conducting, completing and reporting of the results of public procurements. There shall be public contracting entities and sector contracting entities.

(2) The following shall be public contracting entities:

1. the President of the Republic of Bulgaria;
2. the Chairperson of the National Assembly;
3. the Prime Minister;
4. the government ministers;
5. the Ombudsman of the Republic of Bulgaria;

6. the Governor of the Bulgarian National Bank;

7. the President of the Constitutional Court of the Republic of Bulgaria, the administrative heads of the judicial authorities which manage independent budgets, as well as the administrative heads of the prosecution offices in the country;

8. the regional governors;

9. the municipality mayors, the borough mayors, the mayoralty mayors, as well as the lieutenant mayors, where they are budget authorisers;

10. the chairpersons of State agencies;

11. the chairpersons of State commissions;

12. the executive directors of executive agencies;

13. the heads of institutions of State established by law or by Council of Ministers decree, including self-contained structures of the executive authorities, where they are legal persons and budget authorisers;

14. the representatives of bodies governed by public law;

15. the heads of diplomatic missions and consular posts of the Republic of Bulgaria abroad, as well as the heads of permanent representations of the Republic of Bulgaria to international organisations;

16. the representatives of medical-treatment facilities which are commercial corporations under Articles 36 and 37 of the Medical-Treatment Facilities Act, owned by the State and/or the municipalities, which rely on the State budget and/or the municipal budget, and on the budget of the National Health Insurance Fund, for more than 50 per cent of the revenues thereof;

17. the heads of central purchasing bodies established to satisfy the needs of public contracting entities.

(3) The combinations of any contracting entities referred to in Items 1 to 16 of Paragraph (2) shall likewise be public contracting entities.

(4) The following shall be sector contracting entities:

1. the representatives of public undertakings and any combinations thereof, where pursuing one or several sector activities;

2. the representatives of merchants or other persons which are not public undertakings, where pursuing one or several sector activities on the basis of special or exclusive rights;

3. the heads of central purchasing bodies established to satisfy the needs of sector contracting entities.

(5) Where a public contracting entity pursuing a sector activity awards procurements for the purposes of the sector activity, the said entity shall apply the rules applicable to sector contracting entities.

Occasional Contracting Entity

Article 6. (1) The rules of this Act shall furthermore apply where any of the following activities is financed directly for more than 50 per cent by public resources:

1. (amended, SG No. 86/2018, effective 1.03.2019) works, the estimated value of which is equal to or greater than BGN 10,000,000;

2. (amended, SG No. 86/2018, effective 1.03.2019) services related to the works referred to in Item 1, where the

estimated value of the said services is equal to or greater than BGN 430,000.

(2) In the cases under Paragraph (1), the person awarding the procurement, regardless of whether the said person is the funding authority or the recipient of the funding, shall act as a contracting entity for the specific case.

Delegation of Powers

Article 7. (1) The contracting entity may designate an official to organise and/or to award public procurements.

(2) Except in the cases referred to in Paragraph (1), in the absence of the contracting entity, the powers thereof related to public procurement awards shall be executed by the person who deputises for the said entity according to a statutory instrument, an administrative act or another decision which defines the representation of the contracting entity.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The option referred to in Paragraph (1) may not be used to subdivide public procurements and apply a procedure for award at lower values.

(4) (New, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who or which is a budget authoriser, may award public procurements for the needs of the lower-level budget authorisers thereof even though the said authorisers are contracting entities in their own right.

Joint Public Procurement Awards

Article 8. (1) Two or more contracting entities may conclude an agreement on a joint public procurement award, wherein all organisational, technical and financial matters related to the conduct of the procedure, the conclusion of the contracts, the distribution of the works, supplies or services to be procured, and other such shall be regulated.

(2) In the cases referred to in Paragraph (1), each of the contracting entities shall be responsible for fulfilling the obligations thereof under this Act, regardless of whether the public procurement award procedure is conducted jointly on behalf and for the account of all contracting entities or one of the contracting entities executes the technical activities for conduct of the procedure, acting on his or her own behalf and on the behalf of the other contracting entities.

(3) In the cases referred to in Paragraph (1), when parts of a public procurement award procedure are not conducted jointly on behalf and for the account of all contracting entities, each one of the said entities shall be responsible for those parts which are conducted jointly. Each contracting entity shall be responsible for fulfilling the obligations thereof under this Act in respect of the parts he or she conducts on his or her own behalf and for his or her own account.

Joint Public Procurement Awards Involving Contracting Entities from Other Member States

Article 9. (1) Contracting entities shall have the right to award public procurements, to conclude framework agreements or to operate a dynamic purchasing system jointly with contracting entities from other Member States. In the cases of joint framework agreements and dynamic purchasing systems, contracting entities may independently award public procurement contracts thereunder.

(2) Where the matters related to the joint award are not regulated by an agreement concluded between the Republic of Bulgaria and another Member State, the contracting entities concerned shall conclude an agreement determining:

1. the obligations of the parties and the applicable national provisions, which shall be referred to in the procurement documents;

2. organisational, technical and financial matters related to the conduct of the procedure, the conclusion of the contracts, the distribution of the works, supplies or services to be procured, and other such.

(3) Where a public procurement contract is concluded on behalf and for the account of one of the contracting entities participating in the joint award and another participating entity acquires works, supplies or services therefrom, the latter shall be presumed to have fulfilled the obligations thereof under this Act.

(4) Where a contracting entity sets up a combination with a contracting entity or entities from other Member States,

including European Groupings of territorial cooperation under Regulation (EC) No. 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) or other combinations established under European Union law, the applicable rules for awarding public procurements shall be determined by a decision of the competent body of the joint combination. These rules may be the national provisions of the Member State where the combination has its registered office or where the combination is carrying out its activities.

(5) The decision referred to in Paragraph (4) shall determine:

1. the period of time for which the rules shall apply, unless the constitutive act of the combination fixes an undetermined period;
2. the types or individual procurements to which the rules shall apply.

(6) Contracting entities may not use a joint award with contracting entities from other Member States for the purpose of circumventing this Act.

Candidates, Participants, and Contractors, Suppliers and Service Providers

Article 10. (1) Any Bulgarian or non-resident natural or legal person or any combinations thereof, as well as any other entity, who or which has the right to execute works, supplies or services according to the law of the State in which the said person is established, may be a candidate or participant in a public procurement award procedure.

(2) Contracting entities shall not have the right to require combinations to take a specific legal form in order to participate when a procurement is awarded, but contracting entities may set a condition for the establishment of a legal person where the participant which has been designated as contractor, supplier or service provider is a combination of natural and/or legal persons, if this is necessary for the performance of the procurement. The need to establish a legal person shall be expressly justified in the decision commencing the procedure.

(3) A candidate or participant may not be excluded from a public procurement award procedure on the ground of the status or legal form thereof, where the said candidate or participant or the members of the combination are entitled to provide the relevant service, supply or works in the Member State in which they are established.

Mixed Public Procurements

Article 11. (1) Where a public procurement covers activities having more than one object under Article 3 herein, the said procurement shall be awarded according to the procedure applicable to the object which characterises the activities that are the main subject-matter of the said procurement.

(2) Where a public procurement covers services and supplies, the main subject-matter shall be determined with respect to the service or supply of the highest estimated value.

(3) Where a public procurement covers services under Annex 2 hereto and other services, the main subject-matter shall be determined with respect to the service of the highest estimated value.

(4) Where the subject-matter of the public procurement covers several activities and the rules for public contracting entities apply to a part of the said activities whereas the rules for sector contracting entities apply to other such activities, or some of the activities fall outside the scope of this Act, the contracting entity may award separate procurements for the separate activities. Where the separate activities are awarded on their own, the rules applicable to the relevant activity shall be followed. If the contracting entity decides to award the activities in a single procurement, the rules applicable to public contractors shall be followed.

(5) No decision shall be taken to award a single procurement in order to apply laxer rules or exclude the procurement from the scope of application of this Act.

(6) Where the parts which constitute the subject-matter of a public procurement are objectively not separable, the said procurement shall be awarded according to the procedure applicable to the part which determines the main subject-matter of the procurement.

(7) In the case of contracts which include an object of a public procurement and a concession, the contract shall be awarded:

1. by the rules of this Act, where the contracting entity decides to award a single procurement;
2. by the rules of this Act, where the subject-matter is objectively not separable;
3. by the rules applicable to each of the activities: in all other cases.

(8) In the case of a public procurement which includes activities where to the rules for sector contracting entities are applicable and activities where to the rules of this Act are not applicable and which are not an object of a concession, and if it is objectively impossible to determine which of the activities is a main subject-matter of the procurement or the contracting entity decides to award a single procurement, the said procurement shall be awarded by the rules for sector contracting entities.

Reserved Public Procurements

Article 12. (1) The Council of Ministers, acting on a proposal by the Minister of Labour and Social Policy, shall determine by decisions:

1. a list of the products and services in conformity with the Common Procurement Vocabulary which are intended to be awarded to specialised undertakings or cooperatives of persons with disabilities or to business entities whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons;

2. sheltered employment programmes, within the framework of which the contracting entities have the right to reserve procurements.

(2) When compiling the list and determining the programmes referred to in Paragraph (1), account shall be taken of the national policies carried out, the strategies and programmes implemented, as well as the capacities and the nomenclature of the products and services provided by the undertakings or persons referred to in Paragraph (1) and, where necessary, the list and programmes shall be updated.

(3) The contracting entity shall indicate that the procurement is reserved in the notice whereby the commencement of a public procurement award procedure under Paragraph (1) is made known.

(4) Central purchasing bodies shall not be obliged to reserve procurements which fall within the scope of the list referred to in Item 1 of Paragraph (1).

(5) Eligibility for participation when public procurements are awarded under Paragraph (1) shall be limited to persons whereof at least 30 per cent of the employees on payroll are persons with disabilities or disadvantaged persons. In the cases referred to in Item 1 of Paragraph (1), such persons must have been registered as specialised undertakings or cooperatives of persons with disabilities at least three years before the date of commencement of the particular public procurement award procedure.

(6) Eligibility for participation in a public procurement under Item 1 of Paragraph (1) shall be limited to specialised undertakings or cooperatives of persons with disabilities capable of performing at least 80 per cent of the subject-matter of the said procurement using machinery, plant and human resources of their own. In order to fulfil this condition, such undertakings or cooperatives may subcontract or refer to the capacity of third parties if the said subcontractors or third parties are specialised undertakings or cooperatives of persons with disabilities.

(7) Other interested parties may also participate in a reserved procurement award procedure, but the tenders thereof shall be examined only if no tenders of the persons referred to in Paragraph (1) have been admitted.

(8) The terms and procedure for the participation, examination of tenders, ranking and conclusion of a reserved procurement contract shall be regulated by the regulations for application of this Act.

(9) The Public Procurement Agency shall make known the list and the programmes referred to in Paragraph (1) through the internet site thereof within seven days from the promulgation of the decisions referred to in Paragraph (1) in the State Gazette and shall ensure a link to the register referred to in Article 29 of the Integration of Persons with Disabilities Act.

Chapter Three

EXCLUSIONS

General Exclusions

Article 13. (1) The Act shall not apply:

1. to any public procurements and design contests which must be awarded by rules established in an international agreement concluded in conformity with the provisions of the TFEU between the Republic of Bulgaria and one or more third countries or autonomous subdivisions thereof and covering supplies, services or construction of works intended for the joint implementation or exploitation by the signatories;

2. to any public procurements and design contests which are awarded by the rules of an international organisation or an international financing institution, where the said procurements and contests are fully financed by that organisation or institution; in the case of public procurements and design contests co-financed for more than 50 per cent by an international organisation or international financing institutions, the parties shall agree on applicable procurement award procedures;

3. to any public procurements and design contests which are awarded in accordance with public procurement award procedures established by an international organisation in rules thereof;

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

5. to any procurements for the purchase of broadcasting time or arrangement of programmes, which are awarded to media service providers;

6. to any arbitration and conciliation services;

7. to any legal services related to:

(a) legal representation of a client by a law firm or by a lawyer in an arbitration or conciliation held in a Member State, a third country or before an international arbitration or conciliation instance, or in proceedings before the courts, tribunals or public authorities of a Member State or a third country or before international courts, tribunals or institutions;

(b) legal advice given by a law firm or by a lawyer in preparation of any of the proceedings referred to in Littera (a), as well as legal advice on matters that may become the subject of proceedings referred to in Littera (a);

(c) document authentication and certification which must be provided by notaries;

(d) legal services whereof the providers are designated by a court or competent authority, or by virtue of a law, the provision of the services being under the supervision of the court or competent authority;

(e) the exercise of functions of State authorities, including enforcement services provided by an enforcement agent;

8. (amended, SG No. 86/2018, effective 1.03.2019) to any financial services related to the issue, sale, purchase or transfer of securities or other financial instruments, the services provided in connection with the assumption and management of the government debt; the services provided in connection with the management of the single account system and the fiscal reserve, the services provided by the Bulgarian National Bank, operations conducted with the European Financial Stability Facility and the European Stability Mechanism;

8a. (new, SG No. 96/2017, effective 1.01.2018, amended, SG No. 15/2018, effective 16.02.2018) for services

provided to:

(a) (supplemented, SG No. 15/2018, effective 16.02.2018) the Bulgarian National Bank, relating to exchange of financial messages, communication and maintenance of systems for exchange of financial messages, as well as related licences and services;

(b) (supplemented, SG No. 15/2018, effective 16.02.2018) the Bulgarian National Bank and the Financial Supervision Commission, relating to allowing continuous real-time access to financial and economic information, including means to retrieve and analyse asset prices and other economic and financial data, as well as platforms for trading and listing financial and other assets on international markets;

(c) (supplemented, SG No. 15/2018, effective 16.02.2018) the Bulgarian National Bank, relating to manufacture of Bulgarian regular-issue and commemorative coins;

9. (supplemented, SG No. 86/2018, effective 1.03.2019) to any loans, including bank credit, whether or not related to the issue, sale, purchase or transfer of securities or other financial instruments;

10. to any employment relationships within the meaning given by Item 26 of § 1 of the Supplementary Provisions of the Income Taxes on Natural Persons Act;

11. to any civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations, and which are covered by Common Procurement Vocabulary codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services;

12. to any public passenger transport services by rail or metro, where awarded in accordance with Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315/1 of 3 December 2007);

13. to any public procurements and design contests related to the fields of defence and security whereto the provisions of Part Four herein do not apply:

(a) the award whereof is related to the supply of information the disclosure of which is contrary to the essential security interests of Bulgaria, according to point (a) of Article 346 (1) of the TFEU, or

(b) where the contracting entity is bound to award and/or to organise the procurement by specific procedural rules pursuant to international agreements or treaties concluded in conformity with the provisions of the TFEU between the Republic of Bulgaria, of the one part, and one or more third countries or autonomous subdivisions thereof, of the other part, covering supplies, services or works intended for joint implementation or exploitation by their signatories, or

(c) awarded to undertakings of a Member State or of a third country pursuant to an international agreement or treaty relating to the stationing of troops, or

(d) where the contracting entity is bound to award or organise the said procurements and contests in accordance with rules established by an international organisation, or

(e) awarded by the rules of an international organisation or an international financing institution, where the said procurements and contests are fully financed by that organisation or institution; in the case of public procurements and design contests co-financed for more than 50 per cent by an international organisation or international financing institutions, the parties shall agree on applicable procurement award procedures, or

(f) where the protection of the essential security interests of Bulgaria cannot be guaranteed by imposing requirements aimed at protecting the information which the contracting entity must make available upon a public procurement award procedure according to this Act or by less intrusive measures, or

(g) the performance of which is accompanied by special security measures in accordance with the legislation in force

with a view to protecting essential security interests of Bulgaria;

14. upon any public service procurements awarded by a contracting entity to a public contracting entity or to a combination of such contracting entities which hold exclusive rights to provide the services concerned pursuant to a law, regulation or published administrative provision which is compatible with the provisions of the TFEU;

15. to any procurements for research and development services, where one of the following conditions is not fulfilled:

(a) the benefits accrue exclusively to the contracting entity for its use in the conduct of its own affairs;

(b) the service provided is wholly remunerated by the contracting entity;

16. to any compulsory social security services;

17. to any insurance contracts covering a liability for nuclear damage in implementation of the Vienna Convention on Civil Liability for Nuclear Damage, done at Vienna on 21 September 1988 (ratified by law, State Gazette No. 64 of 1994) ([Convention promulgated in] State Gazette No. 76 of 1994; corrected in No. 91 of 1994), and of the Safe Use of Nuclear Energy Act;

18. (new, SG No. 34/2016, SG No. 30/2018) to any service, supply or works contracts concluded by a contracting entity referred to in Items 1 to 13 of Article 5 (2) and Item 1 of Article 5 (4) herein, related to the construction and maintenance of protective obstacles for the purpose of protecting the international border;

19. (new, SG No. 96/2017, effective 1.01.2018) to any contracts for the provision of security of installations and to any contracts for carrying out fire extinguishing and rescue activities and State fire control by officials of the Ministry of Interior, concluded on the basis of the Ministry of Interior Act;

20. (new, SG No. 17/2018, effective 23.02.2018) to the purchase by medical treatment facilities for in-patient care of medicinal products included in the list under Article 266a(2) of the Medicinal Products in Human Medicine Act.

(2) The Council of Ministers, acting on a proposal by the Minister of Defence and the Minister of Interior, shall adopt an ordinance regulating the criteria and procedure for determining the existence of essential security interests of Bulgaria in the cases referred to in Item 13 (a), (f) and (g) of Paragraph (1), which must be protected when concluding a public procurement contract or when carrying out a design contest.

Exclusions Applicable to Public Contracting Entities

Article 14. (1) Public contracting entities shall not apply this Act:

1. where a public contracting entity pursuing activities related to postal services awards procurements or carries out a design contest in connection with the pursuit of the following activities:

(a) services awarded in order to make a profit, linked to and provided entirely by electronic means (including the secure transmission of coded documents by electronic means, address management services and transmission of registered electronic mail);

(b) postal money orders and transfer operations, carried out in connection with the financial services which are covered by Common Procurement Vocabulary codes 66100000-1 to 66720000-3, and to the services referred to in Item 8 of Article 13 (1) herein;

(c) philatelic services;

(d) logistics services combining physical delivery and/or warehousing with other non-postal functions;

2. to any procurements and design contests which facilitate the activity of a public contracting entity related to the provision or exploitation of public communications networks within the meaning given by Item 39 of § 1 of the Supplementary Provisions of the Electronic Communications Act, or the provision of one or more public electronic

communications services within the meaning given by Item 40 of § 1 of the Supplementary Provisions of the Electronic Communications Act;

3. upon the acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services, that are awarded to radio media service providers or audiovisual media service providers;

4. to any political campaign services covered by Common Procurement Vocabulary codes 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign;

5. upon public procurements awarded by a public contracting entity, including where pursuing a sector activity, to a legal person if the following conditions are simultaneously fulfilled:

(a) the contracting entity exercises over the legal person a control which is similar to that which it exercises over its own departments;

(b) more than 80 per cent of the activities of the legal person are carried out in pursuit of activities entrusted by the contracting entity or self-contained structures thereof or by other legal persons controlled by that contracting entity;

(c) there is no direct private capital participation in the legal-person contractor, supplier or service provider with the exception of non-controlling and non-blocking forms of private capital participation which do not exert a decisive influence on the activities of the legal person;

6. (amended, SG No. 86/2018, effective 1.03.2019) where a legal person which is controlled, within the meaning given by Item 5 (a), awards procurements to its controlling contracting entity or to another legal person controlled by the same contracting entity and the conditions of Item 5 (b) and (c) are fulfilled for the contractor, supplier or service provider;

7. upon public procurements awarded by a public contracting entity, including where pursuing a sector activity, to a legal person if the following conditions are simultaneously fulfilled:

(a) the contracting entity exercises over the legal person a control which is similar to that which it exercises over its own departments;

(b) more than 80 per cent of the activities of the legal person are carried out in pursuit of activities entrusted by its controlling contracting entities or by other legal persons controlled by the same contracting entities;

(c) there is no direct private capital participation in the legal person with the exception of non-controlling and non-blocking forms of private capital participation which do not exert a decisive influence on the activities of the legal person;

8. upon contracts concluded between two or more public contracting entities, including where pursuing a sector activity, where the following conditions are simultaneously fulfilled:

(a) a cooperation between them is established or implemented with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;

(b) the implementation of the cooperation is governed solely by considerations relating to the public interest;

(c) the participating contracting entities have been performing on the open market less than 20 per cent of the activities concerned by the cooperation during the preceding three years.

(2) In the cases referred to in Item 5 (a) of Paragraph (1), the contracting entity shall exercise over a legal person a control similar to that which it exercises over its own departments, where it exercises a decisive influence over the strategic objectives and significant decisions of that legal person. Such control may also be exercised by another legal person, which is controlled in the same way by the contracting entity.

(3) In the cases referred to in Item 7 of Paragraph (1), the contracting entities shall exercise joint control over a legal

person where the following conditions are simultaneously fulfilled:

1. the management and supervisory bodies of the legal person are composed of representatives of all contracting entities participating in the control, and individual representatives may represent several or all of the participating contracting entities;

2. those contracting entities are able to jointly exercise decisive influence over the strategic objectives and significant decisions of the legal person;

3. the legal person does not have any interests which are contrary to those of the controlling contracting entities.

(4) The average total turnover or an appropriate alternative measure of the performance of the activity for the preceding three years shall be taken into consideration for the determination of the percentage of activities in the cases referred to in Items 5 to 8 of Paragraph (1).

(5) In the cases referred to in Item 5 to 8 of Paragraph (1), where, because of the date on which the legal person or contracting entity was created or commenced activities or because of a reorganisation of the activities thereof, the turnover is either not available or no longer relevant, it shall be sufficient to show that the measurement of activity is credible, particularly by means of its business programme.

(6) The methods for arrival at the price of the contracts referred to in Items 5 to 7 of Paragraph (1) shall be defined by the regulations for application of this Act.

(7) Where any of the conditions necessary for the conclusion of a contract under Items 5 to 8 of Paragraph (1) no longer applies, the contract shall be terminated by the conclusion, according to the procedure established by this Act, of a new contract with the same subject-matter. In such case, the contracting entity shall commence the new procurement award within one month from the lapse of the condition concerned.

(8) (Amended, SG No. 102/2018, effective 1.01.2019) The Act shall not apply for:

1. contracts concluded by the National Health Insurance Fund with medical care providers within the meaning given by Article 58 of the Health Insurance Act;

2. contracts concluded by the National Health Insurance Fund for the payment and for the negotiation of discounts on:

a) medicinal products, medical devices, highly specialized apparatuses/individual use appliances;

b) (effective 1.01.2020 - SG No. 102/2018) aids, appliances and equipment for persons with disabilities.

(9) (New, SG No. 80/2018, effective 28.09.2018) The Act shall not apply to contracts concluded by Road Infrastructure Agency under the procedure of Article 10, paragraphs 14 and 15 of the Roads Act.

Exclusions Applicable to Sector Contracting Entities

Article 15. (1) A sector contracting entity shall not apply the Act where awarding:

1. any supply procurements for purposes of resale or lease to third parties, provided that the said contracting entity enjoys no special or exclusive rights to sell or lease the subject-matter of such contracts, and other entities are free to pursue such activities under the same conditions;

2. any procurements or design contests for purposes other than such related to the pursuit of sector activities, or for the pursuit of such activities in a third country, provided that a network or geographical area within the European Union is not used;

3. any water supply procurements, if the said contracting entity pursues any activities referred to in Items 1 and 2 of Article 126 (1) herein;

4. (supplemented, SG No. 86/2018, effective 1.03.2019) any procurements for the supply of energy or of fuel for the production of energy, if the said contracting entity pursues activities referred to in Items 1 and 2 of Article 124 (1), Items 1 and 2 of Article 125 (1) and Items 2 and 3 of Article 128 herein;

5. any procurements awarded to an affiliated undertaking:

(a) for services: provided that at least 80 per cent of the average total turnover of the affiliated undertaking over the preceding three years derives from the provision of services to the contracting entity or other undertakings with which it is affiliated, taking into account all identical or similar services provided by that undertaking;

(b) for supplies: provided that at least 80 per cent of the average total turnover of the affiliated undertaking over the preceding three years derives from the provision of supplies to the contracting entity or other undertakings with which it is affiliated, taking into account all identical or similar supplies provided by that undertaking;

(c) for works: provided that at least 80 per cent of the average total turnover of the affiliated undertaking over the preceding three years derives from the provision of works to the contracting entity or other undertakings with which it is affiliated, taking into account all works provided by that undertaking;

6. any procurements awarded to a joint venture of which the contracting entity forms part, provided that the joint venture was formed for the pursuit of a sector activity over a period of at least three years and that the constitutive act of the joint venture stipulates that the contracting entities which form it will be part thereof for at least the same period.

(2) This Act shall not apply where a joint venture referred to in Item 6 of Paragraph (1) awards procurements to any undertaking which is affiliated to one of the contracting entities forming part of the joint venture and if the relevant condition referred to in Item 5 (a) to (c) of Paragraph (1) is fulfilled.

(3) This Act shall not apply where a joint venture awards procurements to any contracting entity forming part thereof if the conditions of Item 6 of Paragraph (1) are fulfilled.

(4) In the cases referred to in Item 5 of Paragraph (1) and Paragraph (2), where, because of the date on which the affiliated undertaking was created or commenced activities, the turnover is not available for the preceding three years, it shall be sufficient for that undertaking to show, by means of the business programme thereof, that at least 80 per cent of the average annual turnover thereof will derive from the supplies, services or works which will be provided to the contracting entity and to affiliated undertakings.

(5) Where two or more undertakings affiliated to the contracting entity provide identical or similar supplies, services or works, the total turnover derived by those undertakings from the provision of the relevant supplies, services or works shall be taken into account when calculating the amount of the turnover under Item 5 of Paragraph (1).

(6) Where any of the conditions referred to in Item 5 or 6 of Paragraph (1) necessary for the conclusion of a contract under Item 5 or 6 of Paragraph (1), Paragraph (2) or (3) no longer applies, the contract shall be terminated by the conclusion, according to the procedure established by this Act, of a new contract with the same subject-matter. In such case, the contracting entity shall be obliged to initiate the new procurement award within one month from the lapse of the condition concerned.

Application of Exclusions

Article 16. (Amended, SG No. 86/2018, effective 1.03.2019) Contracting entities may not invoke the exclusions covered under Articles 13 to 15 herein where the grounds provided for in the law are not present.

PART TWO RULES FOR AWARD

Chapter Four AWARD PROCEDURES. THRESHOLD AMOUNTS. ESTIMATED

VALUE OF PUBLIC PROCUREMENT

Obligation to Apply

Article 17. (1) Contracting entities shall be obliged to apply the public procurement award procedure as provided for in this Act where the grounds for this are present.

(2) The award of any activities in woodland for the creation of forests, harvesting of timber and non-timber forest products shall follow the procedure established by the Forestry Act.

Types of Procedure

Article 18. (1) There shall be the following procedures under this Act:

1. an open procedure;
2. a restricted procedure;
3. a competitive procedure with negotiation;
4. a negotiated procedure with prior call for competition;
5. a negotiated procedure with publication of a contract notice;
6. a competitive dialogue;
7. an innovation partnership;
8. a negotiated procedure without prior publication;
9. a negotiated procedure without prior call for competition;
10. a negotiated procedure without publication of a contract notice;
11. a design contest;
12. a public contest;
13. direct negotiations.

(2) An open procedure and a public contest shall be procedures whereby all interested parties may submit a tender.

(3) A restricted procedure shall be a procedure whereby only candidates invited by the contracting entity after the conduct of pre-selection may submit a tender.

(4) In the procedures referred to in Items 3 to 5 of Paragraph (1), the contracting entity shall conduct negotiations with candidates invited after the conduct of pre-selection. The candidates shall submit initial tenders as a basis for conduct of the negotiations.

(5) A competitive dialogue shall be a procedure whereby the contracting entity conducts a dialogue with the candidates admitted to that procedure after a pre-selection, with the aim of identifying a proposed solution or solutions meeting the requirements of the contracting entity, and thereafter invites the candidates who have proposed the said solutions to submit final tenders.

(6) An innovation partnership shall be a procedure whereby the contracting entity conducts a dialogue with the candidates admitted to that procedure after a pre-selection, with the aim of setting up a partnership with one or several

partners to conduct specified research and development activities.

(7) In the negotiated procedures referred to in Items 8 to 10 and 13 of Paragraph (1), the contracting entity conducts negotiations for determination of the contract clauses with one or more specific persons.

(8) (Amended, SG No. 86/2018, effective 1.03.2019) A design contest shall be a procedure which enables the contracting entity to acquire, mainly in the fields of town and country planning, architecture and engineering or data processing, a plan or a conceptual design selected by a jury after being put out to competition with or without the award of prizes. A design contest may be open or restricted.

Applicable Procedures

Article 19. (1) When awarding public procurements, public contracting entities shall apply the procedures referred to in Items 1 to 3, 6 to 8 and 11 to 13 of Article 18 (1) herein.

(2) When awarding public procurements, sector contracting entities shall apply the procedures referred to in Items 1, 2, 4, 6, 7, 9 and 11 to 13 of Article 18 (1) herein.

(3) When awarding public procurements in the fields of defence and security, contracting entities shall apply the procedures referred to in Items 2, 5, 6 and 10 of Article 18 (1) herein.

Threshold Amounts

Article 20. (1) The procedures referred to in Items 1 to 11 of Article 18 (1) herein shall apply where:

1. public contracting entities, as well as combinations thereof, award public procurements the estimated value of which is equal to or greater than:

(a) (amended, SG No. 86/2018, effective 1.03.2019) BGN 10,000,000: for works;

(b) (amended, SG No. 86/2018, effective 1.03.2019) BGN 280,000: for supplies and services;

(c) (amended, SG No. 86/2018, effective 1.03.2019) BGN 1,000,000: for services under Annex 2 hereto;

2. public contracting entities operating in the field of defence award public procurements the estimated value of which is equal to or greater than:

(a) (amended, SG No. 86/2018, effective 1.03.2019) BGN 10,000,000: for works;

(b) (amended, SG No. 86/2018, effective 1.03.2019) BGN 280,000: for services and for supplies involving products under Annex 3 hereto;

(c) (amended, SG No. 86/2018, effective 1.03.2019) BGN 430,000: for supplies involving products falling outside the scope of Annex 3 hereto;

(d) (amended, SG No. 86/2018, effective 1.03.2019) BGN 1,000,000: for services under Annex 2 hereto;

3. sector contracting entities award public procurements the estimated value of which is equal to or greater than:

(a) (amended, SG No. 86/2018, effective 1.03.2019) BGN 10,000,000: for works;

(b) (amended, SG No. 86/2018, effective 1.03.2019) BGN 860,000: for supplies and services;

(c) (amended, SG No. 86/2018, effective 1.03.2019) BGN 1,500,000: for services under Annex 2 hereto;

4. public and sector contracting entities award procurements in the fields of defence and security the estimated value of which is equal to or greater than:

(a) (amended, SG No. 86/2018, effective 1.03.2019) BGN 860,000: for the supply of military equipment, including any parts, components and/or subassemblies thereof, including the equipment covered by the list of defence-related products adopted on the basis of Article 2 (1) of the Defence-Related Products and Dual-Use Items and Technologies Export Control Act;

(b) (amended, SG No. 86/2018, effective 1.03.2019) BGN 860,000: for the supply of sensitive equipment, including any parts, components and/or subassemblies thereof;

(c) (amended, SG No. 86/2018, effective 1.03.2019) BGN 860,000: for services directly related to the equipment referred to in Litterae (a) and (b) for any and all elements of the life cycle thereof;

(d) (amended, SG No. 86/2018, effective 1.03.2019) BGN 10,000,000: for works directly related to the equipment referred to in Litterae (a) and (b) for any and all elements of the life cycle thereof;

(e) (amended, SG No. 86/2018, effective 1.03.2019) BGN 860,000: for services for specifically military purposes or for sensitive services;

(f) (amended, SG No. 86/2018, effective 1.03.2019) BGN 10,000,000: for works for specifically military purposes or for sensitive works;

5. contracting entities shall carry out a design contest for a design the value of which is equal to or greater than BGN 70,000.

(2) Contracting entities shall apply the procedures referred to in Item 12 or 13 of Article 18 (1) herein where the public procurements are of an estimated value of:

1. (amended, SG No. 86/2018, effective 1.03.2019) for works: from BGN 270,000 to BGN 10,000,000;

2. for supplies and services, including the services under Annex 2 hereto: from BGN 70,000 to the respective threshold under Paragraph (1), depending on the type of contracting entity and the subject-matter of the procurement.

(3) Contracting entities shall apply the procedure for award by solicitation of tenders by advertisement or invitation to specific persons where the public procurements are of an estimated value:

1. for works: from BGN 50,000 to BGN 270,000;

2. for supplies and services, with the exception of the services under Annex 2 hereto: from BGN 30,000 to BGN 70,000.

(4) Contracting entities shall award directly public procurements the estimated value of which is less than:

1. BGN 50,000: for works;

2. BGN 70,000: for services under Annex 2 hereto;

3. BGN 30,000: for supplies and services other than those referred to in Item 2.

(5) In the cases referred to in Items 2 and 3 of Paragraph (4), contracting entities may support the expenditure by means of primary payment documents only, without the need to conclude a written contract.

(6) The public procurements referred to in Item 4 of Paragraph (1) the value of which is below the respective threshold may be awarded directly, but the contracting entities shall be obliged to conclude a written contract.

(7) The contracting entities referred to in Item 15 of Article 5 (2) herein shall apply the procedure for award by solicitation of tenders by advertisement or invitation to specific persons where the public procurements are of an estimated value of:

1. (amended, SG No. 86/2018, effective 1.03.2019) for works: from BGN 270,000 to BGN 10,000,000;

2. for supplies and services: from BGN 70,000 to the respective threshold under Paragraph (1) depending on the subject-matter of the procurement.

(8) The contracting entities referred to in Item 15 of Article 5 (2) herein may award directly public procurements the estimated value of which is below the thresholds under Paragraph (7), and for supplies and services the said entities may support the expenditure by means of primary payment documents only, without the need to conclude a written contract.

(9) Contracting entities shall have the right to award a particular public procurement according to a procedure applicable to greater values, and in this case the said entities shall be obliged to apply all rules valid for the procedure chosen thereby.

Methods for Calculating Estimated Value of Public Procurements

Article 21. (1) The estimated value of a public procurement shall be determined by the contracting entity and shall cover the total amount payable, net of value added tax (VAT), to the future public procurement contractor, supplier or service provider, including any envisaged form of option and renewals of the contracts, as explicitly set out in the terms of the public procurement. Where the contracting entity provides for prizes or payments to candidates or participants, they shall be taken into account when determining the estimated value of the procurement.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity shall calculate the estimated value of the public procurement by the date of the decision commencing the said procurement depending on the market value of the activities to be awarded, which shall be determined as a result of market research or consultations.

(3) Where the contracting entity is comprised of self-contained departments on a territorial, functional or other basis, which are not contracting entities in their own right, the estimated value of a particular public procurement shall be determined on the basis of the needs of all separate units.

(4) Where a public procurement is subdivided into several lots, each one being the subject-matter of a contract, the value of the procurement shall equal the sum total of the values of all lots.

(5) Where a lot is awarded on its own, the procedure applicable to the aggregate value of the entire procurement shall be followed.

(6) Contracting entities may award lots according to the procedure provided for the individual value of each of the said lots provided that the value of the lot concerned does not exceed BGN 156,464 for supplies and services and BGN 1,000,000 for works and the aggregate value of the lots so awarded does not exceed 20 per cent of the aggregate value of the procurement. In such cases, regardless of the residual value of the procurement, it shall be awarded according to the procedure applicable to the aggregate value of the entire procurement.

(7) When determining the estimated value of a public works procurement, it shall include the value of all supplies and services that are made available to the contractor by the contracting entity, provided that such supplies and services are necessary for the execution of the works.

(8) In the case of public supply procurements or public service procurements which are regular in nature or which are intended to be renewed within a given period, the estimated value shall be determined on the basis of:

1. the total actual value of the procurements of the same type awarded during the preceding 12 months, adjusted for the changes in quantity or value which would occur in the course of the 12 months following the award of the procurement, or

2. the total estimated value of the procurements awarded during the 12 months following the first delivery or service.

(9) With regard to public supply procurements relating to the leasing, hire, rental or hire purchase of products, the estimated value of the public procurement shall be determined as follows:

1. in the case of fixed-term public procurements, if that term is less than or equal to 12 months: the total estimated term of the public procurement contract or, where the term of the contract is longer than 12 months: the total value including the estimated residual value;

2. in the case of public procurements without a fixed term or the term of which cannot be defined: the monthly value multiplied by 48.

(10) With regard to public service procurements, the basis for calculating the estimated value shall be the following:

1. in the case of insurance services: the premium payable, and other forms of remuneration;

2. in the case of banking and other financial services: the fees, commissions payable, interest and other forms of payments;

3. in the case of design procurements: fees, commissions payable and other forms of payment.

(11) With regard to public service procurements which do not indicate a price, the basis for calculating the estimated value shall be the following:

1. in the case of fixed-term procurements, where that term is less than or equal to 48 months: the total value for the full term;

2. in the case of procurements without a fixed term or with a term greater than 48 months: the monthly value multiplied by 48.

(12) With regard to framework agreements and dynamic purchasing systems, the maximum estimated value net of VAT of all the public procurement contracts envisaged for the total term of the framework agreement or dynamic purchasing system shall be taken into consideration.

(13) In the case of an innovation partnership, the maximum estimated value net of VAT of the research and development activities to take place during all stages of the envisaged partnership, as well as of the supplies, services or works to be developed and procured at the end of the envisaged partnership, shall be taken into consideration.

(14) (Amended, SG No. 86/2018, effective 1.03.2019) The choice of the method used to calculate the estimated value of a public procurement must not be made to apply a procedure for award at lower values.

(15) (Amended and supplemented, SG No. 86/2018, effective 1.03.2019) No public procurement shall be subdivided with the effect of applying a procedure for award at lower values, except in the cases referred to in Paragraph (6).

(16) The award of two or more procurements within a period of 12 months shall not be considered a subdivision where the said procurements:

1. have as an object the execution of a work or both the design and execution of a work;

2. have an identical or similar subject-matter, of which the contracting entity was unaware at the moment of starting actions for the award of an earlier public procurement having such subject-matter.

(17) When determining the value of a works contract, no supplies or services which are not necessary for the execution of the said contract shall be included.

Chapter Five

PUBLICITY AND TRANSPARENCY

Section I

Decisions and Notices

Decisions

Article 22. (1) Depending on the type and stage of the procedure, contracting entities shall issue the following decisions:

1. commencing the procedure;
2. approving a notice of modification or additional information;
3. approving the invitation to confirm interest;
4. on pre-selection;
5. concluding the dialogue;
6. designating a contractor, supplier or service provider;
7. ranking the participants in a design contest and/or awarding prizes and/or other payments in a design contest;
8. terminating the procedure;
9. (amended, SG No. 86/2018, effective 1.03.2019) setting up a qualification system;
10. (new, SG No. 86/2018, effective 1.03.2019) admitting or refusing to admit interested parties to a dynamic purchasing system or to a qualification system;
11. (renumbered from item 10, SG No. 86/2018, effective 1.03.2019) ending the participation in a dynamic purchasing system or in a qualification system of persons admitted thereto.

(2) By the decision referred to in Item 1 of Paragraph (1), the contracting entity shall approve the notice whereby the commencement of a procedure is made known, and in the procedures referred to in Items 8 to 10 and 13 of Article 18 (1) herein, the said entity shall approve the call for competition, as well as the documents to the notice or call, where applicable.

(3) By the decision referred to in Item 3 of Paragraph (1), the contracting entity shall furthermore approve the documents, where not approved by the decision commencing the procedure.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) The decisions referred to in Items 1, 2 and 9 of Paragraph (1) shall be drawn up on the basis of a standard form.

(5) The decisions referred to in Paragraph (1) shall contain:

1. the name of the contracting entity;
2. number, date and legal basis for the issuing of the decision;
3. indication of the type of procedure and the subject-matter of the procurement;
4. the estimated value of the procurement: where applicable;
5. reasons: where required;
6. an operative part, whereof the content shall depend on the stage of the procedure and shall include:

- (a) approval of the relevant documents related to the conduct of the procedure;
- (b) approval of the notice of modification and additional information;
- (c) the results of the pre-selection, including the reduction in the number of candidates, the results of the dialogue or the ranking of participants;
- (d) the excluded candidates or participants and the reasons for the exclusion thereof, including such related to the rejection of tenders under Article 72 herein: where applicable;
- (e) the name of the participant selected as contractor, supplier or service provider and, where applicable, also the name of the subcontractor and the share of the procurement contract or framework agreement which the said subcontractor will be executing;
- (f) the conflicts of interest identified with regard to candidates or participants and the measures taken: where applicable;

7. the body responsible for appeal and the deadline for lodging an appeal;

8. the forename, patronymic and surname of the person who issued the decision, with an indication of the position thereof.

(6) A decision designating a contractor, supplier or service provider shall not be issued in the cases of procurements awarded after the conclusion of a framework agreement with a single contractor, supplier or service provider, where all the terms are laid down in the said agreement.

(7) Contracting entities shall not have the right to admit anticipatory enforcement of the decisions referred to in Paragraph (1).

(8) (Amended, SG No. 86/2018, effective 1.03.2019) Except in the cases referred to in Article 202 herein, the contracting entity may amend or set aside any of the decisions referred to in Items 4 to 11 of Paragraph (1) until the said decision enters into effect.

(9) The decisions covered under Paragraph (1) shall be individual administrative acts which are issued according to the procedure established by this Act.

(10) (New, SG No. 86/2018, effective 1.11.2019) Candidates and participants shall be notified of the decisions referred to in Items 3 to 8, 10 and 11 of Paragraph (1) within three days from the issuing of the said decisions by means of a communication on the user account of the said candidates and participants in the platform referred to in Article 39a (1) herein, whereto the relevant decision shall be attached. The decision shall be considered served as from the receipt of the communication on the user account, which shall be certified by the platform by an electronic time stamp.

Prior Notices

Article 23. (1) Contracting entities may make known their intention to award public procurements or to conclude framework agreements over the following 12 months by publishing prior notices which, depending on the type of contracting entity, shall be:

1. a prior information notice: for public contracting entities;
2. a periodic indicative notice: for sector contracting entities.

(2) Where contracting entities make known their intention to award public procurements for services under Annex 2 hereto, the period referred to in Paragraph (1) may be up to 18 months.

(3) For restricted procedures and competitive procedures with negotiation, the public contracting entities referred to in Items 8, 9, 14 and 16 of Article 5 (2) herein may use the prior information notice to make known the commencement of a

procedure.

(4) For restricted procedures and for negotiated procedures with prior call for competition, sector contracting entities may use a periodic indicative notice to make known the commencement of a procedure.

(5) In the cases referred to in Paragraphs (3) and (4), the notice must:

1. be published between 35 days and 12 months before the date on which the invitation to confirm interest was sent, and

2. include all the information:

(a) under Part A of Annex 4 hereto: for public contracting entities;

(b) under Part A of Annex 5 hereto: for sector contracting entities.

(6) When advertising public procurement award procedures under Paragraph (3) or (4) for services under Annex 2 hereto, contracting entities may use a notice referred to in Item 1 or 2 of Paragraph (1) to make known the commencement of a procedure.

(7) In the cases referred to in Paragraph (6), the notice must:

1. be published between 35 days and 18 months before the date on which the invitation to confirm interest was sent, and

2. include all the information:

(a) under Part B of Annex 6 hereto: for public contracting entities;

(b) under Part B of Annex 7 hereto: for sector contracting entities.

(8) In the cases referred to in Paragraphs (3), (4) and (6), the relevant prior notice shall state a time limit for the expression of interest by the interested parties, which may not be less than 30 days from the date on which the notice was sent for publication. In such cases, a contract notice shall not be published.

(9) In open procedures, contracting entities may use the notice referred to in Paragraph (1) only for shortening the time limits for the receipt of tenders.

Contract Notice

Article 24. By a contract notice, contracting entities shall make known the commencement of a public procurement award procedure in the cases specified by this Act.

Notice of Modification or Additional Information

Article 25. By a notice of modification or additional information, contracting entities shall make known changes to the notices, invitations and procurement documents and to the descriptive document.

Contract Award Notice

Article 26. (1) Contracting entities shall send a contract award notice for publication within:

1. thirty days from the conclusion of a public procurement contract or a framework agreement;

2. (supplemented, SG No. 86/2018, effective 1.03.2019) seven days from the entry into effect of the decision terminating the procedure or of the decision of the Commission on Protection of Competition referred to in Item 2 or 5 of Article 215 (2) herein.

3. (new, SG No. 86/2018, effective 1.03.2019) thirty days after the conclusion of a contract on the basis of Items 5 to 8 of Article 14 (1) herein.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) Contracting entities may also publish the contract award notice where concluding contracts applying the exclusions under Article 13 (1), Items 1 to 4 of Article 14 (1) and Article 15 (1) herein.

(3) Where the relevant prior notice is used to make known the commencement of a public procurement award procedure and the contracting entity has decided that it will not award further procurements during the term of validity of the said notice, the contract award notice shall contain a specific indication to that effect.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) In the case of procurements awarded on the basis of a framework agreement or dynamic purchasing system, contracting entities may send for publication a contract award notice which shall include information on all contracts concluded during the relevant quarter. Any such notice shall be sent within 30 days from the end of each quarter.

(5) Where a sector contracting entity completes a contract notice for research-and-development services (R ?

1. the indication "R ?

2. information as detailed as was indicated in the notice that was used as a call for competition.

(6) Any information in the notices referred to in Paragraph (1) the making known of which is contrary to a law, as well as any information in respect of which the participants have lawfully invoked confidentiality in connection with the existence of a trade secret, shall not be published.

(7) Any information provided by a sector contracting entity in the contract award notice, which is not intended for publication, shall be taken into consideration when consolidating the information for statistical purposes.

(8) Where a public procurement contractor, supplier or service provider is a combination which is not a legal person, the contracting entity shall indicate the names of the participants included in the said combination in the contract award notice.

Notice of Modification of Public Procurement Contract or Framework Agreement during its Term

Article 27. (Amended, SG No. 86/2018, effective 1.11.2019) Contracting entities shall send for publication a notice of modification of a public procurement contract or framework agreement referred to in Article 116 (1) herein within 30 days from the signing of the supplementary agreement.

Notice for Voluntary Transparency

Article 28. (1) Contracting entities may publish a notice for voluntary transparency when applying the exclusions under Articles 13 to 15 and Article 149 herein.

(2) The notice for voluntary transparency shall be an individual administrative act.

(3) In the cases referred to in Paragraph (1), contracting entities may not conclude a contract before the expiry of 10 days from the publication of the notice for voluntary transparency or, where an appeal has been lodged against the said notice, before the entry into effect of the decision.

Notice of Completion of Public Procurement Contract

Article 29. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Contracting entities shall send for publication a notice of completion of a public procurement contract, stating therein information on the performance or on the termination of the contract.

(2) The notice referred to in Paragraph (1) shall be drawn up on the basis of a standard form and shall be sent within 30 days from the performance or termination of the contract.

Notices in Design Contest

Article 30. (1) A contracting entity which carries out a design notice shall make known the intention thereof by means of a design contest notice.

(2) A contracting entity which has carried out a design contest shall send a notice of the results of the contest within 30 days from the closure of the said contest.

(3) Any information contained in the notice referred to in Paragraph (2) and the making known of which is contrary to a law or to public interest, as well as any information in respect of which the participants have lawfully invoked confidentiality in connection with the existence of technical or trade secrets, shall not be published.

Section II

Procurement Documents

Content of Documents

Article 31. (1) The procurement documents must contain:

1. the technical specifications;
2. the investment projects and other projects required for the preparation of the tender;
3. the methods for arriving at an integral assessment of the tender, where applicable;
4. standard forms of documents, as well as an instruction as to the preparation thereof;

5. (supplemented, SG No. 15/2018, effective 16.02.2018) a draft contract unless the contract is entered into under general terms or a normative act defines its compulsory content.

(2) In a design contest, the documents must contain:

1. the design assignment and instructions as to the implementation thereof;
2. all technical data as shall be necessary for the execution of the project;

3. the criteria to be applied in the assessment of the design, the relative weighting to be given to each such criterion, and the manner of arriving at the integral assessment of the design.

(3) The documents may include other documents as well, which the contracting entity makes available or to which the contracting entity refers in order to define the characteristics of the procurement or design and the formalities for conduct of the procedure, or which are necessary for the preparation of the requests to participate, the tenders or the designs.

Access to Documents

(Heading amended, SG No. 86/2018, effective 1.11.2019)

Article 32. (1) (Amended, SG No. 86/2018, effective 1.11.2019) Contracting entities shall offer unrestricted, full and direct access free of charge through the platform referred to in Article 39a (1) herein to the procurement documents from the date of:

1. publication of the notice in the Official Journal of the European Union;

2. publication of the notice in the Public Procurement Register, where not subject to publication under Item 1; or

3. dispatch of the invitation to confirm interest.

(2) The notice or the invitation to confirm interest shall specify the internet address at which the procurement documents are accessible.

(3) (Amended, SG No. 86/2018, effective 18.10.2018) Where it is impossible to offer unrestricted, full and direct access free of charge to the procurement documents or parts thereof according to the procedure established by Paragraph (1), contracting entities shall indicate the conditions and manner for accessing the said documents in the notice or in the invitation to confirm interest. In such cases, the time limit for the receipt of tenders shall be prolonged by five days.

(4) In the cases referred to in Article 102 (3) herein, in the notice or in the invitation to confirm interest, the contracting entities shall specify measures that must be taken in order to protect the confidentiality of the information, as well as the conditions and manner for accessing the documents. In such cases, the time limit for the receipt of tenders shall be prolonged by five days.

(5) In the cases referred to in Paragraphs (3) and (4), contracting entities shall not be obliged to prolong the time limit for the receipt of tenders where the said time limit has been shortened because an urgent award was necessary. Sector contracting entities shall likewise not be obliged to prolong the time limit where the said limit is set by mutual agreement between the contracting entity and the chosen candidates.

Clarification of Procedure Conditions

Article 33. (1) (Supplemented, SG No. 86/2018, effective 1.03.2019) Persons may ask the contracting entity to clarify in writing the decision, notice, invitation to confirm interest, procurement documents and descriptive document within 10 days before the expiry of the time limit for the receipt of requests to participate and/or tenders, and where the said time limit has been shortened under Article 74 (2) or Article 133 (2) herein or where an urgent award is necessary, within seven days.

(2) The contracting entity shall give any such clarification within four days from the receipt of the request but not later than six months before the time limit for the receipt of requests to participate and/or tenders, and where the said time limit has been shortened under Article 74 (2) or Article 133 (2) herein or because an urgent award is necessary, within four days before that time limit. The clarification shall not indicate the person who sent the query.

(3) The contracting entity shall not give clarification if the request was received after the time limit referred to in Paragraph (1).

(4) (Amended, SG No. 86/2018, effective 1.03.2019) Clarification shall be given by the buyer profile.

(5) (New, SG No. 86/2018, effective 1.03.2019) Such clarification may not involve changes to the conditions of the procedure.

Invitations to Candidates

Article 34. (1) In the cases of a restricted procedure, competitive dialogue, innovation partnership, competitive procedure with negotiation or negotiated procedure with prior call for competition, contracting entities shall simultaneously and in writing invite the selected candidates to tender or to negotiate or conduct a dialogue. Any such invitation shall be approved by the decision on pre-selection or by the decision concluding a dialogue and must contain at least the information set out in:

1. Section I of Annex 8 hereto: for public contracting entities;

2. Section I of Annex 9 hereto: for sector contracting entities.

(2) Where the procedure has commenced by means of a prior information notice or a periodic indicative notice, the contracting entity shall simultaneously and in writing invite the persons which have already expressed their interest in

participating to confirm their continuing interest. Any such invitation must contain at least the information set out in:

1. Section II of Annex 8 hereto: for public contracting entities;
2. Section II of Annex 9 hereto: for sector contracting entities.

(3) (Amended, SG No. 86/2018, effective 1.11.2019) Where unrestricted, full and direct access free of charge through the platform referred to in Article 39a (1) herein has not been offered and the documents have not been made otherwise available, the said documents shall accompany the invitation.

Section III

Publication of Information

Publication in Official Journal of the European Union

Article 35. (1) The following information relevant to the award and performance of procurements of a value referred to in Article 20 (1) herein shall be published in the Official Journal of the European Union:

1. the notices referred to in Article 23 (1) herein, including were used to make known the commencement of a procedure;
2. the contract notices;
3. the notices of modification or additional information;
4. the contract award notices;
5. the notices in a design contest;
6. the notices of modification of public procurement contracts and framework agreements;
7. the notices for voluntary transparency;
8. the notice on the existence of a qualification system.

(2) The notices covered under Paragraph (1) shall be drawn up on the basis of standard forms endorsed by an act of the European Commission and shall contain at least the information set out in Annexes 4 to 7 hereto depending on the type of contracting entity, type and stage of the procedure and, where applicable, the subject-matter of the procurement as well.

(3) (Amended, SG No. 86/2018, effective 1.11.2019) The notices covered under Paragraph (1) shall be sent to the Publications Office of the European Union through the platform referred to in Article 39a (1) herein maintained by the Public Procurement Agency. The date certified by the platform by an electronic time stamp shall be presumed to be the date on which the notices were sent.

(4) Contract notices that are not subject to the publication requirement may be published in the Official Journal of the European Union provided that any such notices are sent to the Publications Office of the European Union in accordance with Paragraph (2).

(5) (Repealed, SG No. 86/2018, effective 1.11.2019).

Publication in Public Procurement Register

Article 36. (1) The following shall be published in the Public Procurement Register (PPR):

1. the decisions referred to in Items 1 and 2 of Article 22 (1) herein;

2. the notices covered under Article 35 (1) herein;
3. the notices related to the conduct of the procedures referred to in Items 12 and 13 of Article 18 (1) herein: making known the commencement, changes, award of the procurements and modification of the contracts;
4. the notices of completion of public procurement contracts;
5. (new, SG No. 86/2018, effective 1.11.2019) the advertisements on solicitation of tenders, as well as information on the procurement awards;
6. (new, SG No. 86/2018, effective 1.11.2019) information in case of an appeal proceeding.

(2) The decisions and notices referred to in Item 2 of Paragraph (1) and the information contained therein shall not be published in the PPR before the publication of the respective notices in the Official Journal of the European Union.

(3) (Repealed, SG No. 86/2018, effective 1.11.2019).

(4) (Amended, SG No. 86/2018, effective 1.11.2019) The notices referred to in Item 2 of Paragraph (2), which are published in the PPR, may not contain any information which is different from the information for publication to the Publications Office of the European Union.

Buyer Profile

Article 36a. (New, SG No. 86/2018, effective 1.03.2019) (1) Contracting entities shall maintain a buyer profile where though the said entities shall ensure publicity to:

1. the information related to market consultations as conducted;
2. all decisions, notices and invitations related to the commencement, award, performance and termination of public procurements;
3. the procurement documents, except in the cases referred to in Article 32 (3) and (4) herein;
4. the clarification given by contracting entities in connection with public procurements;
5. the memorandums and the final reports of the commissions for the conduct of the procedures;
6. the public procurement contracts and the framework agreements, including the attachments thereto;
7. the subcontracts;
8. the supplementary agreements modifying the public procurement contracts and the framework agreements;
9. the advertisements on solicitation of tenders and the invitations to specific persons, as well as information on the award according to this procedure;
10. information in case of an appeal proceeding;
11. the opinions of the Public Procurement Agency in connection with the ex ante control exercised thereby.

(2) The documents referred to in Paragraph (1) on each public procurement shall constitute a separate electronic case file.

(3) Upon publication of the documents referred to in Paragraph (1), any information in respect of which the participants have lawfully invoked confidentiality in connection with the existence of a trade secret, as well as any information protected by law, shall be sanitised. The legal grounds for sanitising shall be indicated in the place of the sanitised information.

(4) Upon the publication of the documents on the buyer profile, interested parties, candidates and/or participants shall be presumed notified regarding the circumstances stated in the said documents, unless otherwise provided by this Act.

(5) (Effective 1.01.2021 - SG No. 86/2018) The buyer profile shall be maintained on the platform referred to in Article 39a (1) herein.

Article 37. (Repealed, SG No. 86/2018, effective 1.11.2019).

Article 38. (Repealed, SG No. 86/2018, effective 1.11.2019).

Section IV

Electronic Procurement Award

(Heading amended, SG No. 86/2018, effective 1.11.2019)

Article 39. (Effective 18.10.2018, and, in respect of central publishing bodies, 1.01.2017, amended, SG No. 63/2017, SG No. 85/2017, repealed, SG No. 86/2018, effective 18.10.2018).

Award through Electronic Platform

Article 39a. (New, SG No. 86/2018, effective 1.03.2019) (1) (Effective 1.11.2019 - SG No. 86/2018) Public procurements shall be awarded, including through a dynamic purchasing system, a framework agreement and a qualification system, by electronic means using a centralised electronic platform.

(2) The platform referred to in Paragraph (1) shall make it possible:

1. (effective 1.11.2019 - SG No. 86/2018) to prepare and publish the decisions, notices and procurement documents;
2. (effective 1.11.2019 - SG No. 86/2018) to prepare and receive queries and give clarification;
3. (effective 1.11.2019 - SG No. 86/2018) to prepare and send invitations;
4. (effective 1.11.2019 - SG No. 86/2018) to prepare and submit requests to participate and tenders;
5. (effective 1.01.2021 - SG No. 86/2018) to assess tenders;
6. (effective 1.01.2021 - SG No. 86/2018) to conclude a contract;
7. (effective 1.01.2021 - SG No. 86/2018) to prepare and place orders under contracts;
8. (effective 1.11.2019 - SG No. 86/2018) to accept and process electronic invoices;
9. (effective 1.01.2021 - SG No. 86/2018) to link with electronic payment systems;
10. (effective 1.11.2019 - SG No. 86/2018) to prepare and publish the documents referred to in Items 1 to 5 of Article 36 (1) herein;
11. (effective 1.11.2019 - SG No. 86/2018) to exchange other information and documents.

(3) (Effective 1.01.2021 - SG No. 86/2018) Central purchasing bodies may use electronic platforms for centralised award different from the platform referred to in Paragraph (1), provided that technical compatibility and connectivity with the said platform has been ensured and the platforms used by the said bodies provide the possibilities referred to in Items 1 to 9 and 11 of Paragraph (2). Central purchasing bodies shall be obliged to meet the requirements under Articles 35 and 36 herein before publishing the relevant information on the platforms thereof.

(4) (Effective 1.11.2019 - SG No. 86/2018) The platform referred to in Paragraph (1) shall be generally available and interoperable with the most common information and communication technology market products in general use. In all communication, exchange and storage of information, the platform shall ensure that the integrity of data and the confidentiality of documents for participation in the procedure are preserved until the moment such documents are opened and examined, which shall be after the time limit set for the receipt thereof has expired.

(5) (Effective 1.11.2019 - SG No. 86/2018) Contracting authorities shall not use the platform referred to in Paragraph (1) to prepare and exchange any documents containing classified information, with the exception of the decisions referred to in Items 1, 2, 4, 5, 6 and 8 of Article 22 (1) herein and the notices referred to in Article 156 herein. In such cases, the information exchange shall be performed in compliance with the requirements of the Classified Information Protection Act.

(6) (Effective 1.11.2019 - SG No. 86/2018) In exceptional circumstances, contracting authorities shall not be obliged to require the use of the platform referred to in Paragraph (1) upon the preparation and/or submission of tenders where, due to the specialised nature of the public procurement, the use of the said platform would require specific tools and devices or file formats that are supported by applications which are not generally available and cannot be made available to the contracting entity for downloading or remote use, including where the said tools, devices or formats are under a proprietary licensing scheme. In the documents, contracting entities shall give instructions as to the manner of preparing and/or submitting the tenders and shall state reasons in writing, which shall be published in the procurement dossier.

(7) (Effective 1.11.2019 - SG No. 86/2018) The platform referred to in Paragraph (1) shall not be used for the submission of physical or scale models which cannot be transmitted using electronic means.

(8) (Effective 1.11.2019 - SG No. 86/2018) In the cases referred to in Paragraphs (6) and (7), where the platform referred to in Paragraph (1) is not used, the information exchange shall be performed using post or other suitable carrier or a combination of post or other suitable carrier and electronic means.

(9) (Effective 1.11.2019 - SG No. 86/2018) In works procurements and in design contests, contracting entities may require the use, when preparing the tenders or the designs, of specific information electronic modelling tools which are not generally available. In such cases, contracting entities shall offer suitable means of access to those tools.

(10) (Effective 1.11.2019 - SG No. 86/2018) The means of access offered by contracting entities under Paragraph (9) shall be suitable where the said means:

1. ensure unrestricted and full direct access free of charge by electronic means to those tools from the date of publication of the notice or from the date when the invitation to confirm interest is sent, with the notice or invitation specifying the internet address at which those tools are accessible;

2. ensure that persons having no access to the tools concerned, or no possibility of obtaining the said tools within the relevant time limits, may access the public procurement free of charge online through the use of provisional tokens.

(11) (Effective 1.11.2019 - SG No. 86/2018) If an unplanned interruption of the functioning of the platform referred to in Paragraph (1) is established on a day on which a time limit related to a public procurement award expires, the time limit concerned shall be prolonged. The procedure for establishing the interruption and for prolonging the time limit shall be established in the regulations for application of this Act.

Article 40. (Amended, SG No. 63/2017, effective 18.10.2018, repealed, SG No. 86/2018, effective 18.10.2018).

Article 41. (Effective 18.10.2018 regarding technical compatibility and connectivity, amended, SG No. 63/2017, repealed, SG No. 86/2018, effective 18.10.2018).

Article 42. (Repealed, SG No. 86/2018, effective 1.03.2019).

Article 43. (Repealed, SG No. 86/2018, effective 1.11.2019).

Chapter Six

PROCEDURE PREPARATION

Section I

Preliminary Steps

Market Consultations and External Involvement in Preparation of Documents

Article 44. (1) When preparing a public procurement award, the contracting entity may conduct market consultations, seeking advice from independent experts or authorities or from market participants.

(2) The consultations referred to in Paragraph (1) may be used provided that they do not have the effect of distorting competition and do not result in a violation of the principles of non-discrimination and transparency

(3) The contracting entity shall take steps to ensure that the persons involved in the market consultations and/or in the preparation of the procedure are not given an advantage over the rest of the candidates or participants. The said steps shall include at least the following:

1. publication on the buyer profile of all the information exchanged in the context of the preparation of a public procurement award, including the result obtained by the contracting entity or, failing this, indication through the buyer profile of the place where the said information can be obtained;

2. fixing an appropriate time limit for the receipt of tenders, including an assessment of whether the shortening of time limits does not result in a violation of the principle of equal treatment.

(4) The contracting entity shall be obliged to extend the time limit for the receipt of requests to participate or tenders at least up to the minimum time limits for the respective type of procedure, in case the option of shortening the time limits has been taken and only one tender or request to participate was received within the time limit set, submitted by a person who was involved in the market consultations and/or in the preparation of the documents for participation.

(5) In case the taking of steps under Paragraph (3) and/or (4) cannot ensure observance of the principle of equal treatment, the candidate or participant who was involved in the market consultations and/or in the preparation of the procurement award shall be excluded from the procedure if the said candidate or participant is unable to prove that the participation thereof does not result in a violation of the said principle.

Requirements to Fixing Terms for Receipt of Tenders and Requests to Participate

Article 45. (1) When fixing the time limits for the receipt of requests to participate and tenders, contracting entities shall take account of the complexity of the procurement and the time required for drawing up tenders, without prejudice to the minimum time limits for the respective procedures set in this Act.

(2) Where tenders can be made only after a visit to the site or after on-the-spot inspection of additional documents related to the public procurement, the time limits for the receipt of tenders must be longer than the minimum time limits set, enabling interested parties to be aware of all the information needed to produce tenders.

(3) (New, SG No. 86/2018, effective 1.11.2019) Where it is impossible to submit tenders or parts thereof by electronic means for any of the reasons referred to in Article 39a (6) or (7) herein, the time limits for the receipt of tenders shall be prolonged by five days.

Lots

Article 46. (1) When preparing a public procurement award, the contracting entity shall consider the possibility of subdividing the said procurement into lots. When it determines that dividing the public procurement into lots is inappropriate, the contracting entity shall indicate the reasons for this in the decision commencing the procedure.

(2) Where awarding public procurements in the form of lots, contracting entities shall mandatorily determine the subject-matter and extent of each lot and, where applicable, the estimated value as well.

(3) The Council of Ministers may determine fields in which public procurements shall mandatorily be divided into lots conforming to the specialised sectors of small and medium-sized enterprises and the capacities thereof.

(4) Contracting entities shall indicate, in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest, whether tenders may be submitted for one, for several or for all of the lots.

(5) Where contracting entities have indicated that tenders may be submitted for several or all lots, the said entities shall have the right to limit the number of lots that may be awarded to one contractor, supplier or service provider. The said number shall be stated in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest.

(6) In the cases referred to in Paragraph (5), contracting entities shall indicate, in the notice whereby the commencement of the procedure is made known, in the invitation to confirm interest or in the procurement documents, objective and non-discriminatory criteria or rules they will apply where a participant has won more lots than the maximum number admissible.

Special Conditions for Performance of Procurements

Article 47. (1) Contracting entities may include in the requirements for the performance of the procurement special conditions relating to economic or social aspects of the performance, innovations, environmental management, or to employment.

(2) The conditions referred to in Paragraph (1) must be linked to the subject-matter of the procurement and must be indicated in the notice whereby the commencement of the procedure is made known or in the procurement documents.

(3) The contracting entity shall request the participants to declare that the tenders thereof were drawn up taking account of the obligations relating to taxes and social security contributions, to environmental management, to employment protection and to working conditions which are in force in Bulgaria or in the State where the works are to be carried out or the services are to be provided and which shall be applicable to the works or to the services provided.

(4) In the cases referred to in Paragraph (3), the contracting entity shall indicate, in the notice whereby the commencement of the procedure is made known or in the procurement documents, the bodies from which the participants may obtain the appropriate information on the applicable rules and requirements.

(5) (New, SG No. 86/2018, effective 1.03.2019) Upon award of a public procurement for the supply of any road transport vehicles of the M1, M2, M3, N1, N2 and N3 categories, as defined in Article 149 (1) of the Road Traffic Act, contracting authorities shall be obliged to take into account the energy and environmental impacts of the said vehicles over the life cycle thereof, which include at least requirements for:

1. energy consumption, and
2. emissions of carbon dioxide (CO₂), and
3. emissions of oxides of nitrogen (NO_x), non-methane hydrocarbons (NMHC) and particulate matter.

(6) (New, SG No. 86/2018, effective 1.03.2019) Contracting authorities shall apply the requirements covered under Paragraph (5):

1. by stating the said requirements as technical specifications in the public procurement documents, or
2. as indicators upon an award criterion under Items 2 or 3 of Article 70 (2) herein.

(7) (New, SG No. 86/2018, effective 1.03.2019) Contracting entities shall not be obliged to apply the requirements of Paragraph (5) where awarding a public procurement for the supply of road transport vehicles which are not subject to mandatory type approval or to individual approval according to an ordinance of the Minister of Transport, Information Technology and Communications, issued on the basis of Article 138 (4) of the Road Traffic Act.

Section II

Technical Specifications. Labels. Test Reports

Formulating Technical Specifications

Article 48. (1) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity shall formulate the technical specifications in conformity with the statutory instruments applicable in the respective field, applying one of the following ways:

1. by reference to performance or functional requirements, including environmental characteristics, which make it possible to determine precise parameters of the subject-matter of the procurement;

2. by reference, in the following order, to:

(a) Bulgarian standards transposing European standards;

(b) European Technical Assessments;

(c) common technical specifications;

(d) international standards;

(e) other standardisation deliverables established by European standardisation bodies or, when any of these do not exist, Bulgarian standards, Bulgarian technical approvals or Bulgarian technical specifications relating to the design, calculation and execution of the works and use of the products;

3. by establishing performance or functional requirements by reference to specifications referred to in Item 2 as a means of presuming conformity with such performance or functional requirements;

4. by specifications referred to in Item 2 for one part of the characteristics, and by reference to the performance or functional requirements referred to in Item 1 for other characteristics.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) Every reference to a particular standard, specification, technical assessment or technical approval under Item 2 of Paragraph (1) shall be accompanied by the words "or equivalent".

(3) The contracting entity may set additional requirements which are linked to the subject-matter of the procurement and are proportionate to the value and objectives thereof. They may refer to a specific process or method of production or provision of works, supplies or services or to a specific process for another stage of their life cycle.

(4) Where necessary, the contracting entity shall also specify in the technical specifications the required transfer of intellectual property rights.

(5) Where the outcome of the procurement will be used by natural persons, the technical specifications which lay down the characteristics of the subject-matter of the procurement must take into account accessibility criteria for persons with disabilities or afford an opportunity for persons with disabilities, too, to use that outcome.

(6) Where mandatory requirements concerning accessibility criteria for persons with disabilities or conditions for use by such persons are established by an act of the European Union, technical specifications shall include a reference to the said requirements.

Specific Conditions in Formulating Technical Specifications

Article 49. (1) Technical specifications must afford equal access for candidates or participants to the public procurement award procedure and must not create unjustified obstacles to the opening up of the public procurement to competition.

(2) Technical specifications may not contain a specific make or source, or a particular process which characterises the products or services provided by a specific potential contractor, supplier or service provider, or trade marks, patents, types or a specific origin of production with the effect of favouring or eliminating specific persons or certain products. Such reference shall be permitted in exceptional circumstances, where a sufficiently precise and intelligible description of the subject-matter of the procurement according to the procedure established by Article 48 (1) herein is not possible, and any such reference shall mandatorily be accompanied by the words "or equivalent".

Non-rejectable Tenders

Article 50. (1) Where the technical specifications are formulated according to Item 2 of Article 48 (1) herein, the contracting entity may not reject a tender on the grounds that the works, supplies or services tendered for do not comply with the standard, specification, technical assessment or technical approval as referred to once the participant proves in the tender thereof, inter alia by the means of proof referred to in Article 52 herein, that the solutions proposed satisfy in an equivalent manner the requirements defined by the technical specifications.

(2) Where technical specifications are formulated according to Item 1 of Article 48 (1) herein, the contracting entity may not reject a tender for works, supplies or services which comply with a Bulgarian standard transposing a European standard, a European Technical Assessment, a common technical specification, and international standard or a standardisation deliverable established by a European standardisation body, once the participant proves in the tender thereof by appropriate means, including the means of proof referred to in Article 52 herein, that the said standardisation deliverables address the performance and functional requirements laid down by the contracting entity.

Labels

Article 51. (1) Where the subject-matter of the procurement includes specific environmental, social or other characteristics, contracting entities may, in the technical specifications, the assessment indicators or the contract performance conditions, require specific labels as means of proof that the performance will correspond to the required characteristics. In such cases, the labels must:

1. be linked to the subject-matter of the procurement and be appropriate to define the characteristics thereof;
2. be based on objectively verifiable and non-discriminatory criteria;
3. be established in an open and transparent procedure in which all relevant stakeholders had the right to participate;
4. be accessible for use by all potential candidates and participants;

5. be set by an organisation which is independent of the potential candidates and participants in the public procurement procedure.

(2) Where the contracting entity does not require the subject-matter of the procurement to meet all of the label requirements, the said entity shall indicate which label requirements are applicable.

(3) Contracting entities shall be obliged to accept all equivalent labels that confirm that the works, supply or service tendered for meet the label requirements as set.

(4) Contracting entities shall also accept other appropriate means of proof of conformity, provided that the participant proves that the works, supply or service tendered for meets the requirements of the specific label or the specific requirements indicated by the contracting entity.

(5) Contracting entities may not require a specific label where it fulfils the conditions referred to in Items 2 to 5 of Paragraph (1) but also includes other requirements not linked to the subject-matter of the procurement. In such cases, contracting entities shall formulate the technical specifications by reference to those of the detailed specifications of that label that are linked to the subject-matter of the procurement and are appropriate to define characteristics of the subject-matter thereof.

Test Reports, Certification and Other Means of Proof

Article 52. (1) Contracting entities may require that participants and candidates provide a test report from a conformity assessment body or a certificate issued by such a body as means of proof of conformity with requirements or criteria related to the performance of the procurement.

(2) Where contracting entities require the submission of certificates drawn up by a specific conformity assessment body, certificates from equivalent other bodies shall also be accepted by the contracting entities.

(3) Contracting entities shall accept other appropriate means of proof of conformity with requirements or criteria related to the performance of the procurement where the participant has no access to the certificates or test reports referred to in Paragraphs (1) and (2) or has no possibility of obtaining them within the relevant time limits, provided that the lack of access is not attributable to the participant concerned and provided that the said participant proves that the works, supplies and services meet the requirements or criteria linked to the performance of the procurement.

(4) The competent authorities which have the right to issue documents under Paragraphs (1) and (2) shall make available, upon request from persons of other Member States, information within the limits of the competence thereof, unless a statutory instrument prohibits the provision of such information.

(5) Contracting entities may require samples, descriptions and/or photographs of the products to be supplied whereof the conformity with the products must be proved upon request from the contracting entity.

Variants

Article 53. (1) Contracting entities may authorise or require the submission of variants in the tender. In such cases, contracting entities shall indicate this information in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest.

(2) Variants must be linked to the subject-matter of the procurement.

(3) In the cases referred to in Paragraph (1), contracting entities shall state in the procurement documents the minimum requirements to be met by the variants and any specific requirements for their presentation.

(4) Only variants meeting the minimum requirements laid down by the contracting entities shall be taken into consideration.

(5) The chosen award criterion and the tender assessment indicators must be applicable in the same way both to tenders which include variants meeting the minimum requirements and to tenders which do not include variants.

(6) In award procedures for public supply procurements or public service procurements, contracting entities that have authorised or required variants may not reject a variant on the sole ground that it would, where successful, lead to either a service contract rather than a supply contract or a supply contract rather than a service contract.

Chapter Seven

REQUIREMENTS TO CANDIDATES AND PARTICIPANTS

Section I

Personal Situation of Candidates and Participants

Grounds for Mandatory Exclusion

Article 54. (1) The contracting entity shall exclude from participation in a public procurement award procedure a candidate or participant where:

1. (amended, SG No. 86/2018, effective 1.03.2019) the said candidate or participant has been convicted by an

enforceable sentence of a criminal offence referred to in Article 108a, Articles 159a to 159d, Article 172, Article 192a, Articles 194 to 217, Articles 219 to 252, Articles 253 to 260, Articles 301 to 307, Articles 321, 321a and Articles 352 to 353f of the Criminal Code;

2. (amended, SG No. 86/2018, effective 1.03.2019) the said candidate or participant has been convicted by an enforceable sentence of a criminal offence similar to those referred to in Item 1, in another Member State or a third country;

3. (amended, SG No. 86/2018, effective 1.03.2019) the said candidate or participant incurs obligations for taxes and compulsory social security contributions within the meaning given by Item 1 of Article 162 (2) of the Tax and Social-Insurance Procedure Code and the interest thereon, to the State or to the municipality where the contracting entity and the candidate or participant has the registered office thereof, or any similar obligations under the law of the State in which the candidate or participant is established, proved by an enforceable decision of a competent authority;

4. unequal treatment is present in the cases referred to in Article 44 (5) herein;

5. it is found that:

(a) the said candidate or participant has produced a document making a false statement, related to attesting the absence of grounds for exclusion or fulfilment of the selection criteria;

(b) the said candidate or participant has failed to provide information required in connection with attesting the absence of grounds for exclusion or fulfilment of the selection criteria;

6. (amended, SG No. 102/2017, effective 22.12.2017, SG No. 15/2018, effective 16.02.2018, supplemented, SG No. 24/2018, effective 23.05.2018) an infringement of Article 61 (1), Article 62 (1) or (3), Article 63 (1) or (2), Article 118, Article 128, Article 228 (3), Article 245 and Articles 301 – 305 of the Labour Code or Article 13 (1) of the Labour Migration and Labour Mobility Act or similar obligations stipulated by an instrument of a competent authority pursuant to the legislation of the State where the candidate or participant is established is found by an enforceable penal decree or by a judgement;

7. where there is a conflict of interest that cannot be remedied.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) The grounds referred to in Items 1, 2 and 7 of Paragraph (1) shall apply to the persons who represent the participant or candidate and the members of the management and supervisory bodies thereof according to the register wherein the participant or candidate is enrolled, if any, or the documents certifying the legal personality of the said participant or candidate. Where the complement of the said bodies includes a legal person, the grounds shall apply to the natural persons who represent the said legal person according to the register wherein the legal person is enrolled, if any, or the documents certifying the legal personality of the said legal person.

(3) (New, SG No. 86/2018, effective 1.03.2019) In the cases referred to in Paragraph (2), where the candidate or participant, or a legal person in the complement of an audit or management body thereof is represented by a natural person by authorisation, the grounds referred to in Items 2 and 7 of Paragraph (1) shall furthermore apply to the said legal person.

(4) (New, SG No. 86/2018, effective 1.03.2019) The contracting authority shall not be obliged to apply the requirements under Paragraph (1) to any procurements awarded on the basis of Items 3 and 4 of Article 79 (1), Item 1 of Article 182 (1) or Items 2 and 3 of Article 191 (1) herein, where it is necessary to protect vital State or public interests. In such cases, the contracting entity shall be obliged to state reasons in the contract award notice, and upon an award under Items 2 and 3 of Article 191 (1) herein, in the procurement dossier.

(5) (Renumbered from Paragraph (3), amended, SG No. 86/2018, effective 1.03.2019) Item 3 of Paragraph (1) shall not apply where the amount of the unpaid taxes or social security contributions due does not exceed the lesser of 1 per cent of the sum total of the total annual turnover for the last financial year for which the accounts were closed and BGN 50,000.

Grounds for Non-mandatory Exclusion

Article 55. (1) The contracting entity may exclude from participation in a public procurement award procedure a candidate or participant whereto one of the following circumstances applies:

1. the said candidate or participant is bankrupt or is under bankruptcy proceedings, or is being wound up, or has entered into an out-of-court arrangements with the creditors thereof within the meaning given by Article 740 of the Commerce Act, or has suspended business activities, and in case the candidate or participant is a non-resident person, it is in an analogous situation arising from a similar procedure under the law of the State in which the said candidate or participant is established;

2. the said candidate or participant is disqualified from pursuing a particular occupation or activity under the law of the State in which the act was committed;

3. the said candidate or participant has concluded an agreement with other persons for the purpose of distorting competition, where the infringement has been identified by a decision of a competent authority;

4. (amended and supplemented, SG No. 86/2018, effective 1.03.2019) the said candidate or participant has been proved guilty of non-performance of a public procurement contract or of a concession contract which led to rescission or early termination of that contract, damages or other comparable sanctions, except in the cases where the non-performance affected less than 86 per cent of the value or extent of the contract;

5. the said candidate or participant attempted to:

(a) influence decision-making on the part of the contracting entity in connection with the exclusion, selection or award, including by submitting untrue or misleading information, or

(b) obtain information that may confer thereupon undue advantage in the public procurement award procedure.

(2) The contracting entity shall indicate the circumstances covered under Paragraph (1) in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest, and in the procedures referred to in Items 8, 9 and 13 of Article 18 (1) herein, in the invitation to negotiate.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The grounds referred to in Item 5 of Paragraph (1) shall apply to the persons referred to in Article 54 (2) and (3) herein.

(4) Where the contracting entity has set a requirement for absence of circumstances referred to in Item 1 of Paragraph (1), the said entity may exclude from the procedure a candidate or participant if it is proved that the said candidate or participant has not suspended business activities and is able to perform the procurement according to the applicable national rules on the continuation of business in the State in which the said candidate or participant is established. This possibility shall be indicated in the notice whereby the commencement of the procedure is made known, and in the procedures referred to in Items 8, 9 and 13 of Article 18 (1) herein, in the decision commencing the procedure.

(5) When setting the requirements for absence of circumstances referred to in Paragraph (1), the contracting entity shall take into account the subject-matter and extent of the public procurement.

Measures to Demonstrate Reliability

Article 56. (1) Any candidate or participant, where to any grounds under Article 54 (1) herein and the circumstances indicated by the contracting entity under Article 55 (1) herein apply, shall have the right to provide evidence to the effect that the said candidate or participant has taken measures ensuring the reliability thereof despite the existence of a relevant ground for exclusion. For this purpose, the candidate or participant may prove that:

1. it has extinguished the obligations thereof referred to in Item 3 of Article 54 (1) herein, including the interest and/or fines charged, or that they are rescheduled, deferred or secured;

2. it has paid or undertaken to pay damages for all injuries resulting from the criminal offence or misconduct committed thereby;

3. it has clarified the facts and circumstances in a comprehensive manner by actively collaborating with the competent authorities, and has acted on concrete prescriptions, technical, organisational and personnel measures that are appropriate

to prevent further criminal offences or misconduct;

4. (new, SG No. 102/2017, effective 22.12.2017) it has paid in full the liability owed under Article 128, Article 228 (3) or Article 245 of the Labour Code.

(2) The contracting entity shall evaluate the measures taken by the candidate or participant, taking into account the gravity and particular circumstances of the criminal offence or misconduct.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) Where the measures taken by the candidate or participant are sufficient to ensure the reliability thereof, the contracting entity shall not exclude the said candidate or participant from participation in the procedure.

(4) (Supplemented, SG No. 86/2018, effective 1.03.2019) The reasons for the acceptance or rejection of the measures taken under Paragraph (1) and the evidence provided shall be indicated in the decision on pre-selection and, respectively, in the decision ranking the participants or terminating the procedure, depending on the type and stage of the procedure, and, in solicitation of tenders by advertisement, the said reasons and evidence shall be indicated in the memorandum on the work of the commission.

(5) Any candidate or participant that is disqualified from participating in public procurement or concession procedures by an enforceable sentence or another decision according to the law of the State in which the sentence was passed or the decision was issued, shall not be entitled to make use of the possibility provided for in Paragraph (1) during the period of time fixed by the sentence or decision.

Application of Grounds for Exclusion

Article 57. (1) The contracting entity shall exclude from the procedure any candidate or participant where to the grounds under Article 54 (1) herein and the circumstances indicated by the contracting entity under Article 55 (1) herein apply, where the said grounds and circumstances have arisen either before or during the procedure.

(2) Paragraph (1) shall furthermore apply where a candidate or participant in the procedure is a combination of natural and/or legal persons and any of the grounds for exclusion applies to any member of the combination.

(3) The grounds for exclusion shall apply until the expiry of the following periods:

1. (supplemented, SG No. 86/2018, effective 1.03.2019) five years from the date when the sentence became enforceable: with regards to the circumstances referred to in Items 1 and 2 of Article 54 (1) herein, unless a different period of the penal sanction is indicated in the sentence;

2. (amended, SG No. 86/2018, effective 1.03.2019) three years from the date of:

(a) entry into effect of the decision of the contracting entity whereby the candidate or participant was excluded by reason of the existence of the circumstances referred to in Item 5 (a) of Article 54 (1) herein;

(b) entry into effect of a decision of a competent authority whereby the existence of the circumstances referred to in Item 6 of Article 54 (1) and Items 2 and 3 of Article 55 (1) herein was established, unless the decision indicates a different period;

(c) the enforceability of a judgment or another document whereby the existence of the circumstances referred to in Item 4 of Article 55 (1) herein is proved.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) The economic operators which have been excluded from a public procurement award procedure by reason of the existence of any circumstances referred to in Item 5 (a) of Article 54 (1) herein, as well as the economic operators in respect of which any circumstances referred to in Item 4 of Article 55 (1) herein exist, shall be included in a list for information purposes.

(5) In case of exclusion under Articles 54 and 55 herein, the contracting entity must ensure evidence of the existence of grounds for exclusion.

Proving Absence of Grounds for Exclusion

Article 58. (1) As means of proof of the absence of grounds for exclusion, the participant selected as contractor, supplier or service provider shall produce:

1. for the circumstances referred to in Item 1 of Article 54 (1) herein: a conviction status certificate;

2. for the circumstance referred to in Item 3 of Article 54 (1) herein: a certificate issued by the revenue authorities and a certificate issued by the municipality where the contracting entity and the candidate or participant have their registered office;

3. (supplemented, SG No. 102/2017, effective 22.12.2017) for the circumstances referred to in Item 6 of Article 54 (1) and item 4 of Article 56 (1) herein: a certificate issued by the authorities of the General Labour Inspectorate Executive Agency;

4. for the circumstances referred to in Item 1 of Article 55 (1) herein: a certificate issued by the Registry Agency.

(2) (Amended, SG No. 102/2017, effective 22.12.2017) The certificate under Item 4 of Article 56 (1) shall be issued within 15 days of receiving the request from the participant selected as contractor.

(3) Where the participant selected as contractor, supplier or service provider is a non-resident person, the said participant shall produce the relevant document covered under Paragraph (1) issued by a competent authority under the law of the State in which the participant is established.

(4) In the cases referred to in Paragraph (3), where documents on the stated circumstances are not issued in the State concerned or where the documents do not cover all circumstances, the participant shall submit a declaration, if such declaration has a legal significance under the law of the State concerned.

(5) Where the declaration has no legal significance, the participant shall submit a solemn declaration made before a competent authority in the State concerned.

(6) (Repealed, SG No. 86/2018, effective 1.03.2019).

Section II Selection Criteria

General Requirements

Article 59. (1) The contracting entity may determine, with regard to candidates or participants, selection criteria relating to:

1. suitability (licensed capacity) to pursue the professional activity;

2. economic and financial standing;

3. technical and professional ability.

(2) Contracting entities may use, with regard to candidates or participants, only the selection criteria under this Act as are necessary to identify the capacity of the said candidates or participants to perform the procurement. The criteria set must take into account the subject-matter, value, extent and complexity of the procurement. Where the public procurement is subdivided into lots, the selection criteria for each of the lots must conform to the subject-matter, value, extent and complexity of the lot concerned.

(3) Contracting entities shall not have the right to require from candidates or participants other references as means of proof of compliance with the selection criteria set than those specified in this Act.

(4) (Effective 1.07.2018 - SG No. 13/2016) When determining the references eligible as means of proof of compliance with the selection criteria, contracting entities shall require primarily such that are covered by the European Commission online repository of certificates e-Certis.

(5) Contracting entities shall indicate the selection criteria and the references eligible as means of proof of fulfilment of the said criteria in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest, and in the procedures referred to in Items 8, 9 and 13 of Article 18 (1) herein, in the invitation to negotiate. The minimum levels of ability shall be determined by the selection criteria.

(6) When combinations which are not legal persons participate, compliance with the selection criteria shall be proved by the combination participant and not by each of the persons included therein, with the exception of a relevant registration, producing a certificate or another condition necessary for the performance of the procurement according to the requirements of a statutory instrument or an administrative act and depending on the distribution of the participation of the persons upon performance of the activities as provided for in the agreement on establishment of the combination.

(7) Where the conditions for the performance of the public procurement have to include conditions concerning combinations and the said conditions are different from those imposed on individual participants or candidates, the said conditions must be justified by objective reasons and must be proportionate.

Suitability (Licensed Capacity) to Pursue Professional Activity

Article 60. (1) Where applicable, contracting entities shall have the right to require from candidates or participants to be enrolled in the commercial register and/or in a relevant professional register and, for non-resident persons, in similar registers under the law of the Member State in which they are established.

(2) in public service procurement award procedures, where the candidate or participant has to possess a particular authorisation or be a member of a particular organisation in order to perform the service concerned under the law of the State in which the candidate or participant is established, the contracting entity may require the said candidate or participant to prove that it holds such authorisation or membership.

Economic and Financial Standing

Article 61. (1) With regard to the economic and financial standing of candidates or participants, contracting entities may impose one or more of the following requirements:

1. (supplemented, SG No. 86/2018, effective 1.03.2019) that candidates or participants have realised a minimum yearly turnover for the last three financial years for which the accounts were closed, including a minimum turnover in the area covered by the procurement, calculated on the basis of the annual turnovers;

2. (amended, SG No. 86/2018, effective 1.03.2019) that the candidates or participants have professional risk indemnity insurance, where any such requirement arises from a statutory instrument;

3. that the candidates or participants have achieved a positive ratio between assets and liabilities.

(2) The minimum total turnover under Item 1 of Paragraph (1), required by contracting entities, must take into account the value, extent and time limit for performance of the public procurement and may not exceed two times the estimated value of the said procurement, unless this is justified by the nature of the works, services or supplies. In case the contracting entity requires a turnover which exceeds the maximum allowable amount, the contracting entity shall indicate the reasons for this in the notice.

(3) Where a procurement is divided into lots, the requirement referred to in Paragraph (2) shall apply in relation to each individual lot.

(4) When competition is reopened under a framework agreement, the condition referred to in Paragraph (2) shall apply with regard to the estimated value of the award concerned, and where the said value cannot be determined, on the basis of the estimated value of the framework agreement.

(5) In the case of dynamic purchasing systems, the condition referred to in Paragraph (2) shall apply to the expected maximum size of specific procurements to be awarded under that system.

(6) In the cases referred to in Item 3 of Paragraph (1), the contracting entity shall specify in the procurement documents the way of establishing and calculating the criterion set in accordance with methods defined in the regulations for application of this Act.

References Eligible as Means of Proof of Economic and Financial Standing

Article 62. (1) As means of proof of the economic and financial standing of candidates or participants, one or several of the following references shall be provided in connection with the requirements set:

1. statements from banks;
2. evidence of availability of professional risk indemnity insurance;
3. (supplemented, SG No. 86/2018, effective 1.03.2019) the annual financial statements or extracts from the annual financial statements, where publication of financial statements is required according to the legislation of the State in which the candidate or participant is established;
4. a statement of the overall turnover and/or of the turnover in the area covered by the procurement.

(2) Where, for any valid reason, a candidate or participant is unable to provide the references requested by the contracting entity, the said candidate or participant may prove the economic and financial standing thereof by any other document which the contracting entity considers appropriate.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The information referred to in Items 3 and 4 of Paragraph (1) shall cover the last three financial years for which the accounts were closed. The information may cover a shorter period as well, depending on the date on which the candidate or participant was set up or started trading.

Technical and Professional Ability

Article 63. (1) The contracting entity may determine criteria on the basis of which it can establish that candidates or participants possess the necessary human and technical resources, as well as experience, to perform the procurement to an appropriate quality standard. The contracting entity may require from the candidate or participant:

1. (amended, SG No. 86/2018, effective 1.03.2019) to have performed activities of a subject-matter and extent identical with or similar to the subject-matter and extent of the procurement for the past:
 - (a) five years from the date of submission of the request or tender: for works;
 - (b) three years from the date of submission of the request or tender: for supplies and services;
2. to have at its disposal the necessary number of technicians and/or technical bodies, whether or not they belong to the structure of the candidate or participant, including those responsible for quality control and, in the case of public works procurements, the persons which will carry out the work;
3. to have at its disposal the necessary technical means and facilities for quality assurance, including for study and research, and to apply specified quality assurance measures;
4. to have at its disposal a supply management and tracking system that the candidate or participant will apply when performing the procurement;
5. to have at its disposal staff and/or managerial staff possessing professional competence specific to the performance of the procurement, in case the requirement is not used as a tender assessment indicator;

6. to apply specified environmental management measures when performing the procurement;
7. to provide information on the average annual manpower and of the number of managerial staff for the last three years;
8. to have at its disposal tools, facilities and technical equipment necessary for the performance of the procurement;
9. that the products be certified for quality control by accredited persons, attesting the conformity of the products by references to specifications or standards;
10. to apply quality management systems, including on accessibility for persons with disabilities;
11. to apply environmental management systems or standards.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) In the cases under Item 1 of Paragraph (1), when required by the nature of the procurement, contracting entities may set a period of experience longer than the period referred to. This possibility shall be indicated in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest and, in the procedures referred to in Items 8, 9 and 13 of Article 18 (1) herein, in the invitation to negotiate.

(3) Where the subject-matter of a public procurement is complex or is required for a special purpose, the contracting entity may carry out a check of the technical ability of the candidate or participant and, where necessary, of the study and research equipment and the options for quality assurance. Alternatively, the contracting entity may request that such a check be carried out on its behalf by a competent official body of the State in which the candidate or participant is established, subject to the agreement of the said body.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) In public supply procurement awards which require siting or installation work, the provision of services and/or the execution of works, contracting entities may impose requirements on the candidates or participants with regard to their skills and experience in providing the services or in executing the installation or building works.

(5) In the cases referred to in Paragraph (4), the contracting entity may include in the conditions of the procedure a requirement that activities of particular importance be performed directly by the participant itself or, respectively, by a member of the combination.

(6) Conditions or requirements related to the performance of public procurements only or to the implementation of specifically mentioned programmes or projects, or particular sources of funding, or a definite number of contracts performed with a specified subject-matter, may not be included as a selection criterion.

Means of Proof

Article 64. (1) (Amended, SG No. 86/2018, effective 1.03.2019) As means of proof of the technical and professional ability of candidates or participants, one or more of the following references shall be provided in connection with the requirements set:

1. a list of the works, identical with or similar to the subject-matter of the procurement, accompanied by certificates of satisfactory execution, indicating the value, date when performance was completed, site, type and extent, as well as whether they were carried out in accordance with the regulatory requirements;

2. (amended, SG No. 86/2018, effective 1.03.2019) a list of the deliveries or services that are identical with or similar to the subject-matter of the public procurement, indicating the values, dates and recipients, together with references proving delivery or services provided;

3. a list of technicians and/or technical bodies, whether or not they belong to the structure of the candidate or participant, including those responsible for quality control and, in the case of public works procurements, the persons which will carry out the work;

4. a list of the technical means and facilities for quality assurance, including for study and research, as well as a description of the measures used by the candidate or participant for quality assurance;

5. a description of the supply management and tracking system;

6. (amended, SG No. 86/2018, effective 1.03.2019) a list of the staff who will be performing the procurement, and/or of the managerial staff who will be responsible for the performance of the said procurement, as well as references proving the professional competence of the persons;

7. a description of the environmental management measures and, where applicable, an indication of the standards or rules that are applied;

8. a statement of the average annual manpower and the number of managerial staff for the last three years;

9. a statement of the tools, plant and technical equipment that will be used for performing the procurement;

10. quality control certificates, issued by accredited persons, attesting the conformity of the products with the relevant specifications or standards.

(2) (Amended, SG No. 7/2018) The contracting entity may reject a proof of technical and professional ability presented where the said proof originates from a person having an interest that may result in a benefit within the meaning given by Article 54 of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act.

(3) Should the contracting entity require the production of certificates attesting the compliance of the candidate or participant with quality management standards, including on accessibility for persons with disabilities, the said contracting entity shall indicate the quality management systems by reference to the relevant European standards series.

(4) In case the contracting entity requires the production of certificates attesting the compliance of the candidate or participant with certain environmental management systems or standards, the said entity shall refer to the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant European or international standards. The contracting entity shall have the right to refer to other environmental management systems as well, recognised in accordance with Article 45 of Regulation (EC) No. 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No. 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342/1 of 22 December 2009) or other environmental management standards based on the relevant European or international standards by accredited bodies.

(5) The certificates referred to in Paragraphs (3) and (4) must be issued by independent bodies accredited under the relevant European standards series by the Bulgarian Accreditation Service Executive Agency or by another national accreditation body which is a party to the European co-operation for Accreditation Multilateral Agreement on mutual recognition for the respective field or meet the requirements for recognition according to Article 5a (2) of the National Accreditation of Conformity Assessment Bodies Act.

(6) The contracting entity shall recognise equivalent certificates from bodies established in other Member States.

(7) Where a candidate or participant had no access to such certificates, or no possibility of obtaining them within the relevant time limits for reasons that are not attributable to that candidate or participant, the contracting entity shall also accept other evidence of equivalent quality assurance or environmental management measures.

(8) In the cases referred to in Paragraph (7), the candidate or participant must be able to prove that the measures proposed are equivalent to those required.

Reliance on Third Parties' Capacities

Article 65. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Candidates or participants may rely on the capacities of third parties for a particular procurement, regardless of the legal nature of the links therebetween, with regard

to criteria relating to economic and financial standing, technical and professional ability.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) With regard to criteria relating to professional competence and experience to perform the procurement, candidates or participants may only rely on the capacities of third parties if the said parties will participate in the performance of the part of the procurement for which these capacities are required.

(3) Where a candidate or participant relies on the capacities of third parties, the said candidate or participant must prove that it will have at its disposal the resources of the said third parties, by producing documents on the obligations assumed by the third parties.

(4) The third parties must meet the relevant selection criteria for the proving of which the candidate or participant relies on their capacities, and the grounds for exclusion from the procedure must not apply thereto.

(5) (Supplemented, SG No. 86/2018, effective 1.03.2019) The contracting entity shall require that the candidate or participant replaces a third party designated thereby if the said third party does not fulfil any of the conditions referred to in Paragraph (4) owing to a change in circumstances before the public procurement contract is concluded.

(6) The contracting entity may envisage in the conditions of the procedure a requirement that the candidate or participant and the third party, whose capacities are relied upon to prove compliance with criteria relating to economic and financial standing, incur solidary liability for the performance of the procurement.

(7) Where a candidate or participant in the procedure is a combination of natural and/or legal persons, the said candidate or participant may prove fulfilment of the selection criteria by the capacities of third parties subject to the terms established by Paragraphs (2) to (4).

Subcontracting

Article 66. (1) Candidates and participants shall indicate in the request or tender the subcontractors and any share of the procurement the said candidates and participants may subcontract thereto if they intend to subcontract. In such case, candidates and participants shall not have to supply proof of the obligations assumed by subcontractors.

(2) Subcontractors must fulfil the relevant selection criteria depending on the type and share of the procurement that will be subcontracted thereto, and the grounds for exclusion from the procedure must not apply thereto.

(3) (New, SG No. 86/2018, effective 1.03.2019) Contractors, suppliers or service providers shall conclude a subcontract with the subcontractors indicated in the tender.

(4) (Renumbered from Paragraph (3), supplemented, SG No. 86/2018, effective 1.03.2019) The contracting entity shall require the replacement of a subcontractor which does not fulfil any of the conditions referred to in Paragraph (2) owing to a change in circumstances before the public procurement contract is concluded.

(5) (New, SG No. 86/2018, effective 1.03.2019) Subcontractors shall not have the right to re-subcontract one or more of the activities included in the subject-matter of the subcontract.

(6) (New, SG No. 86/2018, effective 1.03.2019) The supply of goods, materials or equipment necessary for the performance of the public procurement shall not be a violation of the prohibition under Paragraph (5) where such supply does not include installation, as well as the conclusion of contracts for services which are not part of the public procurement contract and, respectively, of the subcontract.

(7) (Renumbered from Paragraph (4), SG No. 86/2018, effective 1.03.2019) Where the portion of the procurement which is performed by a subcontractor may be delivered as a separate site to the contractor, supplier or service provider or to the contracting entity, the contracting entity shall pay the subcontractor remuneration for that part.

(8) (Renumbered from Paragraph (5), amended, SG No. 86/2018, effective 1.03.2019) Settlements under Paragraph (7) shall be effected on the basis of a claim addressed by the subcontractor to the contracting entity care of the contractor, supplier or service provider, which shall be obliged to provide the said claim to the contracting entity within 15 days from the receipt thereof.

(9) (Renumbered from Paragraph (6), amended, SG No. 86/2018, effective 1.03.2019) The contractor, supplier or service provider shall accompany the claim referred to in Paragraph (8) by an opinion showing whether the contractor, supplier or service provider objects to the payments or part thereof as undue.

(10) (Renumbered from Paragraph (7), amended, SG No. 86/2018, effective 1.03.2019) The contracting entity may refuse payment under Paragraph (7) where the payment claim has been objected to until such time as the cause of the refusal has been remedied.

(11) (Renumbered from Paragraph (8), SG No. 86/2018, effective 1.03.2019) The rules applicable to direct settlements with subcontractors shall be indicated in the procurement documents and in the procurement award contract.

(12) (Renumbered from Paragraph (9), SG No. 86/2018, effective 1.03.2019) Regardless of the option to rely on subcontractors, the contractor, supplier or service provider shall be responsible for the performance of the public procurement contract.

(13) (Renumbered from Paragraph (10), SG No. 86/2018, effective 1.03.2019) In the case of public works procurements, as well as in respect of services to be provided at a facility of the contracting entity, after the conclusion of the contract and at the latest before the performance thereof commences, the contractor, supplier or service provider shall notify the contracting entity of the name, contact details and legal representatives of the subcontractors indicated in the tender. The contractor, supplier or service provider shall notify the contracting entity of any changes to the information delivered during the course of the procurement.

(14) (Renumbered from Paragraph (11), amended, SG No. 86/2018, effective 1.03.2019) Replacing or involving a subcontractor during the performance of a public procurement contract shall be admitted where necessary, if the following conditions are simultaneously fulfilled:

1. the grounds for exclusion from the procedure do not apply to the new subcontractor;

2. (amended, SG No. 86/2018, effective 1.03.2019) the new subcontractor satisfies the selection criteria with regard to the share and type of the activities that the said subcontractor will carry out.

(15) (Renumbered from Paragraph (12), amended, SG No. 86/2018, effective 1.03.2019) When replacing or involving a subcontractor, the contractor, supplier or service provider shall submit to the contracting entity a copy of the contract with the new subcontractor together with all references eligible as means of proof of compliance with the conditions referred to in Paragraph (14) within three days from the conclusion of the said contract.

Section III

Declaring Personal Situation and Compliance with Selection Criteria

European Single Procurement Document

Article 67. (1) At the time of submission of a request to participate or of a tender, the candidate or participant shall declare the absence of the grounds for exclusion and compliance with the selection criteria by submitting a European Single Procurement Document (ESPD). The said document shall supply the relevant information required by the contracting entity and shall indicate the national databases which contain the circumstances declared or the competent authorities which, under the law of the State in which the candidate or participant is established, are obliged to provide information.

(2) Where the candidate or participant has indicated that it will rely on the capacities of third parties to prove compliance with the selection criteria or that the candidate or participant will subcontract, a separate ESPD shall be submitted for each of these persons, containing the information referred to in Paragraph (1).

(3) (Repealed, SG No. 86/2018, effective 1.11.2019).

(4) (Effective 1.04.2018 regarding the mandatory provision of ESPD in electronic form - SG No. 13/2016) The European Single Procurement Document shall be provided in electronic form on the basis of a standard form established by

an act of the European Commission.

(5) (Amended and supplemented, SG No. 86/2018, effective 1.03.2019) The contracting entity may require at any moment after the opening of the requests to participate or the tenders the submission of all or part of the documents supporting the information indicated in the ESPD, where this is necessary in view of the lawful conduct of the procedure.

(6) (Amended, SG No. 86/2018, effective 1.03.2019) Where the candidate or participant is a combination which is not a legal person, an ESPD shall be submitted by each of the members of the combination. Where necessary to declare any circumstances relevant to the combination, an ESPD shall be submitted for the combination as well.

(7) (Repealed, SG No. 86/2018, effective 1.03.2019).

(8) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity shall not have the right to require any references which can be accessed through official channels or through a public register, or which can be obtained directly by accessing the national databases of Member States that are available free of charge.

Section IV

Official Lists of Approved Business Entities and Certification by Bodies

Proving by Registration on Official Lists or Certification by Bodies

Article 68. (1) As means of proof of personal situation, compliance with the selection criteria or conformity to technical specifications, a candidate or participant may submit a certificate of registration on an official list of approved business entities or a certificate issued by a certifying body. In such cases, the contracting entity may not exclude the candidate or participant from the procedure or refuse to conclude a contract therewith on the grounds that the said candidate or participant has failed to submit any of the requisite references, provided that the attestation or certificate submitted is the only means of proof of the circumstances concerned.

(2) For each particular procurement, the contracting entity may require an additional certificate relating to the payment of social security contributions and taxes, notwithstanding the certificate of registration on an official list of approved business entities submitted by the candidate or participant, except in the cases referred to in Article 67 (8) herein.

(3) Information which can be deduced from registration on official lists or certification may not be questioned without justification.

(4) The contracting entity may not require candidates or participants from other Member States to undergo registration or certification in order to participate in the public procurement. The contracting entity shall recognise equivalent certificates from bodies established in other Member States.

(5) Contracting entities shall be obliged to accept certificates of registration or certificates from bodies established in the Republic of Bulgaria or in another Member State in which the candidate or participant is established.

Official Lists of Approved Business Entities and Certification by Bodies

Article 69. (1) The Council of Ministers may designate bodies or persons that establish and maintain official lists of approved business entities for particular activities or certification bodies for certification of business entities for conformity to technical specifications.

(2) The conditions for registration on the lists referred to in Paragraph (1) must take into account the requirements of Articles 54 to 64 herein.

(3) For any registration of persons from other Member States on the lists referred to in Paragraph (1) or for the certification of any such persons by the bodies referred to in Paragraph (1), no further proof shall be required other than those requested of resident persons.

(4) The persons or bodies referred to in Paragraph (1) shall be obliged, when requested by a person established in

another Member State, to make available information on the references submitted as proof of registration on an official list or as proof that the business entities from another Member State hold an equivalent certificate.

Chapter Eight

PROCUREMENT AWARD CRITERIA

Award Criteria Types

Article 70. (1) Public procurement awards shall be based on the most economically advantageous tender.

(2) The most economically advantageous tender shall be identified on the basis of one of the following award criteria:

1. the lowest price;

2. level of costs, taking into account cost effectiveness, including life-cycle costing;

3. best price-quality ratio, which shall be assessed on the basis of the price or level of costs, as well as indicators including qualitative, environmental and/or social aspects related to the subject-matter of the public procurement.

(3) The chosen award criterion under Paragraph (2) shall be indicated in the notice whereby the commencement of the procedure is made known or the invitation to confirm interest and in the procurement documents.

(4) The indicators included in the criterion referred to in Item 3 of Paragraph (2) may comprise:

1. a measure of quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and innovative trading techniques and conditions;

2. organisation and professional competence of staff assigned to performing the procurement, where the quality of the staff assigned can have a significant impact on the performance of the procurement, or

3. service and maintenance, technical assistance and conditions, such as: performance date, mode and time limit for performance, or period of completion.

(5) The indicators included in the criteria referred to in Items 2 and 3 of Paragraph (2) must be linked to the subject-matter of the procurement. The said indicators may comprise factors relating to any stage of the life cycle of the works, supplies or services, even when such factors do not form part of the characteristics indicated in the technical specifications. The said indicators must not confer an unrestricted freedom of choice and must ensure effective competition.

(6) Where the award criterion comprises more than one indicator, the contracting entity shall specify, in the notice or invitation to confirm interest and in the procurement documents, the relative weighting of all indicators, and where this is not possible for objective reasons, the contracting entity shall indicate the said indicators in decreasing order of importance. The contracting entity may determine minimum and maximum permitted levels of the quantitative indicators.

(7) The contracting entity shall indicate, in the documents, the methods for an integral assessment and the manner of arriving at an assessment under each indicator. The said manner must:

1. make it possible to assess the level of performance offered in each tender in accordance with the subject-matter of the public procurement and the technical specifications;

2. make it possible to compare and assess objectively the technical proposals in the tenders;

3. ensure to candidates and participants sufficient information about the rules that will be applied when arriving at the assessment under each indicator, and to this end:

(a) the values of the quantifiable indicators shall be expressed in figures or in percentages, and the manner of calculation thereof shall be indicated;

(b) the manner of assessment by the commission on the basis of an expert opinion of the qualitative indicators that are not quantifiable shall be indicated in specific value terms.

(8) In duly justified cases, the price payable or the costs may be fixed. In such cases, the assessment shall only be based on the indicators measuring quality.

(9) In a public procurement having as an object the design and execution of works, the assessment indicators must include characteristics relevant to each of the two activities.

(10) No assessment indicators shall be included which take into account the time for effecting payments (deferred or staggered payment) or assessment of the amount or refusal to effect an advance payment, where advancing a payment is envisaged.

(11) Where the prices of the products or services to be supplied or procured are regulated, candidates or participants may tender different prices only where this does not breach the policy of regulating the said prices.

(12) Contracting entities shall not have the right to include selection criteria as tender assessment indicators.

Life-Cycle Costing

Article 71. (1) Life-cycle costs shall cover a cost of acquisition and one or more of the costs specified below:

1. costs borne by the contracting entity or other users, such as:

(a) costs of use, such as consumption of energy and other resources;

(b) maintenance costs;

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

2. costs relating to environmental factors relevant to the product, service or works during its life cycle, provided the value of the said costs can be determined and verified; such costs may relate to emissions of greenhouse gases and of other pollutant emissions or to climate change mitigation costs.

(2) Where contracting entities envisage life-cycle costing, they shall indicate in the procurement documents the data to be provided by the participants and the manner of arriving at the assessment.

(3) Where costs relating to environmental factors are assessed, the manner of arriving at the assessment thereof must fulfil the following conditions:

1. it must be based on non-discriminatory criteria and be objectively verifiable; where the manner has been developed for the particular procurement, it should not unduly favour or disadvantage certain persons;

2. it must be accessible to all interested parties;

3. the data required by the contracting entity can be provided with reasonable effort by the participants, including where the participants are from third countries party to the Agreement on Government Procurement (GPA) at the World Trade Organisation or party to other international agreements by which the European Union is bound.

(4) Where a method for the calculation of life-cycle costs is mandatory under a legislative act of the European Union, contracting entities shall be obliged to use that method.

(5) (Amended, SG No. 86/2018, effective 1.03.2019) In the cases referred to in Item 2 of Article 47 (6) herein, where the energy and environmental impacts are monetised, contracting entities shall apply methods set out in an ordinance of the Minister of Transport, Information Technology and Communications for the calculation of life-cycle costs for road transport vehicles.

Abnormally Low Tenders

Article 72. (1) Where a price or costs proposed in the tender of a participant subject to assessment is by more than 20 per cent lower than the average value of the proposals of the rest of the participants under the same assessment indicator, the contracting entity shall require a detailed written justification of the manner of arriving at the said proposal, which shall be submitted within five days from receipt of the request.

(2) The justification referred to in Paragraph (1) may relate to:

1. the economic specificities of the manufacturing process, of the services provided or of the construction method;
2. the technical solutions chosen or any exceptionally favourable conditions available to the participant for the supply of the products or services or for the execution of the work;
3. the originality of the solution regarding the work, supplies or services proposed by the participant;
4. compliance with obligations referred to in Article 115 herein;
5. the possibility of the participant obtaining State aid.

(3) The justification received shall be assessed with regard to its full and objective coverage of the circumstances referred to in Paragraph (2), on which the participant relies. Where necessary, the participant may be required to provide specifying information. The justification may be rejected and the participant may be excluded only where the evidence supplied is not sufficient to justify the level of price or costs proposed.

(4) A tender shall be rejected where the price or costs proposed thereby is found to be by more than 20 per cent lower than the average values of the respective proposals in the rest of the tenders as a result of non-compliance with standards and rules related to environmental, social and labour law, applicable collective agreements and/or international environmental, social and labour law provisions listed in Annex 10 hereto.

(5) A tender shall be rejected where the price or costs proposed thereby is found to be by more than 20 per cent lower than the average values of the respective proposals in the rest of the tenders as a result of State aid obtained, where the participant is unable to prove, within the time limit fixed, that the aid was compatible with the internal market within the meaning of Article 107 of the TFEU.

(6) (New, SG No. 86/2018, effective 1.03.2019) In the procedures which include a stage of negotiations and several participants have been invited, as well as when holding an electronic auction, the contracting entity shall apply Paragraphs (1) to (5) where the said entity finds that the proposal of any of the participants which has been achieved as a result of the negotiations or after the closing of the electronic auction is by 20 per cent lower than the average value of the proposals of the rest of the participants under the same assessment indicator.

(7) (Renumbered from Paragraph (6), supplemented, SG No. 86/2018, effective 1.03.2019) Contracting entities shall be obliged to inform the European Commission of all cases under Paragraph (5) which have been found in any procedures under Items 1 to 11 of Article 18 (1) herein.

(8) (Renumbered from Paragraph (7), SG No. 86/2018, effective 1.03.2019) All authorities shall be obliged, upon request and within the competence thereof, to make available to contracting entities, including from other Member States, any information related to laws and regulations, applicable collective agreements or national technical standards, relating to the evidence and documents produced in relation to details listed in Paragraph (2).

Chapter Nine

PROCEDURES APPLIED BY PUBLIC CONTRACTING ENTITIES

Rules for Choice of Procedure

Article 73. (1) When awarding public procurements, public contracting entities shall be free to choose between an open and a restricted procedure.

(2) Public contracting entities may choose a competitive procedure with negotiation or a competitive dialogue:

1. for a procurement whereto one of the following conditions applies:

(a) the needs of the contracting entity cannot be met without adaptation of solutions available on the market;

(b) the public procurement includes design or an innovative solution or solutions;

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

(d) the technical specifications cannot be established with sufficient precision by the contracting entity with reference to a standard, European Technical Assessment, common technical specifications or technical references;

(e) the public procurement is for services under Annex 2 hereto;

2. where an open or restricted procedure has been terminated because the tenders submitted do not fulfil the conditions for the submission, including form, manner and time limit, or the candidates or participants do not meet the selection criteria set, or any of the grounds for exclusion from the procedure applies thereto.

(3) In the case of an innovation partnership, a negotiated procedure without prior publication and a design contest, the provisions of Articles 78 to 80 herein shall apply, *mutatis mutandis*.

Open Procedure

Article 74. (1) (Amended, SG No. 86/2018, effective 1.11.2019) The minimum time limit for the receipt of tenders in an open procedure shall be 30 days from the date on which the contract notice was sent for publication.

(2) The time limit referred to in Paragraph (1) may be shortened but may not be less than 15 days if the contracting entity has published a prior information notice and the said notice:

1. was sent for publication between 35 days and 12 months before the date on which the contract notice was sent for publication, and

2. includes all the information under Section I of Part A of Annex 4 hereto.

(3) (Repealed, SG No. 86/2018, effective 18.10.2018).

(4) Where circumstances necessitating an urgent award of a procurement arise and complying with the time limit referred to in Paragraph (1) is therefore impossible, contracting entities may fix a time limit for the receipt of tenders which shall be not less than 15 days from the date on which the contract notice was sent for publication.

(5) The contracting entity shall indicate the reasons for applying Paragraph (4) in the contract notice.

Restricted Procedure

Article 75. (1) Any person may submit a request to participate in a restricted procedure, providing therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) The minimum time limit for receipt of requests to participate in a restricted procedure shall be 30 days from the date of dispatch of:

1. the contract notice for publication, or

2. the invitation to confirm interest, where a prior information notice is used to make known the commencement of the procedure.

(3) Only those candidates invited to do so by the contracting entity after the conduct of pre-selection shall submit tenders in a restricted procedure.

(4) (Amended, SG No. 86/2018, effective 1.11.2019) The minimum time limit for the receipt of tenders in a restricted procedure shall be 25 days from the date on which the invitation to tender was sent.

(5) The time limit referred to in Paragraph (4) may be shortened but may not be less than 10 days, provided that the contracting entity has published a prior information notice which is not used to make known the commencement of a procedure, and the said notice:

1. was sent for publication between 35 days and 12 months before the date on which the contract notice was sent for publication, and

2. includes all the information under Section I of Part A of Annex 4 hereto.

(6) (Repealed, SG No. 86/2018, effective 18.10.2018).

(7) Where circumstances necessitating an urgent award of a procurement arise and complying with the time limits referred to in Paragraphs (2) and (4) is therefore impossible, contracting entities may fix:

1. a time limit for the receipt of requests to participate which shall be not less than 15 days from the date on which the contract notice was sent for publication;

2. a time limit for the receipt of tenders which shall be not less than 10 days from the date on which the invitation to tender was sent.

(8) The contracting entity shall indicate the reasons for applying Paragraph (7) in the contract notice.

(9) Public contracting entities referred to in Items 8, 9, 14 and 16 of Article 5 (2) herein may alternatively set a time limit for the receipt of tenders by agreement with the selected candidates after the completion of the selection. An agreement shall be admissible only if all candidates have the same time limit to prepare and submit tenders.

(10) Should no agreement under Paragraph (9) be reached, the time limit shall be fixed by the contracting entity and may not be less than 10 days from the date on which the invitation to tender was sent.

Competitive Procedure with Negotiation

Article 76. (1) Any person may submit a request to participate in a competitive procedure with negotiation and must provide therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) In the documents, the contracting entity shall provide a description of the needs thereof and the characteristics required of the supplies, services or works and shall specify the contract award criterion. The documents shall also indicate the minimum requirements to be met by the tenders. The information provided must be sufficiently precise to enable interested parties to identify the nature and scope of the procurement and decide whether to participate in the procedure.

(3) The minimum time limit for receipt of requests to participate in the procedure shall be 30 days from the date of dispatch of:

1. the contract notice for publication, or

2. the invitation to confirm interest, where a prior information notice is used to make known the commencement of the procedure.

(4) In a competitive procedure with negotiation, only those candidates invited to do so by the contracting entity after the conduct of pre-selection may submit initial tenders which shall be the basis for the conduct of negotiations.

(5) (Amended, SG No. 86/2018, effective 1.11.2019) The minimum time limit for the receipt of initial tenders shall be 25 days from the date on which the invitation referred to in Paragraph (4) was sent.

(6) (Amended, SG No. 86/2018, effective 18.10.2018) (3) The time limits referred to in Paragraphs (3) and (5) may be reduced subject to the terms established by Article 75 (5), (7) and (8) herein.

(7) The contracting entity shall negotiate with participants the initial and subsequent tenders to improve the content thereof.

(8) Negotiations may take place in successive stages in order to reduce the number of tenders to be considered by applying the award criterion and the tender assessment indicators specified in the contract notice or in the invitation to confirm interest.

(9) Where the contracting entity intends to use the option referred to in Paragraph (8), the said entity shall indicate this in the contract notice or in the invitation to confirm interest.

(10) At each stage of the negotiations, the contracting entity shall inform the participants in that stage in writing of any changes to the technical specifications or in another procurement document, where admissible. The contracting entity shall provide sufficient time for participants to integrate the changes into the tenders and to resubmit them.

(11) Where the contracting entity intends to close the staged negotiations, the said entity shall inform the participants and shall set a time limit for the submission of final tenders. In such cases, the contracting entity shall verify that the final tenders are in conformity with the minimum requirements and shall assess the said tenders on the basis of the chosen award criterion.

(12) When the option under Paragraph (11) is exercised, the number of tenders arrived at in the final stage must make for genuine competition in so far as there are enough tenders or qualified candidates.

(13) The minimum requirements to be met by the tender and the assessment indicators shall not be subject to negotiations and may not be changed.

(14) During the negotiations, the contracting entity shall ensure the equal treatment of participants and, to that end, shall not provide information in a manner which may give some participants an advantage over others.

(15) The contracting entity shall not have the right to make available proposals or reveal other confidential information received from a participant in the negotiations to any other participants without the express agreement of the said participant, given with reference to the intended communication of specific information.

(16) The contracting entity may opt not to negotiate and to award the procurement on the basis of the proposals in the initial tenders submitted where the said entity has provided for the possibility of doing so in the notice making known the commencement of the procedure or in the invitation to confirm interest.

Competitive Dialogue

Article 77. (1) Any person may submit a request to participate in a competitive dialogue and must provide therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) The contracting entity shall set out the needs and requirements thereof, the award criterion, the tender assessment indicators and an indicative timeframe for the conduct of the procedure in the contract notice and/or in a descriptive document.

(3) The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice was sent for publication;

(4) Only those candidates invited by the contracting entity after the conduct of pre-selection may participate in a dialogue, which shall be the next stage of the procedure.

(5) All aspects of the procurement may be discussed during the dialogue the aim of which shall be to define the parameters optimally satisfying the needs of the contracting entity.

(6) During the dialogue, the contracting entity shall ensure equality of treatment among participants and, to that end, shall not provide information in a manner which may give some participants an advantage over others.

(7) The contracting entity shall not have the right to make available proposals or reveal other confidential information received from a participant in the dialogue to any other participants without the express agreement of the said participant, given with reference to the intended communication of specific information.

(8) The dialogue may take place in successive stages in order to reduce the number of solutions to be discussed by applying the award criterion and the assessment indicators specified in the contract notice or in the descriptive document. Where it intends to conduct the dialogue in successive stages, the contracting entity shall indicate this in the contract notice or in the descriptive document.

(9) The contracting entity shall continue the dialogue until the solution or solutions which are capable of meeting the needs thereof can be identified. The number of solutions arrived at in the final stage must make for genuine competition in so far as there are enough solutions meeting the requirements of the contracting entity or qualified candidates.

(10) Having declared that the dialogue is concluded, the contracting entity shall inform all participants remaining in the final stage and shall ask them to submit final tenders drawn up on the basis of the solution or solutions specified during the dialogue. The tenders must contain all the elements required and necessary for the performance of the procurement.

(11) When awarding a public procurement through a competitive dialogue, the contracting entity shall assess the tenders under the best price-quality ratio criterion and in accordance with the indicators specified in the contract notice or in the descriptive document.

(12) The contracting entity may ask that the tenders be clarified, specified or optimised. Such clarification, specification or optimisation, or any additional information provided, must not involve changes to the essential aspects of the tender or of the procurement, including the needs and requirements defined in the contract notice or in the descriptive document, if this is likely to distort competition or have a discriminatory effect.

(13) The contracting entity may carry out negotiations with the participant which has submitted a tender presenting the best price-quality ratio in order to confirm financial commitments or other terms contained in the tender by finalising the terms of the procurement. Finalising the terms must not have the effect of materially modifying essential aspects of the tender or of the procurement, including the needs and requirements defined in the contract notice or in the descriptive document, and of distorting competition or causing discrimination.

(14) The contracting entity may specify prizes or payments to the participants in the dialogue.

Innovation Partnership

Article 78. (1) Any person may submit a request to participate in an innovation partnership and must provide therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) In the procurement documents, the contracting entity shall reason the need to obtain an innovative product, service or works, as well as the impossibility to meet this need by the products, services or work available on the market. The contracting entity shall describe the needs thereof, indicating which elements of this description define the minimum requirements to be met by all tenders. The information provided must be sufficiently precise to enable interested parties to

identify the nature and scope of the required solution and decide whether to participate in the procedure.

(3) In the procurement documents, the contracting entity shall define the arrangements applicable to intellectual property rights.

(4) The minimum time limit for receipt of requests to participate in the innovation partnership procedure shall be 30 days from the date on which the contract notice was sent for publication;

(5) During the pre-selection, the contracting entity shall evaluate the technical and professional ability of candidates in the field of research and development and developing and implementing innovative solutions.

(6) Only those candidates invited by the contracting entity after the conduct of pre-selection may submit tenders for research and innovations.

(7) The contracting entity may provide that negotiations take place in stages in order to reduce the number of tenders by applying the award criterion and the assessment indicators specified in the contract notice. Where it intends to use that option, the contracting entity shall indicate this in the contract notice.

(8) The contracting entity shall negotiate with participants the initial and subsequent tenders, except for the final tenders, to improve the content thereof.

(9) The minimum requirements and the assessment indicators shall not be subject to negotiations and may not be changed.

(10) When awarding a public procurement through an innovation partnership, the contracting entity shall assess the tenders under the best price-quality ratio criterion only.

(11) During the negotiations, the contracting entity shall ensure the equal treatment of the participants and, to this end, shall not provide information in a manner which may give some participants an advantage over others.

(12) During the negotiations, the contracting entity shall inform all participants whose tenders have not been eliminated in writing of any changes to the technical specifications or other procurement documents other than those setting out the minimum requirements. Following those changes, the contracting entity shall provide sufficient time for participants to modify and re-submit amended tenders

(13) The contracting entity shall not have the right to make available proposals or reveal other confidential information received from a participant in the negotiations to any other participants without the express agreement of the said participant, given with reference to the intended communication of specific information.

(14) The innovation partnership contract shall aim at the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the performance levels and maximum costs agreed between the contracting entity and the participant or participants.

(15) The partnership contract shall regulate the performance of the procurement in successive phases following the sequence of steps in the research and innovation process, which may include the manufacturing of the products, the provision of the services or the completion of the works.

(16) The partnership contract shall set intermediate targets to be attained and shall provide for payment of the appropriate remuneration in instalments.

(17) The contracting entity shall ensure that the different phases of the partnership reflect the degree of innovation of the proposed solution and the sequence of the research and innovation activities required for the development of an innovative solution.

(18) The estimated value of the supplies, services or works acquired must not be disproportionate in relation to the investment required for their development.

(19) The contracting entity shall not have the right to reveal to the other partners solutions proposed or other confidential information communicated by a partner in the framework of the partnership without the express agreement of the said partner, given with reference to the intended communication of specific information.

(20) In the cases referred to in Paragraph (16), the contracting entity may terminate the innovation partnership after each phase or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts, provided that the said entity has indicated in the procurement documents those possibilities and the conditions for their use.

Negotiated Procedure without Prior Publication

Article 79. (1) Public contracting entities may apply a negotiated procedure without prior publication only in the following cases:

1. where no tenders or requests to participate have been submitted in an open procedure or a restricted procedure or all tenders submitted or requests to participate are unsuitable and the initial conditions of the procurement are not substantially altered;

2. where all participants whose tenders in an earlier open procedure or restricted procedure meet the requirements of the contracting entity are invited but exceed the financial resources of the said entity;

3. where the procurement can be performed only by a particular contractor, supplier or service provider in any of the following cases:

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

(b) competition is absent for technical reasons;

(c) existence of exclusive rights, including intellectual property rights;

4. where an urgent award of the procurement is necessary due to exceptional circumstances and the time limits, including the shortened ones, for the open or restricted procedures or competitive procedures with negotiation cannot be complied with; the circumstances invoked to justify urgency shall not be attributable to the contracting entity;

5. where the products involved are manufactured for the purpose of research, experimentation, study or development and are produced in a quantity not to establish commercial viability or to recover research and development costs;

6. for additional deliveries of products by the original supplier which are intended either as a partial replacement or extension of existing supplies or installations and a change of supplier would result in incompatibility or in incompatibility or disproportionate technical difficulties in operation and maintenance owing to the acquisition of a product having different technical characteristics;

7. the procurement is for the supply of a product which is traded on a commodity exchange, according to a list approved by an act of the Council of Ministers, acting on a proposal by the Minister of Finance;

8. for supplies or services provided on particularly advantageous terms from a person which is winding up its business activity, as well as from trustees in bankruptcy or liquidators in bankruptcy proceedings, an arrangement with creditors or a similar procedure involving the person under the national law thereof;

9. the service award follows a design contest, conducted according to the procedure established by this Act, by inviting the ranked participant or all ranked participants in accordance with the terms and conditions of the contest, to participate in the negotiations;

10. where the repetition of works or services has to be entrusted by the same contracting entity to the original contractor or service provider, provided the following conditions apply:

(a) the initial procurement was awarded through an open procedure, a restricted procedure, a competitive procedure

with negotiation, a competitive dialogue, or an innovation partnership;

(b) the original contract notice indicated the possibility of a repeated award and the extent or quantity of possible additional works or services and the conditions under which they will be awarded;

(c) the total value of the new procurement was included and indicated when the value of the original procurement was established;

(d) the new procurement conforms to the basic project for the implementation of which the original procurement was awarded.

(2) The contracting entity may only apply Item 3 (b) and (c) of Paragraph (1) where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

(3) The duration of any contracts for procurements referred to in Item 6 of Paragraph (1), including any recurrent contracts for such procurements, may not exceed three years.

(4) In the cases referred to in Item 7 of Paragraph (1), the contract shall be concluded according to the rules and regulations of the commodity exchange concerned.

(5) The repeated award of works or services under Item 10 of Paragraph (1) may be used not earlier than three years following the conclusion of the original contract.

(6) The contracting entity shall reason the applicable ground under Paragraph (1) by the decision commencing the procedure.

(7) The terms and procedure for the conduct of the procedure shall be established by the regulations for application of this Act.

Design Contest

Article 80. (1) (Amended, SG No. 86/2018, effective 1.03.2019) A design contest shall be carried out either on its own or as part of a public service procurement award procedure.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) Where the design contest is carried out on its own, the estimated value shall be determined by including therein the total amount of the prizes and payments.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) Where the design contest precedes a public procurement award procedure, the estimated value shall include any possible prizes and payments to participants, as well as the value net of VAT of the public service procurement which may be awarded through a negotiated procedure without prior publication.

(4) Participation in a design contest may not be limited:

1. by reference to national identity or territorial range;
2. by requiring from the participant to take on a specific legal form..

(5) In an open contest, all interested parties may submit designs.

(6) Where a design contest is restricted to a limited number of participants, the contracting entity shall lay down clear and non-discriminatory criteria for a reduction of the number of candidates. In such case, only candidates invited by the contracting entity may submit designs. The number of candidates invited must be sufficient to ensure genuine competition.

(7) The contest shall be conducted by a jury which shall be independent in making decisions or expressing opinions. The members of the jury must not be in a conflict of interest with the candidates or participants.

(8) The terms and procedure for the carrying out of a design contest shall be established by the regulations for application of this Act.

Chapter Ten

SPECIFIC TECHNIQUES AND INSTRUMENTS FOR PROCUREMENT AWARDS

Section I

Framework Agreement

General Requirements

Article 81. (1) Contracting entities may conclude framework agreements on the basis of the procedures provided for in this Act and in the presence of the prerequisites for the conduct of such procedures.

(2) A framework agreement shall be an agreement concluded between one or more contracting entities and one or more contractors, suppliers or service providers for the purpose of establishing the terms governing procurements to be awarded during a given period, including with regard to price and, if practicable, the quantity envisaged.

(3) The term of a framework agreement concluded by a public contracting entity may not exceed four years, and where concluded by a sector contracting entity, the said term may not exceed eight years.

(4) The term referred to in Paragraph (3) may be longer in exceptional cases linked to the subject of the framework agreement. The contracting entity shall indicate the reasons for this in the notice.

(5) In the cases of a framework agreement concluded for the needs of several contracting entities or by a central purchasing body, the contract notice and the framework agreement shall indicate the range of persons which can benefit from the said agreement.

(6) New contractors, suppliers or service providers may not be involved after the conclusion of a framework agreement.

(7) Contracting entities shall not have the right to use framework agreements in such a way as to prevent, restrict or distort competition.

Designating Public Procurement Contractor, Supplier or Service Provider under Framework Agreement as Concluded

(Heading amended, SG No. 86/2018, effective 1.03.2019)

Article 82. (1) Where all the terms are laid down in the framework agreement, the contracting entity shall conclude a public procurement contract applying the said terms. In case the framework agreement is concluded with more than one contractor, supplier or service provider, the said agreement must lay down the conditions on the basis of which the contractor, supplier or service provider under each particular contract is to be designated.

(2) Where not all the terms are laid down in the framework agreement and the said agreement is concluded with a single person, the contracting entity shall require in writing from the said person to supplement the tender thereof.

(3) Where not all the terms are laid down in the framework agreement and the said agreement is concluded with more than one person, for every contract which is to be concluded the contracting entity shall reopen competition in order to designate a contractor, supplier or service provider.

(4) In the framework of the reopening of competition, the contracting entity:

1. shall invite in writing the persons under the framework agreement;

2. shall fix a suitable time limit for the receipt of tenders, taking into account the complexity of the subject-matter of the procurement and the time required for drawing up tenders;
 3. shall keep the tenders until the expiry of the time limit for the receipt thereof;
 4. shall appoint a commission to examine and rank the tenders;
 5. shall designate, by a decision, a contractor, supplier or service provider of the public procurement on the basis of the chosen procurement award criterion and shall conclude a contract or shall terminate the reopening of competition.
- (5) The contracting entity shall indicate in the notice, in the procurement documents and in the framework agreement the criterion on the basis of which competition is to be reopened and, where applicable, the tender assessment indicators and methods as well.
- (6) For the reopening of competition, the contracting entity may apply the assessment indicators and methods used for the conclusion of the framework agreement, may particularise the said indicators and methods, where necessary, or may include new indicators and methods, where appropriate.
- (7) The contracting entity may reopen competition where the said entity has concluded a framework agreement with more than one person, laying down all the conditions, solely if the contracting entity has provided for this in the procurement documents for the conclusion of the framework agreement. This option shall also apply to separate lots within the framework agreement.
- (8) In the cases referred to in Paragraph (7), the contracting entity shall indicate in the documents objective criteria on the basis of which a decision is made on reopening of competition or on directly applying the terms under the framework agreement, as well as which of the agreed indicators are to be subject to a reopening of competition.
- (9) Where concluding a contract on the basis of a framework agreement, the parties shall have no right to make significant changes, within the meaning given by Article 116 (5) herein, to the terms laid down therein.

Section II

Dynamic Purchasing Systems

General Requirements

Article 83. (1) A dynamic purchasing system (DPS) shall be a completely electronic process which contracting entities may use for commonly used procurements the general characteristics of which meet the requirements of the contracting entities.

(2) The dynamic purchasing system shall be open throughout the period of validity thereof to any candidate that satisfies the selection criteria. The access thereto and the participation therein shall be unimpeded and free of charge to all interested parties.

(3) The dynamic purchasing system may be divided into separate categories that may be based on the maximum allowable size of the expected specific procurements, a specific geographic area in which such procurements will be performed, or on other objectively defined characteristics linked to the subject-matter of the procurement.

(4) All the candidates who satisfy the selection criteria shall be admitted to the DPS. Contracting entities shall not have the right to limit the number of candidates to be admitted to the system.

(5) Where the contracting entity has divided the DPS into separate categories, the said entity shall specify the characteristics and the applicable selection criteria for each category.

(6) (Repealed, SG No. 86/2018, effective 18.10.2018).

(7) A dynamic purchasing system shall not apply to procurements in the fields of defence and security.

Setting Up Dynamic Purchasing System

Article 84. When setting up a DPS, the contracting entity:

1. shall publish a contract notice, a prior information notice or a periodic indicative notice, indicating therein that a DPS is set up and determining the period of validity thereof;
2. shall indicate in the procurement documents at least the nature and estimated quantity of the purchases envisaged, whether the DPS is divided into separate categories, as well as information on how the DPS operates, including the electronic equipment used, the arrangements and technical requirements for connection with the equipment;
3. shall ensure unrestricted, full and direct access to the procurement documents as long as the DPS is valid.

Candidates' Admission to Dynamic Purchasing System

Article 85. (1) Any person may submit a request to participate in a DPS throughout the period of validity thereof.

(2) The minimum time limit for receipt of requests to participate in a DPS shall be 30 days from the date of dispatch of

1. the contract notice for publication, or
2. the invitation to confirm interest, where a prior information notice or a periodic indicative notice is used as a call for competition.

(3) Within 10 working days following the receipt of the request, the contracting entity shall make a decision regarding the admission of the candidate to the DPS, applying the advertised selection criteria. In case the meeting of the selection criteria needs to be additionally verified, the deadline may be prolonged to 15 working days.

(4) In the procurement documents, the contracting entity may fix a time limit for examining requests which is longer than 10 working days if no invitation to tender for the first specific procurement will be sent during such extended period.

(5) The contracting entity shall not have the right to send an invitation to tender for the first specific procurement before examining all requests to participate received within the period referred to in Paragraph (2).

Public Procurement Awards under Dynamic Purchasing System

Article 86. (1) When awarding public procurements under a DPS, the rules of the restricted procedure shall apply.

(2) The contracting entity shall simultaneously invite in writing all admitted candidates to tender for each specific procurement under the DPS according to the procedure established by Article 34 herein. Where the DPS has been divided into categories, the invitation shall be limited to the candidates admitted to the relevant category.

(3) No further time limits for receipt of requests to participate shall apply once the invitation to tender for the first specific procurement has been sent.

(4) The time limit for the receipt of tenders may not be less than 10 days from the date on which the invitation to tender was sent.

(5) The time limit referred to in Paragraph (4) may be set by mutual agreement between the contracting entity and the admitted candidates, provided that all admitted candidates have the same time to prepare and submit the tenders thereof.

(6) The contracting entity shall designate the contractor, supplier or service provider of the procurement in accordance with the award criterion and the tender assessment indicators set out in the contract notice or in the invitation to confirm interest, where the setting up of the DPS was made known by a prior information notice or a periodic indicative notice.

(7) Where necessary, the tender assessment indicators may be formulated more precisely in the invitation to tender.

Information Updating

Article 87. (1) The contracting entity may, at any time during the period of validity of the DPS, require admitted candidates to submit an ESPD with updated information on the data declared on the basis of which the said candidates were admitted to the DPS.

(2) The information referred to in Paragraph (1) shall be submitted within five working days from receipt of the request.

(3) The contracting entity may, at any time during the period of validity of the DPS, require candidates to submit references as means of proof of the circumstances covered by the ESPD, except in the cases referred to in Article 67 (8) herein.

(4) The contracting entity shall make a decision to bring the participation in a DPS to an end where, as a result of the actions referred to in Paragraphs (1) to (3), the candidate is found not to fulfil the conditions for admission to the DPS.

Extending and Terminating Dynamic Purchasing System

Article 88. (1) The period of validity of a DPS may be changed. The contracting entity shall advertise any such change using the standard form of the notice whereby the setting up of the DPS was made known.

(2) In case of an early termination of the DPS, the contracting entity shall publish a contract award notice.

Section III Electronic Auction

General Requirements

Article 89. (1) An electronic auction shall be an electronic process which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic methods for the evaluation of new prices, revised downwards and/or new values concerning certain elements of tenders are presented.

(2) Public service procurements and public works procurements having as their subject-matter intellectual performances, including the design of works, and such that are not subject to automatic evaluation by electronic means, may not be the object of an electronic auction.

(3) Contracting entities may select a public procurement contractor, supplier or service provider through an electronic auction where the technical specifications of the public procurement can be determined with precision, including where competition is reopened in order to award a procurement based on a framework agreement.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) Contracting entities may hold an electronic auction when awarding a procurement through an open procedure, a restricted procedure, a competitive procedure with negotiation, a negotiated procedure with prior call for competition, a public contest, or solicitation of tenders by advertisement.

(5) Contracting entities may also hold an electronic auction when awarding a public procurement based on a DPS.

(6) A dynamic purchasing system may not be applied if it prevents, restricts or distorts competition.

Holding Electronic Auction

Article 90. (1) The holding of an electronic auction shall be based:

1. on prices, where the procurement is awarded on the basis of price only;
2. on prices and/or on new values of the features, where the award criterion is the best quality-price ratio or the lowest

cost, using a cost-effectiveness approach.

(2) The use of an electronic auction shall be stated in the notice whereby the commencement of the procedure is made known or in the invitation to confirm interest.

(3) The procurement documents relating to the holding of an electronic auction shall include at least the following information:

1. the tender assessment indicators which will be the subject of electronic auction, provided that such indicators are quantifiable and can be expressed in figures or percentages;

2. the differences which will be required when bidding, the unit of measurement and other technical parameters related to the automatic submission and evaluation of tenders and, where applicable, minimum and/or maximum values of the indicators referred to in Item 1 which may be offered;

3. the information which will be made available to participants in the course of the electronic auction and, where necessary, when the said information will be made available to them;

4. the information concerning the electronic auction process;

5. the conditions under which the participants will be able to make new submissions;

6. (new, SG No. 86/2018, effective 1.03.2019) the number and the timetable of the phases, where the electronic auction is envisaged to take place in phases;

7. (renumbered from Item 6, SG No. 86/2018, effective 1.03.2019) information concerning the electronic equipment used and the arrangements, conditions and technical specifications for connection.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) Before holding an electronic auction, the appointed commission shall make an initial evaluation of the tenders admitted in accordance with the chosen award criterion.

(5) (Amended, SG No. 86/2018, effective 1.03.2019) An invitation shall be sent simultaneously by electronic means to all participants whose tenders have been admitted, which shall contain:

1. the outcome of the initial evaluation of each tender;

2. the arrangements for connection to the electronic equipment used;

3. starting date and time for the electronic auction;

4. manner of closing the electronic auction.

(6) (Repealed, SG No. 86/2018, effective 1.03.2019).

(7) Where the award criterion is the best quality-price ratio, the invitation referred to in Paragraph (5) shall also state the mathematical formula, the applicable indicators, the weighting thereof and the units of measurement. Where variants are envisaged, a separate formula shall be provided for each variant.

(8) (Amended, SG No. 86/2018, effective 1.03.2019) The electronic auction may not start sooner than two working days after the date on which the invitation is sent out.

(9) (Amended, SG No. 86/2018, effective 1.03.2019) The holding of the electronic auction shall be organised in a manner enabling each participant to ascertain the relative ranking thereof at any moment.

(10) (Amended, SG No. 86/2018, effective 1.03.2019) Where the electronic auction takes place in successive phases, the number of participants shall be announced in each phase.

(11) Provided that this is envisaged in the invitation, information concerning prices or values submitted by other participants in the course of the auction may be communicated to the participants.

(12) The communication of information in the course of an electronic auction may not result in disclosing the identities of the participants.

Closing Electronic Auction.

Article 91. (1) An electronic auction shall be closed:

1. at the date and time indicated in the invitation, or
2. (amended, SG No. 86/2018, effective 1.03.2019) when all phases in the electronic auction, indicated in the invitation, have been completed, or
3. (amended, SG No. 86/2018, effective 1.03.2019) when no new proposals which meet the requirements of the contracting entity have been received in two successive phases, or the proposals received do not lead to a change in the best proposal.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) Where the contracting entity intends to hold the electronic auction in phases, the said entity shall indicate the timetable for each phase of the electronic auction in the invitation to take part.

(3) The contracting entity shall designate a contractor, supplier or service provider of the public procurement on the basis of the holding of an electronic auction and shall conclude a contract therewith.

Section IV

Electronic Catalogues

General Requirements

Article 92. (1) Contracting entities may require tenders to be presented in the format of an electronic catalogue or to include an electronic catalogue where awarding public procurements using electronic means. This requirement shall be stated in the contract notice or in the invitation to confirm interest.

(2) (Repealed, SG No. 86/2018, effective 18.10.2018).

(3) Tenders presented in the form of an electronic catalogue may be accompanied by other documents, completing the tender.

(4) (Amended, SG No. 86/2018, effective 18.10.2018) Electronic catalogues, which are established by the candidates for a given procedure, must comply with the technical specifications established by the contracting entity.

(5) An electronic catalogue submitted for a specific public procurement procedure may only include products, works or services which meet the requirements of the contracting entity for the specific procurement.

Using Electronic Catalogue in Framework Agreement

Article 93. (1) Where a framework agreement has been concluded with more than one contractor, supplier or service provider following the submission of tenders in the form of electronic catalogues, contracting entities may provide that they may reopen competition for specific procurements, and, to this end:

1. shall invite participants to update the general catalogues thereof in the part adapted to the requirements of the procurement in question, or
2. shall collect from the electronic catalogues which have already been submitted the information needed to constitute

tenders, provided that this option has been indicated in the procurement documents for the framework agreement.

(2) In the cases referred to in Item 2 of Paragraph (1), contracting entities shall notify participants of the date and time at which they intend to collect the information, allowing for an adequate period between the notification and the actual collection of information to give participants the possibility to make a decision regarding their consent to the use of the information submitted thereby for the specific procurement.

(3) In the cases referred to in Item 2 of Paragraph (1), before awarding the procurement contracting entities shall present the collected information to the participant concerned so as to give it the opportunity to contest or confirm the said information.

Using Electronic Catalogue in Dynamic Purchasing System

Article 94. (1) When awarding procurements based on a DPS, contracting entities may require that offers for a specific procurement be presented in the format of an electronic catalogue.

(2) (Amended, SG No. 86/2018, effective 18.10.2018) Where the request for participation in the DPS is accompanied by an electronic catalogue in accordance with the technical specifications established by the contracting entity, the procurement based on a DPS may be awarded according to the procedure established by Item 2 of Article 93 (1) herein.

(3) In the cases referred to in Paragraph (2), the catalogue shall be completed subsequently by the candidates under the terms established by Article 93 (2) and (3) herein.

Section V Centralised Awarding

Central Purchasing Body

Article 95. (1) Contracting entities may acquire supplies and/or services from a central purchasing body offering centralised purchasing activities.

(2) Contracting entities may acquire works, supplies and services by using public procurements awarded by the body referred to in Paragraph (1), by using:

1. a dynamic purchasing system operated by the said body;
2. a framework agreement concluded by the said body.

(3) Where it is envisaged that other contracting entities, too, use a DPS operated by a central purchasing body, this shall be mentioned in the notice whereby the setting up of the DPS is made known.

(4) Contracting entities shall not apply the public procurement procedures where awarding to a central purchasing body a public service procurement having as a subject-matter the provision of centralised purchasing activities, which may also include the provision of ancillary purchasing activities.

(5) In the cases referred to in Paragraphs (1) and (2), contracting entities shall be deemed to have complied with the provisions of this Act.

(6) In the cases referred to in Items 1 and 2 of Paragraph (2), contracting entities shall be responsible for the legality of the actions taken thereby in connection with the selection of a contractor, supplier or service provider and the award of the specific public procurement contracts using a DPS operated by the central purchasing body or a framework agreement concluded thereby.

(7) Any supplies, services or works awarded by a central purchasing body under Item 3 of Article 5 (4) herein may only be used for the pursuit of sector activities.

Setting Up Central Purchasing Bodies

Article 96. (1) A group of contracting entities may decide to set up a central purchasing body.

(2) Central purchasing bodies for the needs of the executive administrations, as well as for the needs of specific sectors, shall be set up by an act of the Council of Ministers.

(3) Central purchasing bodies of municipalities shall be set up by resolution of the competent municipal councils on a motion by the municipality mayors. The National Association of Municipalities in the Republic of Bulgaria may function as a central purchasing body for procurement awards for the needs of the municipalities by resolution of the general meeting.

(4) The municipal council, acting on a motion by the mayor, may resolve on the acquisition of supplies and/or services from a central purchasing body referred to in Paragraph (3) by agreement with that body.

Article 97. (Effective 1.01.2017 - SG No. 13/2016, repealed, SG No. 86/2018, effective 18.10.2018).

Using Central Purchasing Body Located in Another Member State

Article 98. (1) Contracting entities shall have the right to use the DPS, framework agreements and contracts concluded by a central purchasing body located in another Member State in case the specific contracting entity is mentioned therein.

(2) In the cases referred to in Paragraph (1), when awarding procurements based on a DPS, as well as when designating a contractor, supplier or service provider on the basis of a framework agreement, the law of the Member State in which the central purchasing body is located shall apply.

(3) Contracting entities may not use the options under Paragraph (1) for the purpose of circumventing this Act.

Chapter Eleven

CONDUCT OF PUBLIC PROCUREMENT AWARD PROCEDURES

Making Known Procedure Commencement

Article 99. To make known the commencement of procedures, contracting entities shall send:

1. the notice whereby the commencement of a procedure is made known to the Official Journal of the European Union: in the cases referred to in Items 1 to 7 and 11 of Article 18 (1) herein;

2. the decision commencing the procedure to the PPR: in the cases referred to in Items 8 to 10 and 13 of Article 18 (1) herein;

3. the decision commencing the procedure and the contract notice to the PPR: in the cases referred to in Item 12 of Article 18 (1) herein.

Modifying Conditions

Article 100. (1) (Amended and supplemented, SG No. 86/2018, effective 1.03.2019) The contracting entity may, acting on its own initiative or at the request of an interested party, make changes to the conditions of the procedure indicated in the notice whereby the commencement of the procedure is made known, to the invitation to confirm interest, to the procurement documents and to the descriptive document.

(2) Interested parties may make proposals for changes to the documents referred to in Paragraph (1) within 10 days from the publication in the PPR of the notice whereby the commencement of the procedure is made known and/or from the receipt of the invitation to confirm interest.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity may make the changes referred to in

Paragraph (1) on a single occasion within 14 days from the publication in the PPR of the notice whereby the commencement of the procedure is made known by publishing a notice of modification or additional information and the decision whereby the said notice is approved.

(4) Where changes are made to the invitation to confirm interest, the contracting entity shall send the documents referred to in Paragraph (3) to the persons which have expressed interest within 14 days from the dispatch of the invitation to conform interest.

(5) In procedures in which the time limits for the receipt of tenders have been shortened under Article 74 (2) or Article 133 (2) herein, as well as where the time limits for requests to participate and/or tenders have been shortened because an urgent award was necessary, the time limit referred to in Paragraph (2) shall be three days, and the time limit referred to in Paragraphs (3) and (4) shall be five days.

(6) (Amended, SG No. 86/2018, effective 1.03.2019) After the expiry of the time limits referred to in Paragraphs (5) to (5), the contracting entity may only make changes to the time limits announced by publishing notices of modification or additional information and the decisions whereby the said notices are approved.

(7) The contracting entity shall extend the time limits for the receipt of tenders where:

1. (supplemented, SG No. 86/2018, effective 1.03.2019) in the cases referred to in Paragraph (1), the terms of the procurement as announced have been subject to substantial modifications which necessitate a change to the tenders of participants; the new time limit must take into consideration the time that the persons need to be aware of and integrate the changes but may not be shorter than the time limit as initially set;

2. (supplemented, SG No. 86/2018, effective 1.03.2019) clarification of the conditions of the procedure has been requested in good time and the said clarification cannot be given within the time limit referred to in Article 33 (2) herein; the period between the day of publication of the clarification on the buyer profile and the time limit for the submission of tenders may not be less than six days or, respectively, four days.

(8) (Repealed, SG No. 86/2018, effective 1.03.2019).

(9) (Repealed, SG No. 86/2018, effective 1.03.2019).

(10) By the notice of modification or additional information in the cases of changes referred to in Item 1 of Paragraph (7), contracting entities must not introduce conditions that would alter the range of interested parties.

(11) The contracting entity shall extend the time limits announced in the procedure where this is necessary in connection with a review procedure.

(12) The contracting entity may extend the time limits announced in the procedure where:

1. no requests or tenders were received within the time limit as initially set, or only one request or tender was received;
2. the time limit referred to in Article 158 (4) herein is insufficient.

(13) Upon the publication of the notice of modification or additional information, all interested parties shall be deemed to be informed.

Requesting Participation

Article 101. (1) Depending on the type and stage of the procedure, candidates shall submit requests to participate, and participants shall submit tenders.

(2) The request to participate shall contain information concerning the personal situation of candidates and the selection criteria.

(3) The tender shall contain a technical proposal and a price proposal.

(4) In an open procedure, participants shall accompany the tender thereof by information concerning the personal situation and the selection criteria.

(5) (Amended, SG No. 86/2018, effective 1.03.2019) When drawing up requests to participate or tenders, each candidate or participant must strictly comply with the conditions announced by the contracting entity.

(6) Tenders and requests to participate shall be drawn up in the Bulgarian language. Where the place of performance of the procurement is outside Bulgaria, the contracting entity may admit a submission of the request to participate and the tender in an official language of the relevant country.

(7) Before the expiry of the time limit for the submission of requests to participate or tenders, each candidate or participant may modify, supplement or withdraw the request or tender thereof.

(8) Each participant in a public procurement award procedure shall have the right to submit a single tender.

(9) A person which is a member of a combination or has agreed to be involved as a subcontractor of another candidate or participant may not submit a request to participate or a tender on its own.

(10) In a public procurement award procedure, a natural or legal person may be a member of only one combination.

(11) Persons having close links may not be independent candidates or participants in one and the same procedure.

(12) The content of tenders and requests to participate, the procedure and manners for the submission and receipt of tenders and requests to participate shall be established by the regulations for application of this Act.

(13) Where a public procedure is subdivided into lots, the terms referred to in Paragraphs (8) to (11) shall apply separately to each lot.

Confidentiality

Article 102. (1) Candidates and participants may indicate in the requests to participate or the tenders thereof any information which they deem confidential in connection with the existence of a trade secret. Where candidates and participants have invoked confidentiality, the information concerned shall not be disclosed by the contracting entity.

(2) Participants may not invoke confidentiality with regard to the proposals in the tenders thereof which are subject to evaluation.

(3) The contracting entity may set requirements for the protection of confidential information when making information available to candidates or participants in the course of the procedures, as well as upon the conclusion of a public procurement contract.

Commission

Article 103. (1) The contracting entity shall appoint a commission to select the candidates and participants, examine and assess the tenders, and conduct negotiations and a dialogue. The commission shall consist of an odd number of members.

(2) The members of the commission must not be in a conflict of interest with the candidates or participants.

(3) Minutes shall be taken of the actions of the commission, and the results of the work thereof shall be covered in a report.

(4) The commission shall make decisions by a majority of the members thereof. Should any member of the commission dissent from a decision adopted, the said member shall sign the memorandum with a dissenting opinion and shall set forth the reasons thereof in writing.

(5) The rules of procedure of the commission shall be established by the regulations for application of this Act.

Examining Requests to Participate and Tenders

Article 104. (1) During public procurement procedures, a pre-selection shall be conducted first and the tenders of the participants shall be examined thereafter.

(2) In an open procedure, the contractor may envisage in the contract notice that the assessment of the technical and price proposals of the participants will precede the conduct of a pre-selection. In such case, the verification for the existence of grounds for exclusion and compliance with the selection criteria shall be made in a manner which is not influenced by the results of the assessment of the technical and price proposals.

(3) Taking the option referred to in Paragraph (2) shall be admitted where all proposals contained in the tenders of the participants are presented expressed as a numerical value which is disclosed at the moment of the opening of the tenders.

(4) (Supplemented, SG No. 86/2018, effective 1.03.2019) Where any information regarding the selection criteria or the requirements to the personal situation of candidates or participants is found missing, deficient and/or inconsistent, including non-conforming or factually erroneous, candidates or participants shall be given the opportunity to submit new information, to supplement or to clarify the information submitted. This option shall furthermore be available to the subcontractors and third parties indicated by the candidate or participant.

(5) When examining the tenders, it shall be admissible, where necessary, to verify the data declared by participants, including by requesting information from other bodies and persons. Participants may be required to submit clarification or further proof of data indicated in the tender. The verification and clarification may not result in changes in the technical and price proposal of participants.

(6) The procedure for remedying inconsistencies and non-conformities under Paragraph (4) shall be established by the regulations for application of this Act in accordance with the principles of equal treatment and transparency.

Reduction of Number of Candidates Invited to Participate

Article 105. (1) In a restricted procedure, competitive procedure with negotiation, competitive dialogue and innovation partnership, contracting entities may reduce the number of candidates meeting the selection criteria that the said entities will invite to tender or to conduct a dialogue.

(2) Contracting entities shall indicate, in the notice whereby the commencement of the procedure is made known, the objective and non-discriminatory criteria or rules the said entities will apply for the reduction of the number of candidates and the minimum number of candidates they intend to invite. Contracting entities may also indicate a maximum number of candidates they intend to invite.

(3) In a restricted procedure, the minimum number of candidates shall be five, and in a competitive procedure with negotiation, a competitive dialogue and an innovation partnership, the minimum number of candidates shall be three. The number of candidates invited must be sufficient to ensure genuine competition.

(4) Where the number of candidates meeting the requirements indicated in the notice whereby the commencement of the procedure is made known exceeds the announced maximum number of persons to be invited to tender, the contracting entity shall carry out a selection on the basis of the objective and non-discriminatory criteria indicated in the notice.

(5) In case the contracting entity has included in the notice a limitation of the number of candidates who or which will be invited to tender, the contracting entity shall be obliged to invite such number of candidates as is at least equal to the minimum number set in advance.

(6) Where the number of candidates meeting the selection criteria and the minimum requirements is below the minimum number indicated in the notice, the contracting entity may continue the procedure by inviting only the candidates meeting the said criteria and requirements.

(7) The contracting entity may not invite other persons who did not request to participate, or candidates who do not

meet the selection criteria and minimum requirements, to tender.

Accepting Commission's Work

Article 106. (1) The report referred to in Article 103 (3) herein shall be submitted to the contracting entity for endorsement. The memorandums on the work of the commission shall be attached to the report.

(2) Where, in the course of the work of the commission, reasonable doubts arise that participants have entered into agreements, decisions or concerted practices within the meaning given by Article 15 of the Protection of Competition Act, this circumstance shall be noted in the report referred to in Paragraph (1).

(3) Within 10 days from the receipt of the report, the contracting entity shall endorse the said report or shall return it to the commission with instructions in writing where:

1. the information in the report is insufficient to make a decision closing the procedure, and/or

2. the contracting entity finds an infringement in the work of the commission which may be corrected without this necessitating a termination of the procedure.

(4) The instructions referred to in Paragraph (3) may not direct the commission to a specific contractor, supplier or service provider or to definite conclusions but may only indicate:

1. what information must be included so that there would be sufficient reasons justifying the proposals of the commission in the cases referred to in Item 1 of Paragraph (3);

2. the infringement which must be corrected in the cases referred to in Item 2 of Paragraph (3).

(5) The commission shall submit to the contracting entity a new report containing the results of the review of the actions of the commission.

(6) Within 10 days from the endorsement of the report, the contracting entity shall issue a decision designating a contractor, supplier or service provider or terminating the procedure.

(7) In the cases referred to in Paragraph (2), the contracting entity shall notify the Commission on Protection of Competition. Any such notification shall not suspend the conduct and closure of the procedure.

Other Grounds for Exclusion

Article 107. (Amended, SG No. 86/2018, effective 1.03.2019) In addition to the grounds referred to in Articles 54 and 55 herein, the contracting entity shall exclude:

1. any candidate or participant that does not meet the selection criteria set or fails to fulfil another condition indicated in the contract notice, the invitation to confirm interest or in the invitation to negotiate, or in the documents;

2. any participant that has submitted a tender which does not fulfil:

(a) (supplemented, SG No. 86/2018, effective 1.03.2019) the previously announced conditions for performance of the procurement;

(b) any rules and requirements related to compliance with environmental, social and labour law, applicable collective agreements and/or international environmental, social and labour law provisions listed in Annex 10 hereto;

3. any participant that has failed to submit in good time the justification referred to in Article 72 (1) herein or whose tender has been rejected according to Article 72 (3) to (5) herein;

4. any candidates or participants that are persons having close links;

5. (new, SG No. 86/2018, effective 1.03.2019) any candidate or participant that has submitted a request to participate or a tender which do not meet the conditions for submission, including form, manner and time limit.

Chapter Twelve

CLOSURE OF PROCEDURE

Final Decisions on Procedure

Article 108. The procedures under this Act shall be closed by a decision:

1. (amended, SG No. 86/2018, effective 1.03.2019) designating a contractor, supplier or service provider under a public procurement contract, including under a contract concluded on the basis of a DPS or qualification system;
2. designating contractors, suppliers or service providers under a framework agreement;
3. ranking the participants and/or awarding prizes and/or other payments in a design contest;
4. terminating the procedure.

Designation of Public Procurement Supplier, Contractor or Service Provider

Article 109. The contracting entity shall designate a participant meeting the following conditions as contractor, supplier or service provider of the procurement:

1. (amended, SG No. 86/2018, effective 1.03.2019) absence of the grounds for exclusion from the procedure, except in the cases referred to in Article 54 (4) and (5) herein, and fulfilment of the selection criteria, and, where applicable, the non-discriminatory rules and criteria for a reduction of the number of candidates as well;
2. the tender of the participant has achieved the highest score applying the terms announced in advance by the contracting entity and the chosen award criterion.

Termination of Procedure

Article 110. (1) The contracting entity shall terminate a procedure by a reasoned decision where:

1. not a single tender, request to participate or competing design has been submitted, or not a single participant has appeared for negotiations;
2. none of the tenders or requests to participate meet the conditions for submission, including form, manner and time limit, or all such tenders or requests are unsuitable;
3. none of the competing designs meet the conditions announced in advance by the contracting entity;
4. the highest ranked participant and the second highest ranked participant declines to conclude a contract;
5. infringements are identified in the commencement and conduct of the procedure which cannot be corrected without this changing the conditions whereunder the procedure was announced;
6. owing to non-fulfilment of any of the conditions referred to in Article 112 (1) herein, a public procurement contract is not concluded;
7. all tenders, which comply with the terms and conditions as announced in advance by the contracting entity, exceed the financial resources which the said entity can secure;
8. conducting the procedure or awarding the contract is no longer necessary as a result of a significant change in circumstances or where it is impossible to secure funding for the performance of the procurement for reasons which the

contracting entity could not foresee;

9. the terms of the procurement as announced have to be subjected to substantial modifications that would alter the range of interested parties.

(2) The contracting entity may terminate the procedure by a reasoned decision where:

1. only one tender, request to participate or competing design has been submitted;
2. there is only one suitable request to participate or only one suitable tender;
3. there is only one competing design which meets the conditions announced in advance by the contracting entity;
4. the highest ranked participant:
 - (a) declines to conclude a contract;
 - (b) fails to fulfil one of the conditions referred to in Article 112 (1) herein, or
 - (c) fails to prove that any grounds for exclusion from the procedure do not apply thereto.

(3) In the cases referred to in Item 1 of Paragraph (7), the contracting entity shall mandatorily include in the decision the lowest price tendered and may not conclude a contract with the same subject-matter at a price equal to or greater than the price indicated in the decision upon conduct of a successive procedure within the same year.

(4) Where the procedure as initially announced is terminated, the contracting entity may commence a new public procurement award procedure with the same subject-matter only if the terminating decision has entered into effect.

(5) The contracting entity may set aside the decision designating a contractor, supplier or service provider which has entered into effect and may issue a decision terminating the procedure where a circumstance referred to in Items 4, 6 and 8 of Paragraph (1) or Item 4 of Paragraph (2) arises before the contract is concluded.

Chapter Thirteen

PUBLIC PROCUREMENT AWARD

(Heading amended, SG No. 86/2018, effective 1.03.2019)

Section I

Performance Guarantees

Performance Guarantee

Article 111. (1) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity may require from the designated contractor, supplier or service provider to furnish guarantees securing the performance of the contract and/or the pre-funding.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) The guarantee securing the performance of the contract may not exceed 5 per cent of the value of the said contract. In a reserved procurement which is awarded to specialised undertakings or cooperatives of people with disabilities, the contract performance guarantee may not exceed 2 per cent of the value of the contract. A performance guarantee may also be required in the event of modification whereby additional deliveries, services or works are provided under the contract.

(3) The guarantee which secures the pre-funding may be up to the amount of the pre-funds and shall be released within three days after the advance is repaid or absorbed.

(4) (Amended and supplemented, SG No. 86/2018, effective 1.03.2019) The guarantees envisaged and the amount

thereof shall be indicated in the notice whereby the commencement of the procedure is made known, in the invitation to confirm interest, in the invitation to negotiate or in the advertisement.

(5) Guarantees shall be provided in one of the following forms:

1. a cash deposit;
2. a bank guarantee;
3. insurance securing performance by covering the liability of the contractor, supplier or service provider.

(6) The guarantee referred to in Item 1 or 2 of Paragraph (5) may be furnished on behalf of the contractor, supplier or service provider for the account of a third-person guarantor.

(7) The participant designated as contractor, supplier or service provider shall be free to choose the form of the performance guarantee or the pre-funding guarantee.

(8) Where the selected supplier, contractor or service provider is a combination which is not a legal person, each of the partners therein may be an originator under the bank guarantee and, respectively, a payer of the cash deposit under the guarantee or holder of the insurance policy.

(9) The terms and time limits for retention or release of the performance guarantee shall be regulated in the public procurement contract.

(10) Where the public procurement contract is performed in stages, the contracting entity may include in the draft contract a clause on partial release of the guarantees in proportion to the performed part of the subject-matter of the public procurement. Where the subject-matter of the procurement includes warranty maintenance service, the contracting entity shall determine in the draft contract the share of the performance guarantee destined to secure the warranty maintenance service.

Section II

Public Procurement Contract. Framework Agreement (Heading amended, SG No. 86/2018, effective 1.03.2019)

Concluding Contract

Article 112. (1) The contracting entity shall conclude a public procurement contract in writing with the designated contractor, supplier or service provider, provided that, when the said contract is signed, the designated contractor, supplier or service provider:

1. produces documentary proof of registration in accordance with the requirement referred to in Article 10 (2) herein;
2. (amended, SG No. 86/2018, effective 1.03.2019) produces documents attesting the absence of the grounds for exclusion from the procedure and compliance with the selection criteria set, including for the subcontractors and the third parties, if any;
3. furnishes the required contract performance guarantee;
4. effects a relevant registration, produces a document or fulfils another requirement necessary for the performance of the procurement according to the requirements of a statutory instrument or an administrative act and which has been laid down by the contracting entity in the terms of the procurement as announced.

(2) The contracting entity shall not conclude a contract where the highest ranked participant:

1. declines to conclude a contract;

2. fails to fulfil any of the conditions referred to in Paragraph (1), or
3. fails to prove that any grounds for exclusion from the procedure do not apply thereto.

(3) In the cases referred to in Paragraph (2), the contracting entity may amend the decision which has entered into effect in the part designating a contractor, supplier or service provider and, by a reasoned decision, may designate the second highest ranked participant as contractor, supplier or service provider.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) The contract must conform to the draft contract included in the documents, supplemented by all proposals contained in the tender of the participant on the basis of which the said participant has been designated contractor, supplier or service provider of the procurement. Changes to the draft contract shall be admitted in exceptional circumstances, where the condition referred to in Item 7 of Article 116 (1) herein has been fulfilled and where such changes are necessitated by circumstances which arose during or after the conduct of the procedure.

(5) The mandatory minimum contents of the contract shall be determined by the regulations for application of this Act.

(6) The contracting entity shall conclude the contract within one month after the entry into effect of the decision designating a supplier, contractor or service provider or of the ruling whereby anticipatory enforcement of the said decision has been admitted, but not before the expiry of a period of 14 days from the notification of candidates concerned and/or participants concerned of the decision designating a contractor, supplier or service provider.

(7) The contracting entity may conclude a contract before the expiry of a period of 14 days from the notification of candidates concerned and/or participants concerned of the decision designating a contractor, supplier or service provider in the following cases:

1. the contractor, supplier or service provider has been designated as a result of:

- (a) a procedure referred to in Items 8 to 10 and 13 of Article 18 (1) herein and only one participant has been invited, or

- (b) a procedure referred to in Items 8 to 10 and 13 of Article 18 (1) herein, commenced pursuant to Item 4 of Article 79 (1), Article 138 (1), Item 3 or 4 of Article 164 (1), or Item 1 of Article 182 (1) herein, and more participants have been invited;

2. the designated contractor, supplier or service provider is the only participant concerned and there are no candidates concerned, or

3. the contract is concluded on the basis of a framework agreement with a single participant.

(8) The contracting entity shall not have the right to conclude a contract with the designated contractor, supplier or service provider before the entry into effect of all decisions under the procedure, unless anticipatory enforcement has been admitted or where the procedure has been commenced pursuant to Item 4 of Article 79 (1), Article 138 (1), Item 3 or 4 of Article 164 (1), or Item 1 of Article 182 (1) herein.

(9) (New, SG No. 86/2018, effective 1.03.2019) In the cases referred to in Paragraph (1), the contracting entity shall not have the right to require any documents:

1. which have already been submitted thereto;
2. which can be accessed through official channels or through a public register;
3. which can be obtained directly and free of charge by accessing the national databases of the Member States.

Concluding Framework Agreement and Contract under Framework Agreement

Article 112a. (New, SG No. 86/2018, effective 1.03.2019) (1) The terms established by Article 112 (1) herein shall apply upon the conclusion of a framework agreement.

(2) The contracting entity shall not require the documents referred to in Item 2 of Article 112 (1) herein upon the conclusion of a contract under a framework agreement where all the terms are set out in the said agreement.

Duration of Public Procurement Contracts

Article 113. (1) Public procurement contracts requiring periodic or continuous performance shall be concluded for a duration which may not exceed five years.

(2) In exceptional circumstances, contracting entities may conclude contracts of a longer duration, where this is necessitated by the nature of the subject-matter of the procurement, the need of return on investment or for a technical reason, and the contracting entity shall indicate the reasons for this in the commencing decision.

(3) The duration of contracts concluded on the basis of a framework agreement may exceed the deadline of the agreement:

1. by not more than one year: where time is needed to complete the performance of the subject-matter of the contract;

2. by more than one year: where the contract is related to the pursuit of activities incidental to the principal subject-matter, including warranty service and personnel training.

(4) It shall be inadmissible to conclude public procurement contracts of indeterminate duration or contracts whereof the duration is automatically extended. Any contracts concluded contrary to the rules of Paragraphs (1) and (2) shall be deemed concluded for one year.

Contingent Contract

Article 114. Where funding has not been secured upon the commencement of the procedure, the contracting entity shall indicate this circumstance in the contract notice or the invitation to confirm interest and shall make provision for a deferred performance clause in the draft contract. In such case, each of the parties may ask for a termination of the contract without notice after the expiry of a period of three months from the conclusion thereof.

Requirements upon Performance of Contracts

Article 115. When performing public procurement contracts, contractors, suppliers or service providers and the subcontractors thereof shall be obliged to comply with all applicable rules and requirements in the fields of environmental, social and labour law, applicable collective agreements and/or international environmental, social and labour law provisions listed in Annex 10 hereto.

Electronic Invoices

Article 115a. (New, SG No. 86/2018, effective 1.11.2019) Upon settlements under public procurement contracts, contracting entities shall be obliged to accept and process electronic invoices, provided that the content of the said invoices meets the requirements under Article 114 (1) of the Value Added Tax Act and the invoices conform to the European standard on electronic invoicing approved by Commission Implementing Decision (EU) 2017/1870 on the publication of the reference of the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council or an equivalent standard whereby the said European standard is implemented.

Modification of Public Procurement Contract and Framework Agreement

Article 116. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Public procurement contracts and framework agreements may be modified where:

1. the modifications have been provided for in the procurement documents and in the contract in clear, precise and

unequivocal clauses, including price revision clauses or options; the scope and nature of possible modifications or options as well as the conditions under which they may be used must not result in an alteration of the subject-matter of the procurement of the framework agreement;

2. providing additional supplies, services or works have become necessary due to unforeseen circumstances, and the said supplies, services or works were not included in the initial public procurement, if a change of contractor, supplier or service provider:

(a) cannot be made for economic or technical reasons, including requirements of interchangeability or interoperability with existing equipment, services or facilities procured under the initial procurement, and

(b) would cause significant inconvenience related to the maintenance, operation and servicing or duplication of costs for the contracting entity;

3. owing to circumstances which the contracting entity exercising due care could not foresee, a need for modification has arisen and this does not entail a change to the subject-matter of the contract or framework agreement;

4. (amended, SG No. 86/2018, effective 1.03.2019) the contractor, supplier or service provider has to be replaced by a new contractor, supplier or service provider, provided that the possibility for a replacement is provided for in the procurement documents and in the contract in clear, precise and unequivocal clauses concerning the arising of specific conditions;

5. (new, SG No. 86/2018, effective 1.03.2019) the contractor, supplier or service provider has to be replaced by a new contractor, supplier or service provider, where there is universal or partial succession in title for the initial contractor, supplier or service provider, including upon transformation of the initial contractor, supplier or service provider through merger by acquisition, merger by the formation of a new company or division, or through change of the legal form thereof, as well as where the said contractor, supplier or service provider is being wound up or is under pending bankruptcy proceedings, and the following conditions are simultaneously fulfilled:

(a) the grounds for exclusion from the procedure do not apply to the new contractor, supplier or service provider, and the said contractor, supplier or service provider fulfils the selection criteria as initially established;

(b) the change of the contractor, supplier or service provider does not entail other substantial modifications to the public procurement contract or the framework agreement and is not aimed at circumventing this Act;

6. (repealed, new, SG No. 86/2018, effective 1.03.2019) the terms established by Item 4 or 5 apply to any member of the contractor, supplier or service provider combination which is not a legal person;

7. (renumbered from Item 5, SG No. 86/2018, effective 1.03.2019) modifications which are not substantial have to be made.

(2) In the cases referred to in Items 2 and 3 of Paragraph (1), if the price needs to be increased, any such increase may not exceed 50 per cent of the value of the original contract or the framework agreement. Where successive modifications are made, the limitation shall apply to the aggregate value of the modifications. Such consecutive modifications must not be aimed at circumventing this Act.

(3) (Repealed, SG No. 86/2018, effective 1.03.2019).

(4) (Amended, SG No. 86/2018, effective 1.03.2019) In the cases referred to in Items 2 and 3 of Paragraph (1), where the public procurement contract includes an indexation clause or is concluded at determinable prices, the updated price at the moment of the modification shall be considered a reference value.

(5) (Amended, SG No. 86/2018, effective 1.03.2019) A modification of a public procurement contract shall be considered to be substantial within the meaning given by Item 7 of Paragraph (1) where one or more of the following conditions is fulfilled:

1. the modification introduces conditions which, had they been part of the public procurement award procedure,

would have attracted additional participants or candidates in the procedure, would have allowed for the admission of participants or candidates other than those initially selected, or would have led to the acceptance of a tender other than that originally accepted;

2. the modification entails benefits to the contractor, supplier or service provider which were not known to the rest of the participants in the procedure;

3. the modification affects the subject-matter or extent of the public procurement contract or the framework agreement;

4. (amended, SG No. 86/2018, effective 1.03.2019) the contractor, supplier or service provider is replaced by a new contractor, supplier or service provider except in the cases referred to in Item 4 or 5 of Paragraph (1).

(6) When modifying a contract concluded by a sector contracting entity, the conditions under Paragraph (2) shall not apply.

Transferability of Claims

Article 117. Monetary claims under public procurement contracts and under subcontracts shall be transferable, may be pledged, and may be subject to coercive enforcement.

Termination of Public Procurement Contract or Framework Agreement

Article 118. (1) The contracting entity shall terminate a public procurement contract or a framework agreement in the cases provided for in a law, in the contract or in the agreement or where:

1. a substantial modification of the procurement is necessary, which precludes modifying the contract or the framework agreement pursuant to Article 116 (1) herein;

2. the contractor, supplier or service provider is found to have been in one of the situations referred to in Item 1 of Article 54 (1) herein at the time of conduct of the procurement award procedure, on the grounds of which the said contractor, supplier or service provider should have been excluded from the procedure;

3. the procurement should not have been awarded to the contractor, supplier or service provider in view of an infringement declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

(2) In the cases referred to in Items 2 and 3 of Paragraph (1), the contracting entity shall not be liable for damages for the injuries sustained as a result of the termination of the contract or the framework agreement.

Voidable Contracts or Framework Agreements

Article 119. (1) Contracts or framework agreements shall be voidable where concluded:

1. without a public procurement award procedure despite the existence of a ground for the conduct of such a procedure or where the procedure was conducted without complying with the requirement of Article 99 herein;

2. upon unlawful application of the grounds referred to in Articles 13 to 15, Article 79 (1), Article 138 (1), Article 149 (1), Article 164 (1) or Article 182 (1) herein;

3. before the entry into effect of a decision of the contracting entity issued in connection with the procedure, and where an infringement is identified which has affected the chances of:

(a) an interested party submitting a request to participate or a tender;

(b) a candidate concerned submitting a tender;

(c) a candidate or participant concerned taking part in the designation of a contractor, supplier or service provider.

(2) The contracting entity shall terminate a contract concluded on the basis of a framework agreement which has been voided via judicial process.

Subsidiary Application

Article 120. The provisions of the Commerce Act and of the Obligations and Contracts Act shall apply to any unregulated matters in connection with the conclusion, performance and termination of public procurement contracts.

Chapter Fourteen

PUBLIC PROCUREMENT DOSSIER

Documenting and Reporting

Article 121. (1) (Amended, SG No. 86/2018, effective 1.11.2019) Contracting entities shall maintain a dossier on each public procurement for the purpose of ensuring document traceability (audit trail) with regard to all their actions and decisions, as well as the actions of the public procurement award commissions, whether or not the procurements are awarded by electronic means.

(2) The dossier shall contain all decisions, notices, the procurement documents and other additional documents, the clarification, the invitations, the memorandums, the final reports of the commission, the tenders or requests to participate, evidence of the action taken under Article 44 (3) to (5) herein, a description of the reasons why other means than electronic means are used for the submission of documents upon electronic submission, and in the cases where ex ante control has been exercised, the opinions of the Public Procurement Agency and the reasons of the contracting entity for the unaccepted recommendations. The dossier shall contain the contract or the framework agreement, as well as all documents related to the performance and the reporting thereof.

(3) Contracting entities shall keep the information related to contracts where the said entities apply the exclusions from this Act.

Period of Keeping

Article 122. (1) (New, SG No. 86/2018, effective 1.11.2019) The electronic documents in the public procurement dossier shall be kept on the platform referred to in Article 39a (1) herein for a period of five years reckoned from the year when the performance of the contract was completed or the award was terminated. After the lapse of the said period, the said documents shall be archived for a period of five years in accordance with the Electronic Government Act.

(2) (Renumbered from Paragraph (1), amended, SG No. 86/2018, effective 1.03.2019) Where contracting entities keep any documents on paper as part of the dossiers referred to in Article 121 (1) herein and/or any information referred to in Article 121 (3) herein, the period shall be five years reckoned from the date of completion of the performance of the contract or from the date of termination of the award.

(3) (Renumbered from Paragraph (2), amended, SG No. 86/2018, effective 1.03.2019) The periods referred to in Paragraph (2) may be prolonged in case this arises from the rules of procedure of funding, auditing and certifying authorities in connection with the provision of resources under projects and programmes by the European Union.

PART THREE

SPECIFIC RULES FOR PUBLIC PROCUREMENT AWARDS BY SECTOR CONTRACTING ENTITIES

Chapter Fifteen

SECTOR ACTIVITIES

Types

Article 123. Sector activities shall be activities relating to:

1. natural gas and heat;
2. electricity;
3. water;
4. transport services;
5. exploitation of a geographical area;
6. postal services.

Natural Gas and Heat

Article 124. (1) The following shall be activities relating to natural gas and heat:

1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of natural gas or heat;
2. the supply of natural gas or heat to networks referred to in Item 1;
3. the production and wholesale and retail trade in natural gas or heat.

(2) The supply, by a sector contracting entity, of natural gas or heat to fixed networks which provide a service to the public shall not be considered to be an activity under Paragraph (1) where the following conditions are met:

1. the production of natural gas or heat is the consequence of carrying out an activity other than the activities referred to in Paragraph (1) or in Items 2 to 4 of Article 123 herein,
2. the supply to such networks is aimed only at the economic exploitation of the production of natural gas or heat, provided that the amount of deliveries does not exceed 20 per cent of the average annual turnover of the producer for the last three years, including the current year.

Electricity

Article 125. (1) The following shall be activities relating to electricity:

1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity;
2. the supply of electricity to networks referred to in Item 1;
3. the production and wholesale and retail trade in electricity.

(2) The supply, by a sector contracting entity, of electricity to fixed networks which provide a service to the public shall not be considered to be an activity under Paragraph (1) where the following conditions are met:

1. the production of electricity takes place because its consumption is necessary for carrying out an activity other than those referred to in Paragraph (1) or in Items 1, 3 and 4 of Article 123 herein;
2. the supply of such networks depends only on the contracting entity's own consumption and has not exceeded 30 per cent of the total production of energy by the said contracting entity, on the basis of the average for the last three years, including the current year.

Water

Article 126. (1) The following shall be activities relating to water:

1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water;
2. the supply of drinking water to networks referred to in Item 1;
3. the production and wholesale and retail trade in drinking water.

(2) The persons which pursue an activity referred to in Paragraph (1) shall apply the provisions of this Act with regard to procurement contracts or design contests connected with:

1. hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20 per cent of the total volume of water made available by such projects or irrigation or drainage installations, or
2. the disposal or treatment of sewage.

(3) The supply, by a sector contracting entity, of drinking water to fixed networks which provide a service to the public shall not be considered to be an activity under Paragraph (1) where the following conditions are met:

1. the production of drinking water takes place because its consumption is necessary for carrying out an activity other than those referred to in Items 1 to 4 of Article 123 herein;
2. the supply of such networks depends only on the producer's own consumption and has not exceeded 30 per cent of the total production of drinking water by the said producer, on the basis of the average for the last three years, including the current year.

Transport Services

Article 127. (1) Activities relating to transport services shall be the provision or operation of networks providing a service to the public in the field of transport by railway, tramway, trolley bus or bus, as well as of automated transport systems or cableway.

(2) As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority, which may include conditions on the routes to be served, the capacity to be made available, the frequency of the service, and other such.

Exploitation of Geographical Area

Article 128. Activities relating to the exploitation of a geographical area shall be activities which have the purpose of:

1. the provision of the use of airports and maritime or inland ports or other terminal facilities by carriers by air, sea or inland waterway;
2. extracting oil or natural gas;
3. exploration for or extraction of coal or other solid fuels.

Postal Services

Article 129. Activities relating to postal services shall be the provision of:

1. postal services;

2. other services than postal services, in respect of which the conditions set out in Article 130 herein are not satisfied and if the said services are provided by an entity which also provides services referred to in Item 1.

Chapter Sixteen

EXCLUSION OF SECTOR ACTIVITY FROM SCOPE OF THIS ACT

Activities Directly Exposed to Competition

Article 130. (1) This Act shall not apply to public procurements and design projects intended to enable an activity under Article 123 herein if the said activity is directly exposed to competition and is exercised on markets to which access is not restricted.

(2) The competition assessment shall be made on the basis of monitoring of the geographical reference market for the activity assessed and shall include criteria established in accordance with the TFEU. The said criteria may refer to the characteristics of the products or services concerned, the existence of alternative products or services, the prices and the potential presence of more than one supplier of the products or provider of the services in question.

(3) Access to a given market shall be unrestricted if the legal acts of the European Union listed in Annex 12 hereto has been transposed into national legislation. In any case, access to the market shall be considered to be free if this is demonstrated.

(4) The activity whereto Paragraph (1) is applied may form part of a larger sector or branch.

(5) The activity whereto Paragraph (1) is applied may cover the entire national territory or a separate geographical area.

(6) When exposure to competition is assessed, the area in which the undertakings concerned carry out the activity shall be taken into account, including by investigating supply and demand of products or services, assessing whether the conditions of competition are homogeneous, so as to distinguish the area from neighbouring areas in which the conditions of competition are appreciably different. The assessment shall take account of the nature and characteristics of the products or services, of the existence of entry barriers to other persons, of consumer preferences, of appreciable differences of the undertakings' market shares between the area concerned and the neighbouring areas and of substantial price differences.

Procedure for Excluding Sector Activity from Scope of this Act

Article 131. (1) The procedure for excluding a sector activity shall follow rules laid down by the European Commission.

(2) The Council of Ministers, acting on a proposal by the competent line minister or by a sector contracting entity, may submit to the European Commission a request on the basis of the criteria referred to in Article 130 herein to establish that a particular activity is directly exposed to competition. Where necessary, any such request shall be accompanied by a position of an independent national authority that is competent in relation to the activity concerned.

(3) A request referred to in Paragraph (1) shall state all facts relevant to excluding the sector activity from the scope of this Act, including the applicable statutory instruments and the existing administrative framework.

Chapter Seventeen

PUBLIC PROCUREMENT AWARD

Section I

Procedures Applied by Sector Contracting Entities

Free Choice of Procedure

Article 132. When awarding public procurements, sector contracting entities shall be free to choose among an open and restricted procedure, a negotiated procedure with prior call for competition and a competitive dialogue.

Open Procedure

Article 133. (1) (Amended, SG No. 86/2018, effective 1.11.2019) The minimum time limit for the receipt of tenders in an open procedure shall be 30 days from the date on which the contract notice was sent for publication.

(2) The duration referred to in Paragraph (1) may be shortened but may not be less than 15 days if the contracting entity has published a periodic indicative notice and the said notice:

1. was sent for publication between 35 days and 12 months before the date on which the contract notice was sent, and

2. includes all the information under Section I of Part A of Annex 5 hereto.

(3) (Repealed, SG No. 86/2018, effective 18.10.2019).

(4) Where circumstances requiring an urgent award of a procurement arise and complying with the time limit referred to in Paragraph (1) is therefore impossible, contracting entities may fix a time limit for the receipt of tenders which shall be not less than 15 days from the date on which the contract notice was sent for publication.

(5) The contracting entity shall indicate the reasons for applying Paragraph (4) in the contract notice.

Restricted Procedure

Article 134. (1) Any person may submit a request to participate in a restricted procedure, providing therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) The minimum time limit for receipt of requests to participate in a restricted procedure shall be 30 days from the date of dispatch of:

1. the contract notice for publication, or

2. the invitation to confirm interest, where a periodic indicative notice is used to make known the commencement of the procedure.

(3) Where circumstances requiring an urgent award of a procurement arise and complying with the time limit referred to in Paragraph (2) is therefore impossible, contracting entities may fix a time limit for the receipt of tenders which may not be less than 15 days.

(4) Only those candidates invited to do so by the contracting entity after the conduct of pre-selection shall submit tenders in a restricted procedure.

(5) The time limit for the receipt of tenders may be set by agreement between the contracting entity and the selected candidates. An agreement shall be admissible only if all candidates have the same time limit to prepare and submit tenders.

(6) Should no agreement under Paragraph (5) be reached, the time limit shall be fixed by the contracting entity and may not be less than 10 days from the date on which the invitation to tender or to participate in the negotiations was sent.

Negotiated Procedure with Prior Call for Competition

Article 135. (1) Any person may submit a request to participate in a negotiated procedure with prior call for competition and must provide therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) The minimum time limit for receipt of requests to participate in the procedure shall be 30 days from the date of dispatch of:

1. the contract notice for publication, or

2. the invitation to confirm interest, where a periodic indicative notice is used to make known the commencement of the procedure.

(3) Where circumstances requiring an urgent award of a procurement arise and complying with the time limit referred to in Paragraph (2) is therefore impossible, contracting entities may fix a time limit for the receipt of tenders which may not be less than 15 days.

(4) In the procedure, only those candidates invited to do so by the contracting entity after the conduct of pre-selection may submit initial tenders which shall be the basis for the conduct of negotiations.

(5) The time limit for the receipt of tenders may be set by agreement between the contracting entity and the selected candidates. An agreement shall be admissible only if all candidates have the same time limit to prepare and submit tenders.

(6) Should no agreement under Paragraph (5) be reached, the time limit shall be fixed by the contracting entity and may not be less than 10 days from the date on which the invitation to tender or to participate in the negotiations was sent.

Competitive Dialogue

Article 136. (1) Any person may submit a request to participate in a competitive dialogue and must provide therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) The contracting entity shall set out the needs and requirements thereof, the award criterion, the tender assessment indicators and an indicative timeframe for the conduct of the procedure in the contract notice and/or in a descriptive document.

(3) The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice was sent for publication; Where circumstances requiring an urgent award of a procurement arise and complying with the time limit is therefore impossible, contracting entities may fix a time limit for the receipt of tenders which may not be less than 15 days.

(4) Only those candidates invited by the contracting entity after the conduct of pre-selection may participate in a dialogue, which shall be the next stage of the procedure.

(5) All aspects of the procurement may be discussed during the dialogue the aim of which shall be to define the parameters optimally satisfying the needs of the contracting entity.

(6) During the dialogue, the contracting entity shall ensure equality of treatment among participants and, to that end, shall not provide information in a manner which may give some participants an advantage over others.

(7) The contracting entity shall not have the right to make available proposals or reveal other confidential information received from a participant in the dialogue to any other participants without the express agreement of the said participant, given with reference to the intended communication of specific information.

(8) The dialogue may take place in successive stages in order to reduce the number of solutions to be discussed by applying the award criterion and the assessment indicators specified in the contract notice or in the descriptive document. Where it intends to conduct a dialogue in successive stages, the contracting entity must indicate this in the contract notice or in the descriptive document.

(9) The contracting entity shall continue the dialogue until the solution or solutions which are capable of meeting the needs thereof can be identified.

(10) Having declared that the dialogue is concluded, the contracting entity shall inform all participants remaining in the final stage and shall ask them to submit final tenders drawn up on the basis of the solution or solutions specified during the dialogue. The tenders must contain all the elements required and necessary for the performance of the procurement.

(11) When awarding a public procurement through a competitive dialogue, the contracting entity shall assess the tenders under the best price-quality ratio criterion and in accordance with the indicators specified in the contract notice or in the descriptive document.

(12) The contracting entity may ask that the tenders be clarified, specified or optimised. Such clarification, specification or optimisation, or any additional information provided, must not involve changes to the essential aspects of the tender or of the procurement, including the needs and requirements defined in the contract notice or in the descriptive document, if this is likely to distort competition or have a discriminatory effect.

(13) The contracting entity may carry out negotiations with the participant which has submitted a tender presenting the best price-quality ratio in order to confirm financial commitments or other terms contained in the tender by finalising the terms of the procurement. Finalising the terms must not have the effect of materially modifying essential aspects of the tender or of the procurement, including the needs and requirements defined in the contract notice or in the descriptive document, and of distorting competition or causing discrimination.

(14) The contracting entity may specify prizes or payments to the participants in the dialogue.

Innovation Partnership

Article 137. (1) Any person may submit a request to participate in an innovation partnership and must provide therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) In the procurement documents, the contracting entity shall reason the need to obtain an innovative product, service or works, as well as the impossibility to meet this need by the products, services or works available on the market. The contracting entity shall describe the needs thereof, indicating which elements of this description define the minimum requirements to be met by all tenders. The information provided must be sufficiently precise to enable interested parties to identify the nature and scope of the required solution and decide whether to participate in the procedure.

(3) In the procurement documents, the contracting entity shall define the arrangements applicable to intellectual property rights.

(4) The minimum time limit for receipt of requests to participate in the innovation partnership procedure shall be 30 days from the date of dispatch of the contract notice. Where circumstances requiring an urgent award of a procurement arise and complying with the time limit is therefore impossible, the contracting entity may fix a time limit for the receipt of tenders which may not be less than 15 days.

(5) During the pre-selection, the contracting entity shall evaluate the technical and professional ability of candidates in the field of research and development and developing and implementing innovative solutions.

(6) Only those candidates invited by the contracting entity after the conduct of pre-selection may submit tenders for research and innovations.

(7) The contracting entity may provide that negotiations take place in stages in order to reduce the number of tenders by applying the award criterion and the assessment indicators specified in the contract notice. Where it intends to use that option, the contracting entity shall indicate this in the contract notice.

(8) The contracting entity shall negotiate with participants the initial and subsequent tenders, except for the final tenders, to improve the content thereof.

(9) The minimum requirements and the assessment indicators shall not be subject to negotiations and may not be changed.

(10) When awarding a public procurement through an innovation partnership, the contracting entity shall assess the tenders under the best price-quality ratio criterion only.

(11) During the negotiations, the contracting entity shall ensure the equal treatment of the participants and, to this end, shall not provide information in a manner which may give some participants an advantage over others.

(12) During the negotiations, the contracting entity shall inform all participants whose tenders have not been eliminated in writing of any changes to the technical specifications or another item of the procurement documents other than those setting out the minimum requirements. Following those changes, the contracting entity shall provide sufficient time for participants to modify and re-submit amended tenders

(13) The contracting entity shall not have the right to make available proposals or reveal other confidential information received from a participant in the negotiations to any other participants without the express agreement of the said participant, given with reference to the intended communication of specific information.

(14) The innovation partnership contract shall aim at the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the performance levels and maximum costs agreed between the contracting entity and the participant or participants.

(15) The partnership contract shall regulate the performance of the procurement in successive phases following the sequence of steps in the research and innovation process, which may include the manufacturing of the products, the provision of the services or the completion of the works.

(16) The partnership contract shall set intermediate targets to be attained and shall provide for payment of the appropriate remuneration in instalments.

(17) The contracting entity shall ensure that the different phases of the partnership reflect the degree of innovation of the proposed solution and the sequence of the research and innovation activities required for the development of an innovative solution.

(18) The estimated value of the supplies, services or works acquired must not be disproportionate in relation to the investment required for their development.

(19) The contracting entity shall not have the right to reveal to the other partners solutions proposed or other confidential information communicated by a partner in the framework of the partnership without the express agreement of the said partner, given with reference to the intended communication of specific information.

(20) In the cases referred to in Paragraph (16), the contracting entity may terminate the innovation partnership after each phase or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts, provided that the contracting entity has indicated in the procurement documents those possibilities and the conditions for their use.

Negotiated Procedure without Prior Call for Competition

Article 138. (1) Sector contracting entities may apply a negotiated procedure without prior call for competition on the grounds referred to in Items 1 to 4 and Items 6 to 10 of Article 79 (1) herein, as well as where:

1. the procurement is purely for the purpose of research, experimentation, study or development; the procurements awarded do not include quantity production to establish commercial viability or to recover research and development costs;

2. it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices; in this case, the persons offering products at prices lower than market prices shall be invited to negotiate.

(2) In the cases referred to in Item 1 of Paragraph (1), the award of the procurement must not prejudice the possibility of other interested parties participating in subsequent procurements having the same or identical subject-matter.

(3) During a negotiated procedure without prior call for competition pursuant to Item 6 of Article 79 (1) herein, the limitation referred to in Article 79 (3) herein shall not apply.

(4) The contracting entity shall reason the applicable ground under Paragraph (1) by the decision commencing the procedure.

(5) The terms and procedure for the conduct of the procedure shall be established by the regulations for application of this Act.

Design Contest

Article 139. A design contest shall be carried out according to the provision of Article 80 herein.

Section II

Specific Techniques and Instruments for Procurement Awards

Dynamic Purchasing System

Article 140. (1) When awarding procurements based on a DPS, the time limit for the receipt of requests to participate under Article 85 (2) herein may not be less than 15 days.

(2) In case a sector contracting entity reduces the time limit under Article 85 (2) herein, the said entity must indicate the circumstances on the basis of which the time limit was reduced.

(3) Where the contracting entity has envisaged grounds for exclusion and/or selection criteria in accordance with Article 144 (2) herein, the said entity may, at any time during the period of validity of the DPS, require admitted candidates to submit an ESPD with updated information on the data declared on the basis of which the said candidates were admitted to the DPS.

(4) The information referred to in Paragraph (3) shall be submitted within five working days from receipt of the request.

(5) The contracting entity may, at any time during the period of validity of the DPS, require candidates to submit documents in support of the circumstances covered by the ESPD.

(6) The provisions of Section II of Chapter Ten herein shall apply to any unregulated matters regarding the setting up, extending and terminating of a DPS, as well as regarding procurement awards under a DPS.

Section III

Qualification Systems

Establishing Qualification Systems

Article 141. (1) Sector contracting entities may establish and operate systems of qualification of business entities. In such case, sector contracting entities shall draw up a notice on the basis of a standard form, which shall contain at least the information set out in Annex 13 hereto. The notice shall indicate the purpose and period of validity of the qualification system, as well as how to have access to the rules concerning its operation.

(2) Sector contracting entities shall make known any change in the period of validity of the qualification system, as well as the termination thereof, using the following standard forms:

1. a notice on the existence of a qualification system, where the period of validity is changed without terminating the

qualification system;

2. a procurement award notice, where the qualification system is terminated.

(3) Qualification systems shall be organised in a way enabling business entities to be included therein at all times.

(4) A qualification system may involve different stages related to the pre-selection.

(5) When a qualification system is set up, sector contracting entities shall establish rules and criteria whereunder interested parties will be included in and excluded from the qualification system, including with regard to periodic updating of the information, if any, and with regard to the period of validity of the qualification system.

(6) Where those criteria and rules include technical specifications, Articles 48 to 52 herein shall apply. In such cases, the contracting entities may update the said criteria and rules as required.

(7) Interested parties may, for the purposes of inscription in a qualification system, rely on the capacities of third parties, regardless of the legal nature of the links therebetween, with regard to criteria relating to economic and financial standing, professional and technical ability, in case the contracting entity has set such criteria.

(8) Sector contracting entities shall ensure access to the criteria and rules referred to in Paragraph (5) at any time, including at the request of interested parties.

(9) Where a sector contracting entity considers that a qualification system set up by another person meets its requirements, the said entity shall communicate to interested parties by appropriate means that the said entity will use that qualification system.

(10) Qualification systems shall be organised in a manner ensuring the use and keeping of the information with regard to the business entities inscribed in the said system. The information may be grouped into categories according to the type of procurements for which the inscription is valid.

(11) The contracting entity shall make a decision regarding an inclusion or a refusal to include interested parties in a qualification system within six months from the presentation of an application for inclusion in the qualification system. A refusal shall have to be reasoned.

(12) If the decision referred to in Paragraph (11) will take longer than four months, the contracting entity shall inform the interested party, within two months from the application, of the reasons and of the date by which a decision will be made.

(13) The decision referred to in Paragraph (11) shall be sent to the candidate within 15 days from the issuing of the said decision.

(14) The sector contracting entity may make a decision to bring the participation of a candidate in the qualification system to an end on the basis of the rules and criteria established upon the setting up of the qualification system. Any such decision shall be sent to the candidate at least 15 days before the date on which the participation thereof in the qualification system is due to end.

(15) In case contracting entities bill charges for inclusion in the qualification system in connection with conserving or updating the information, the said charges may not exceed the necessary costs for these activities.

Procurement Award through Qualification System

Article 142. (1) The specific works, supply or service procurements covered by the qualification system shall be awarded by a restricted procedure or a negotiated procedure with prior call for competition, and the contractor, supplier or service provider under the contract shall be selected among the persons inscribed in the qualification system.

(2) Contracting entities shall indicate the procurement award criteria in the invitation to tender or to negotiate, unless the said criteria are included in the notice on the establishment of the qualification system, as well as whether:

1. the tenders are required to be presented in the format of an electronic catalogue or to include an electronic catalogue:

2. it is envisaged to hold an electronic auction when designating a contractor, supplier or service provider;

3. tenders may be submitted for one, for several or for all of the lots;

4. the number of lots that may be awarded to one contractor, supplier or service provider is limited.

(3) Access to the documents shall be granted not later than the date on which the invitation to tender or to negotiate is sent. The notice or the invitation shall specify the internet address at which the procurement documents are accessible.

(4) By publishing the notice on the establishment of a qualification system, sector contracting entities may make known the award of the first public procurement under the system.

Confidentiality in Qualification System

Article 143. Sector contracting entities may apply Article 102 (3) herein with regard to the information made available in connection with the use of a qualification system, whether or not the confidential circumstances were indicated in the notice on the existence of a qualification system.

Section IV

Candidates and Participants

Grounds for Exclusion and Selection Criteria

Article 144. (1) Sector contracting entities may establish objective rules and criteria for the exclusion and selection of participants and candidates, which shall be made available to interested parties.

(2) The rules and criteria referred to in Paragraph (1) may include the grounds for exclusion under Article 54 (1) and Article 55 (1) herein, as well as the selection criteria under Article 59 (1) herein, subject to the relevant conditions for the setting, declaring and proving of the said grounds and criteria.

(3) Public contracting entities which pursue sector activities shall mandatorily apply the grounds for exclusion under Article 54 (1) herein and may apply the grounds for exclusion under Article 55 (1) herein.

(4) When selecting candidates in a restricted procedure or in a negotiated procedure with prior call for competition, the contracting entity may not:

1. impose administrative, technical or financial conditions on a certain candidate which would not apply to the rest of the candidates;

2. require tests or evidence which would duplicate evidence already furnished by the candidate.

(5) In a restricted procedure, a negotiated procedure with prior call for competition, a competitive dialogue or an innovation partnership, the contracting entity may establish objective and non-discriminatory rules and criteria and apply the said rules and criteria in order to limit the number of candidates that will be invited to tender or to negotiate. The number of candidates invited must be sufficient to ensure genuine competition.

(6) The provision of Article 105 herein shall apply to any unregulated matters regarding a reduction of the number of candidates.

Communication of Technical Specifications for Regular Procurements and Procurements for which Periodic Indicative Notice Is Used as Call for Competition

Article 145. (1) Any interested party shall have the right to request from a sector contracting entity to be provided with technical specifications regularly referred to in the procurements or applying to procurements for which a periodic indicative notice is used to make known the commencement of a procedure, unless this is impossible.

(2) (Amended, SG No. 86/2018, effective 1.11.2019) In the cases referred to in Paragraph (1), sector contracting entities shall be obliged to offer unrestricted, full and direct access free of charge to the technical specifications through the platform referred to in Article 39a (1) herein. Where the technical specifications are included in documents which have already been made available, the contracting entity shall indicate the address at which the said specifications are accessible.

(3) Any documents which, for objective reasons, including confidentiality of the information, are not accessible at an internet address, shall be made available by other appropriate means.

Tenders Comprising Products Originating in Third Countries

Article 146. (1) Sector contracting entities may reject a tender for supply where the proportion of the products originating in third countries with which the European Union or the Republic of Bulgaria has not concluded, whether multilaterally or bilaterally, an agreement ensuring comparable and effective access, exceeds 50 per cent of the total value of the products constituting the tender.

(2) The proportion of the products referred to in Paragraph (1) shall be determined according to Regulation (EU) No. 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269/1 of 10 October 2013).

(3) When applying Paragraph (1), software used in telecommunications network equipment shall be regarded as products.

(4) Where two or more tenders are equivalent in the light of the chosen tender award criterion, preference in the ranking shall be given to the tenders which may not be rejected according to Paragraph (1). The prices of the said tenders shall be considered equivalent if the price difference does not exceed 3 per cent.

(5) A tender may not be preferred to another according to Paragraph (4) where its acceptance would oblige the contracting entity to acquire products having technical characteristics different from those of existing products, resulting in incompatibility or technical difficulties in operation and maintenance of the said products.

Subsidiary Application

Article 147. The provisions of Parts One and Two herein shall apply to any matters unregulated in this Part.

PART FOUR

SPECIFIC RULES FOR PUBLIC PROCUREMENT AWARDS IN FIELDS OF DEFENCE AND SECURITY

Chapter Eighteen

GENERAL DISPOSITIONS

Scope

Article 148. (1) The provisions of this Part shall apply when awarding public procurements for:

1. supply of military equipment, including any parts, components and/or subassemblies thereof, as well as equipment included in the list of defence-related products, adopted pursuant to Article 2 (1) of the Defence-Related Products and Dual-Use Items and Technologies Export Control Act;

2. supply of sensitive equipment, including any parts, components and/or subassemblies thereof;

3. services directly related to the equipment referred to in Items 1 and 2, including for any element of the life cycle thereof;

4. works directly related to the equipment referred to in Items 1 and 2, including for any element of the life cycle thereof;

5. services for specifically military purposes or for sensitive services;

6. works for specifically military purposes or for sensitive works.

(2) The rules for public contracting entities shall apply to any matters unregulated in this Part.

Exclusions

Article 149. (1) This Act shall not apply to any procurements in the fields of defence and security:

1. which are awarded according to specific procedural rules:

(a) pursuant to international agreements or treaties concluded in conformity with the provisions of the TFEU between the Republic of Bulgaria, of the one part, and one or more third countries, of the other part;

(b) of an international organisation purchasing for its purposes or for procurements which must be awarded in accordance with those rules;

2. the award whereof is related to the supply of information the disclosure of which is contrary to the essential security interests of Bulgaria, according to Article 346 of the TFEU;

3. awarded for the purposes of intelligence activities;

4. awarded in the framework of a cooperative programme based on research and development, conducted jointly by at least two Member States, for the development of a new product and, where applicable, in the later phases of all or part of the life cycle of the said product;

5. awarded in a third country, where operational needs require the contracts to be concluded with suppliers, contractors or service providers located in the area of operations, including for civil procurements, carried out when forces are deployed outside the territory of the European Union;

6. awarded by the Council of Ministers to another government relating to:

(a) the supply of military equipment or sensitive equipment, or

(b) works and services directly linked to the equipment referred to in Littera (a), or

(c) works and services specifically for military purposes or sensitive works and sensitive services;

7. for financial services with the exception of insurance services;

8. awarded to undertakings of a Member State or of a third country pursuant to an international agreement or treaty relating to the stationing of troops;

9. for arbitration and conciliation services;

10. in employment relationships within the meaning given by Item 26 of § 1 of the Supplementary Provisions of the Income Taxes on Natural Persons Act;

11. for research and development services, where the contracting entity wholly remunerates the services but the benefits from the said services do not accrue exclusively to the contracting entity in the conduct of its own affairs;

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

13. awarded by a public contracting entity, including where pursuing a sector activity, to a legal person if the following conditions are simultaneously fulfilled:

(a) the contracting entity exercises over the legal person a control which is similar to that which it exercises over its own departments;

(b) more than 80 per cent of the activities of the legal person are carried out in pursuit of activities entrusted by the contracting entity or by self-contained structures thereof, or by other legal persons controlled by that contracting entity;

(c) there is no direct private capital participation in the legal-person contractor, supplier or service provider with the exception of non-controlling and non-blocking forms of private capital participation which do not exert a decisive influence on the activities of the legal person.

(2) Upon the conclusion of the programme referred to in Item 4 of Paragraph (1), the Bulgarian participant shall indicate to the European Commission the share of research and development expenditure relative to the overall cost of the cooperative programme, the cost-sharing agreement, as well as the intended share of purchases per Member State, if any.

(3) In the cases referred to in Item 13 of Paragraph (1), the contracting entity shall exercise over a legal person a control similar to that which it exercises over its own departments, where it exercises a decisive influence over the strategic objectives and significant decisions of that legal person. Such control may also be exercised by another legal person, which is controlled in the same way by the contracting entity.

(4) The methods for the arrival at the price of the contracts referred to in Item 13 of Paragraph (1) shall be determined by the regulations for application of this Act.

(5) The average total turnover or an appropriate alternative measure of the performance of the activity for the preceding three years shall be taken into consideration for the determination of the percentage of activities in the cases referred to in Item 13 of Paragraph (1).

(6) In the cases referred to in Item 13 of Paragraph (1), where, because of the date on which the legal person was created or commenced activities or because of a reorganisation of the activities thereof, the turnover is either not available or no longer relevant, it shall be sufficient to show that the measurement of activity is credible, particularly by means of its business programme.

(7) Where any of the conditions necessary for the conclusion of a contract under Item 13 of Paragraph (1) no longer applies, the contract shall be terminated by the conclusion, according to the procedure established by this Act, of a new contract with the same subject-matter. In such case, the contracting entity shall commence the new procurement award within one month from the lapse of the condition concerned.

(8) (Amended, SG No. 86/2018, effective 1.03.2019) Contracting entities may not invoke the exclusions referred to in Paragraph (1) where the grounds provided for in the law are not present.

(9) The criteria and the procedure for determining the existence of essential interests referred to in Item 2 of Paragraph (1) shall be established by the ordinance referred to in Article 13 (2) herein.

Mixed Procurements Involving Defence and Security Activities

Article 150. (1) Where the subject-matter of a public procurement covers several activities, a part of which is subject to the provisions of this Part while other activities are subject to the rules for public contracting entities or the rules for sector contracting entities, the said procurement shall be awarded according to the procedure established by this Part, provided that the award of a single procurement is justified for objective reasons. Where the contracting entity decides to award

separate procurements for the separate activities, the rules applicable to the relevant activity shall be followed.

(2) Where one of the activities covered by the subject-matter of a public procurement is subject to the rules of this Part while another activity falls outside the scope of this Act, including in the cases under Article 346 of the TFEU, and the award of a single procurement is justified for objective reasons, this Act shall not apply to any such procurement.

(3) This Act shall not apply to public procurements the subject-matter of which covers objectively not separate parts, some of which fall within the scope of Article 346 of the TFEU while other are subject to the provisions of this Part.

(4) No decision shall be taken to award a single procurement for the purpose of applying this Part or excluding the procurement from the scope of this Act.

Mixed Service Procurements

Article 151. A public procurement which covers simultaneously services under Annex 14 and Annex 15 hereto shall be awarded according to the procedure provided for the services whose estimated value is greater.

Award through Central Purchasing Bodies

Article 152. (1) Contracting entities may receive supplies or services from or through a central purchasing body, including a European public body, which is not a contracting entity and provides centralised purchasing activities.

(2) Where contracting entities receive supplies or services according to the procedure established by Paragraph (1), the said contracting entities shall be deemed to have complied with the provisions of this Act if

1. the central purchasing body has complied with the provisions of this Part as well, and where it is a European public body which is not a contracting entity, it has complied with rules equivalent to the ones indicated in this Act;

2. a possibility to lodge an appeal is provided for.

(3) The central body and the contracting entity shall be responsible for the legality of the procedure they conduct.

Chapter Nineteen

PUBLICITY AND TRANSPARENCY

Prior Information Notice

Article 153. (1) Contracting entities may make known their intention to award public procurements or to conclude framework agreements over the following 12 months by publishing a prior information notice.

(2) Contracting entities shall be obliged to send the notice referred to in Paragraph (1) only when they intend to shorten the time limits for receipt of tenders.

Contract Notice

Article 154. Contracting entities shall publish a contract notice, whereby they shall be deemed to call for competition in a restricted procedure, a negotiated procedure with publication of a contract notice and a competitive dialogue to an unlimited number of persons meeting the requirements set.

Contract Award Notice

Article 155. (1) Contracting entities shall send a contract award notice for publication within:

1. thirty days from the conclusion of a public procurement contract or a framework agreement;
2. seven days from the entry into effect of the decision terminating the procedure.

(2) (Amended and supplemented, SG No. 86/2018, effective 1.03.2019) In the cases of procurements awarded on the basis of a framework agreement, contracting entities may publish information on the concluded contracts within 30 days from the end of each quarter.

(3) Any information in the notice referred to in Paragraph (1) the making known of which is contrary to a law, including in the field of defence, as well as any information in respect of which the participants have invoked confidentiality in connection with the existence of a trade secret, shall not be published in the Official Journal of the European Union and in the PPR.

Place, Form and Manner of Publication of Notices

Article 156. (1) Contracting entities shall send the following for publication in the Official Journal of the European Union:

1. the prior information notices;
2. the contract notices;
3. a notice of modification or additional information;
4. a contract award notice;
5. the notices for voluntary transparency, where applicable.

(2) (Amended, SG No. 86/2018, effective 1.11.2019) The notices referred to in Items 1, 2, 4 and 5 of Paragraph (1) shall be drawn up on the basis of standard forms endorsed by an act of the European Commission and shall contain at least the information set out in Annex 16 hereto depending on the stage of the procedure. Notices shall be sent for publication according to the procedure established by Article 35 (3) herein.

(3) The notices referred to in Paragraph (1) shall be published in the PPR under the terms and according to the procedure established by Article 36 herein.

Chapter Twenty

REQUIREMENTS TO CANDIDATES AND PARTICIPANTS

Grounds for Exclusion

Article 157. (1) The contracting entity shall exclude from participation in a public procurement award procedure any candidate or participant:

1. (amended, SG No. 86/2018, effective 1.03.2019) who has been convicted by an enforceable sentence of a criminal offence referred to in Article 108a, Articles 159a to 159d, Article 192a, Articles 194 to 217, Articles 219 to 252, Articles 253 to 260, Articles 301 to 307, Articles 321 and 321a of the Criminal Code;
2. (amended, SG No. 86/2018, effective 1.03.2019) who has been convicted by an enforceable sentence of a criminal offence similar to those referred to in Item 1, in another Member State or in a third country;
3. who is in a conflict of interest that cannot be remedied.

(2) The contracting entity may exclude from participation in a public procurement award procedure a candidate or participant whereto one of the following circumstances applies:

1. the said candidate or participant is bankrupt or is under bankruptcy proceedings, or is being wound up, or has entered into an out-of-court arrangements with the creditors thereof within the meaning given by Article 740 of the Commerce Act, or has suspended business activities, and in case the candidate or participant is a non-resident person, it is

in an analogous situation arising from a similar procedure under the law of the State in which the said candidate or participant is established;

2. the said candidate or participant incurs obligations for taxes and compulsory social security contributions within the meaning given by Item 1 of Article 162 (2) of the Tax and Social-Insurance Procedure Code and the interest thereon, to the State or to the municipality where the contracting entity and the candidate or participant have their registered office, or any similar obligations, identified by a decision of a competent authority, under the law of the State where the candidate or participant is established, unless the candidate or participant has been allowed to reschedule, defer or secure the obligations or the obligation is under a decision which has not become enforceable;

3. the said candidate or participant has been disqualified from pursuing a particular occupation or activity under the law of the State where the violation has been committed, including for violations related to the export of defence and security products;

4. an enforceable judgment has established that the said candidate or participant is guilty of non-fulfilment of obligations under a public procurement contract, including obligations regarding security of information and security of supply;

5. the said candidate or participant is found to have produced a document making a false statement, related to attesting the absence of grounds for exclusion or fulfilment of the selection criteria;

6. the security services, within the meaning given by the Classified Information Protection Act, have found on the basis of any evidence, including surveillance means, that the said candidate or participant does not possess the necessary reliability and, therefore, national security is at risk of a threat.

(3) The contracting entity shall indicate the circumstances covered under Paragraph (2) in the contract notice and, in procedures referred to in Item 10 of Article 18 (1) herein, in the invitation to negotiate.

(4) (Amended, SG No. 86/2018, effective 1.03.2019) The grounds referred to in Paragraph (1) and Item 5 of Paragraph (2) shall apply to the persons referred to in Article 54 (2) and (3) herein.

(5) When participating in a procedure, the candidate or participant shall submit a declaration on the absence of grounds for exclusion.

(6) As means of proof of the absence of grounds for exclusion, the participant selected as contractor, supplier or service provider shall present:

1. for the circumstances referred to in Item 1 of Paragraph (1): a conviction status certificate;

2. for the circumstances referred to in Item 1 Paragraph (2): a certificate issued by the Registry Agency;

3. for the circumstance referred to in Item 2 of Paragraph (2): a certificate issued by the revenue authorities and a certificate issued by the municipality where the contracting entity and the candidate or participant have their registered office.

(7) The contracting entity shall not have the right to require the presentation of the documents covered under Paragraph (6) where the circumstances therein can be obtained by accessing a public register that is available free of charge or the access to such information is made available by the competent authority of the contracting entity through official channels.

(8) The measures to demonstrate reliability under Article 56 herein may not be applied when applying the grounds for exclusion referred to in Paragraphs (1) and (2).

Selection Criteria

Article 158. (1) Articles 59 to 62 and Article 65 herein shall apply when the selection criteria are established and proved.

(2) As means of proof of the technical and/or professional ability, in addition to the requirements referred to in Article 63 herein and the evidence referred to in Article 64 herein, the contracting entity may set additional conditions and may require from candidates or participants to produce:

1. a description of the technical facilities and measures used for ensuring quality, the study and research facilities, as well as the internal rules of the participant regarding intellectual property;

2. a description of the technical equipment, material, tools, number of factory and office workers and know-how and/or sources of supply, with an indication of the geographical location when it is outside the territory of the European Union, which the candidate or participant has at its disposal to perform the procurement, cope with any additional needs required by the contracting entity as a result of a crisis, or carry out the maintenance, modernisation or adaptation of the supplies covered by the procurement;

3. a clearance, certificate or confirmation of access to classified information within the meaning given by the Classified Information Protection Act, including of the ability to process, store and transmit such information at the level of protection required by the contracting entity: in the case of procurements containing or requiring classified information.

(3) In the cases referred to in Item 2 of Article 64 (1) herein, the list must cover the last five years from the date of submission of the request.

(4) The contracting entity may grant In the contract notice an additional time limit within which the persons who do not hold a clearance, certificate or confirmation referred to in Item 3 of Paragraph (2) are to produce the relevant document. Within the time limit for receipt of requests to participate, the persons shall submit to the contracting entity consent in writing to the conduct of a background investigation and shall attach the requisite documents according to the Classified Information Protection Act, which shall be transmitted by the contracting entity to the competent security service.

(5) Contracting entities shall recognise the clearances for access to classified information issued in accordance with the law of the Member State in which the candidate or participant is established, if there is an international treaty or bilateral agreement on protection of classified information which has entered into force and whereto the Republic of Bulgaria is a party. The contracting entity, acting under the terms and according to the procedure established by the Classified Information Protection Act, may request the conduct of further investigations in the Member State concerned.

(6) Under the terms established by the Classified Information Protection Act, the contracting entity may ask the national security authority in the State in which the candidate is established to verify the conformity of the premises or facilities that may be used, the industrial and administrative procedures that will be followed, the methods for managing information and/or the situation of staff likely to be employed for the performance of the procurement.

(7) When participating in a procedure, the candidate or participant shall furnish evidence of compliance with the selection criteria as set by the contracting entity.

(8) Where, for any valid reason, a candidate or participant is unable to provide the references requested by the contracting entity as a means of proof of technical and/or professional ability, the said candidate or participant may prove the said ability by any other document which the contracting entity considers appropriate. This option shall not apply to the documents referred to in Item 3 of Paragraph (2).

Chapter Twenty One

AWARDING PROCUREMENTS. MODIFICATION OF CONTRACT

Technical Specifications

Article 159. (1) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity shall formulate the technical specifications in conformity with the statutory instruments applicable in the respective field, applying one of the ways referred to in Items 3 and 4 of Article 48 (1) herein or by reference, in order of preference, to:

1. Bulgarian standards transposing European standards;

2. European Technical Assessments;

3. common technical specifications;

4. Bulgarian standards transposing international standards;

5. international standards;

6. other technical reference systems established by European standardisation bodies, or, when any of those do not exist, national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works, as well as use of the products;

7. technical specifications stemming from industry and widely recognised thereby;

8. national defence standards and defence materiel and supplies specifications similar to those standards.

(2) The requirements of Article 48 (2) to (6) herein shall apply in formulating technical specifications.

Free Choice of Procedure

Article 160. When awarding public procurements under this Part, contracting entities shall be free to choose between a restricted procedure and a negotiated procedure with publication of a contract notice.

Restricted Procedure

Article 161. (1) Any person may submit a request to participate in a restricted procedure, providing therein the information required by the contracting entity regarding the absence of grounds for exclusion and compliance of the said person with the selection criteria.

(2) Only those candidates invited to do so by the contracting entity after the conduct of pre-selection shall submit tenders in a restricted procedure.

Negotiated Procedure with Publication of Contract Notice

Article 162. (1) During a negotiated procedure with publication of a contract notice, the contracting entity shall apply Article 76 (1), (2), (4), (7) and (10) to (16) herein.

(2) The contracting entity may provide that negotiations may take place in successive stages in order to reduce the number of tenders to be considered by applying the award criterion. This option shall be indicated in the contract notice or in the documents.

Competitive Dialogue

Article 163. (1) The contracting entity may choose the competitive dialogue procedure where the procurement is particularly complex, which precludes awarding the said procurement by using an open procedure or a negotiated procedure with publication of a contract notice.

(2) A public procurement shall be particularly complex where the contracting entity is objectively unable to define:

1. the technical specifications, and/or

2. the financial or legal make-up of the procurement.

(3) During a competitive dialogue, the contracting entity shall apply Article 77 (1), (2) and (4) to (14) herein.

Negotiated Procedure without Publication of Contract Notice

Article 164. (1) Contracting entities shall make a decision on the award of public procurements by a negotiated procedure without publication of a contract notice in the following cases:

1. where no tenders or requests to participate have been submitted in a restricted procedure, a competitive dialogue or a negotiated procedure with publication of a contract notice or the tenders submitted or requests to participate are unsuitable and the initial conditions of the procurement are not substantially altered;

2. where all participants whose tenders in an earlier restricted procedure, competitive dialogue or negotiated procedure with publication of a contract notice meet the requirements of the contracting entity are invited but exceed the financial resources of the said entity and the initial conditions of the procurement are not substantially altered;

3. it is necessary to take urgent action in a crisis and the time limits for conduct of a restricted procedure or of a negotiated procedure with publication of a contract notice, including the shortened time limits, cannot be complied with, as well as in the cases referred to in Item 2 (a) of Article 173 (1) herein;

4. where an urgent award of the procurement is necessary due to exceptional circumstances and the time limits, including the shortened ones, for the restricted procedure or the negotiated procedure with publication of a contract notice cannot be complied with; the circumstances invoked to justify urgency shall not be attributable to the contracting entity;

5. for technical reasons or reasons connected with the protection of exclusive rights, the procurement may be awarded only to a particular supplier, contractor or service provider;

6. the procurement has as its subject-matter research or development services, except in the cases referred to in Items 4 and 11 of Article 149 (1) herein;

7. where the products involved are manufactured for the purpose of research, experimentation, study or development and are produced in a quantity not to establish commercial viability or to recover research and development costs;

8. for additional deliveries of products by the original supplier which are intended either as a partial replacement or extension of existing supplies or installations and a change of supplier would result in incompatibility or in incompatibility or disproportionate technical difficulties in operation and maintenance owing to the acquisition of a product having different technical characteristics;

9. the procurement has as its subject-matter the supply of products traded on a commodity market, according to the list referred to in Item 7 of Article 79 (1) herein;

10. where it is possible to procure supply of products by taking advantage of a particularly advantageous opportunity available for a short space of time at a price lower than normal market prices, inter alia when selling the property of commercial corporations which are being wound up or are bankrupt;

11. the award of an additional service or works to the same service provider or contractor becomes necessary through unforeseen circumstances under the following conditions:

(a) the additional service or works cannot be technically or economically separated from the subject-matter of the main contract without great inconvenience to the contracting entity or, although separable, are strictly necessary for the performance of the procurement;

(b) the aggregate value of the procurements whereby additional services or works are awarded does not exceed 50 per cent of the value of the principal procurement;

12. where the repetition of a service or works has to be entrusted to the same service provider or contractor, provided the following conditions apply:

(a) the original procurement was awarded according to a restricted procedure or a negotiated procedure with publication of a contract notice, or competitive dialogue, and the notice of the said procurement mentioned the possibility of

such an award;

(b) the total value of the new procurement was included and indicated when the value of the original procurement was established;

(c) the new procurement conforms to a basic project for the implementation of which the original procurement was awarded;

13. the subject-matter of the procurement is related to the provision of air and maritime transport services for the armed forces or for the security forces of Bulgaria deployed or to be deployed outside the national territory, when the contracting entity has to procure such services from service providers whose tenders are valid only for such short periods that the time limit for conduct of the restricted procedure or of the negotiated procedure with publication of a contract notice, including the shortened time limits, cannot be complied with;

14. the procurement is for services listed in Annex 15 hereto.

(2) In the cases referred to in Item 8 of Paragraph (1), the duration of the additional procurement contract may not be longer than five years. In exceptional circumstances, the contracting entity may determine a longer duration, where this is necessary taking into account the expected service life of the delivered items, installations or systems and the technical difficulties which a change of supplier may cause.

(3) In the cases referred to in Item 9 of Paragraph (1), the contract shall be concluded according to the rules and regulations of the commodity exchange concerned.

(4) In the cases referred to in Item 10 of Paragraph (1), the contract shall be concluded according to the procedure established by Part Three of the Commerce Act.

(5) In the cases referred to in Item 12 of Paragraph (1), the procedure may commence not later than five years following the award of the original procurement, except in exceptional circumstances when it is necessary to conduct the procedure after that time limit taking into account the expected service life of the delivered items, installations or systems and the technical difficulties which a change of supplier may cause.

(6) The contracting entity shall reason the applicable ground under Paragraph (1) by the decision commencing the procedure.

(7) The terms and procedure for the conduct of the procedure shall be established by the regulations for application of this Act.

Time Limits for Conduct of Procedures

Article 165. (1) The minimum time limit for the receipt of requests to participate in a restricted procedure, a negotiated procedure with publication of a contract notice and a competitive dialogue shall be 30 days from the date on which the contract notice was sent for publication.

(2) (Amended and supplemented, SG No. 86/2018, effective 1.11.2019) The minimum time limit for the receipt of tenders in a restricted procedure shall be 35 days from the date on which the invitation to tender was sent. Where unrestricted, full and direct access free of charge has not been offered to the procurement documents through the platform referred to in Article 39a (1) herein, , the time limit shall be 40 days.

(3) The time limits referred to in Paragraph (2) may be reduced by four days where the contracting entity has published a prior information notice and the said notice:

1. was sent for publication between 52 days and 12 months before the date on which the contract notice was sent for publication, and

2. includes all the information under Part A of Annex 16 hereto.

(4) Where circumstances necessitating an urgent award of a procurement arise and complying with the time limits referred to in Paragraphs (1) and (2) is therefore impossible, contracting entities may fix:

1. a time limit for the receipt of requests to participate which shall be not less than 15 days from the date on which the contract notice was sent for publication;

2. a time limit for the receipt of tenders which shall be not less than 10 days from the date on which the invitation to tender was sent.

(5) The contracting entity shall indicate the reasons for applying Paragraph (4) in the contract notice.

Reduction of Number of Candidates, Tenders or Solutions

Article 166. (1) Where, in a restricted procedure, a negotiated procedure with publication of a contract notice and a competitive dialogue, the contracting entity uses the option to reduce the number of candidates, the minimum number of candidates that the contracting entity intends to invite may not be less than three.

(2) Where, after the conduct of pre-selection, the contracting entity establishes that the number of candidates meeting the selection criteria and the minimum requirements is insufficient to ensure genuine competition, the contracting entity may:

1. republish the initial notice and repeat the stage of selection of newly submitted requests, or

2. terminate the procedure.

(3) In the cases referred to in Paragraph (2), the contracting entity shall invite the candidates selected upon the first and upon the second publication to tender.

Invitations to Candidates

Article 167. (1) In the cases of a restricted procedure, a competitive dialogue and a negotiated procedure with publication of a contract notice, the contracting entity shall simultaneously and in writing invite the selected candidates to tender or to negotiate or conduct a dialogue.

(2) The invitations shall contain at least the information set out in Annex 17 hereto.

(3) Where the documents or parts thereof are held by a person other than the contracting entity, the invitation shall state the address from which the said documents may be obtained. In case the documents are not subject to access by electronic means, the invitation must also indicate the closing date for requesting the documents. Where the request has been sent within the time limit set, the competent bodies shall send the documents without delay.

Modification of Public Procurement Contract and Framework Agreement

Article 168. (Amended, SG No. 86/2018, effective 1.03.2019) Contracting entities shall apply the grounds for modification of a public procurement contract and a framework agreement under Item 1 and Items 3 to 7 of Article 116 (1) herein.

Chapter Twenty Two

SPECIFIC TECHNIQUES AND INSTRUMENTS FOR PROCUREMENT AWARDS

Framework Agreement

Article 169. (1) Where the contracting entity concludes a framework agreement with several persons, the number thereof may not be less than three, provided that there is a sufficient number of potential contractors, suppliers or service

providers to satisfy the selection criteria, and/or a sufficient number of tenders to conform to the conditions announced in advance by the contracting entity.

(2) Framework agreements shall be concluded for a term not exceeding seven years.

(3) In exceptional circumstances, the term referred to in Paragraph (2) may be longer where, taking into account the expected service life of the delivered items, installations or systems, a change of supplier may cause technical difficulties. The contracting entity shall indicate the reasons for this in the notice.

(4) The provisions of Section I of Chapter Ten herein shall apply to any unregulated matters regarding the conclusion of a framework agreement and procurement awards on the basis of a framework agreement.

Electronic Auction

Article 170. (1) Contracting entities may hold an electronic auction when awarding a procurement through a restricted procedure or a negotiated procedure with prior publication of a contract notice, as well as when reopening competition on the basis of a framework agreement, where the technical specifications of the public procurement can be established with precision.

(2) The decision to hold an electronic auction shall be stated in the contract notice.

(3) The provisions of Section III of Chapter Ten herein shall apply to any unregulated matters regarding the holding of an electronic auction.

Chapter Twenty Three

SECURITY OF INFORMATION AND SECURITY OF SUPPLY

Special Requirements for Performance of Procurement

Article 171. Contracting entities may lay down special requirements for the performance of the public procurement in connection with subcontracting or such intended to ensure the protection of classified information and/or the security of supply.

Classified Information Protection Requirements

Article 172. (1) Contracting entities shall indicate in the notice whether the public procurement contains or requires classified information. In such case, the contracting entity shall set to participants and the subcontractors thereof requirements aimed at protecting the classified information in the documents that the said entity provides with the call for competition.

(2) In the cases referred to in Paragraph (1), the contracting entity may:

1. require a clearance, certificate or confirmation of access to classified information within the meaning given by the Classified Information Protection Act, including of the ability to process, store and transmit such information at the level of protection required by the contracting entity;

2. request producing a clearance, certificate or confirmation of access to classified information within the meaning given by the Classified Information Protection Act for the selected subcontractors;

3. include clauses in the draft contract which oblige the supplier, contractor or service provider:

(a) to produce the document referred to in Item 2 also for the subcontractors selected while performance of the procurement is in progress;

(b) to protect the classified information which became known thereto in the course of the procedure, during and after the completion of performance of the procurement;

(c) to include clauses under Littera (b) on protection of the classified information in the contracts with subcontractors selected before and during the performance of the procurement.

(3) When providing technical specifications to candidates or participants in the procedures and when concluding a public procurement contract, the contracting entity may impose requirements for the protection of confidential information or of classified information. The contracting entity may request candidates or participants to ensure compliance with such requirements by the subcontractors thereof as well.

(4) The candidates or participants, including the subcontractors thereof, shall not have the right to disclose the information referred to in Paragraph (3).

Security of Supply

Article 173. (1) Where the contracting entity has included security of supply requirements in the notice, the said entity may:

1. require that the tender contain, inter alia:

(a) licences or other appropriate documents, issued in the Member State concerned, demonstrating that the participant will be able to honour its obligations regarding the export, transfer and transit of goods associated with the procurement;

(b) indication of all restrictions regarding disclosure, transfer or use of products and services and the results thereof, which result from export control or security arrangements;

(c) evidence demonstrating that the organisation and location of the supply chain of the participant allow it to comply with these requirements, as well as a declaration to the effect that possible changes in the said supply chain during the performance of the procurement will not have an adverse impact;

(d) any supporting documentation received from the national authorities of the participant regarding the fulfilment of additional needs required by the contracting entity which arise as a result of a crisis;

2. include clauses in the draft contract which oblige the supplier, contractor or service provider:

(a) to establish and/or maintain the capacity required to meet additional needs required by the contracting entity as a result of a crisis, under terms and according to a procedure to be agreed;

(b) to carry out the maintenance, modernisation or adaptation of the supplies covered by the procurement;

(c) to inform the contracting entity immediately of any change in its organisation, supply chain or industrial strategy that may affect the performance of the procurement;

(d) in case production is discontinued, to provide the contracting entity with all specific means necessary for the production of spare parts, components, assemblies and special testing equipment, including technical drawings, licences and instructions for use, under terms and according to a procedure agreed upon the occurrence of the relevant circumstance.

(2) The contracting entity may not impose any requirements on the participant which may give rise to a conflict with the export, transfer or transit licensing criteria of the Member State concerned.

Chapter Twenty Four

RULES FOR SELECTION OF SUBCONTRACTORS

Subcontracting

Article 174. (1) The contracting entity may indicate in the contract notice a share of the public procurement to be performed by subcontractors, determining the minimum and maximum percentage of the value of the procurement, but not

more than 30 per cent.

(2) Participants may propose in the tender thereof to subcontract a share of the total value of the procurement which is above the maximum amount referred to in Paragraph (1).

(3) Participants shall indicate in the tender thereof the types of works included in the subject-matter of the procurement which they will subcontract and the share of the procurement corresponding to these works, which may not be less than the minimum percentage determined by the contracting entity, as well as the subcontractors that participants have already identified.

(4) Where a participant has identified by the tender thereof one or more of the subcontractors with which the participant will conclude a subcontract, the said participant:

1. shall indicate in the tender thereof the proposed subcontractors, the type of the works that the said subcontractors are to perform, and the share of the participation thereof;

2. shall produce documents demonstrating compliance with the requirements for selection of each of the subcontractors depending on the type and share of the participation thereof;

3. shall inform the contracting entity of any change at the level of subcontractors occurring during the performance of the public procurement contract.

(5) The contracting entity shall not have the right to impose restrictions based on the nationality of the subcontractors.

Selection of Subcontractors

Article 175. (1) Where the participant designated as contractor, supplier or service provider is a contracting entity, the said participant shall conclude the subcontracts through a procedure conducted according to the provisions of this Part.

(2) Where the participant designated as contractor, supplier or service provider is not a contracting entity and must apply Paragraphs (10) and (11), the said participant shall draw up a notice on the basis of the relevant standard form, which shall contain at least the information set out in Annex 18 hereto.

(3) The notice referred to in Paragraph (2) shall be published in the PPR and in the Official Journal of the European Union subject to Article 156 (2) and (3) herein.

(4) In the cases referred to in Paragraph (2), the subcontractors shall be selected in accordance with the principles of transparency and competition.

(5) The contracting entity shall have the right to reject subcontractors selected by the participant designated as contractor, supplier or service provider in case the said subcontractors do not meet the selection criteria as indicated in the notice and the documents. The rejection of a subcontractor shall require a reasoned decision, which shall be sent to the participant designated as contractor, supplier or service provider. In such case, the participant designated as contractor, supplier or service provider shall be obliged to reapply the relevant procedure for the selection of a subcontractor.

(6) Where no subcontractor is selected because none of the subcontractors participating in the procedure or the bids proposed thereby meet the criteria indicated in the subcontract notice and this would prevent the meeting of the requirements set out in the main procurement:

1. the participant selected as contractor, supplier or service provider, which is not a contracting entity, may:

(a) perform the public procurement contract on its own if it proves that it is able to do so, or

(b) conclude subcontracts without complying with the relevant award procedure if it proves that the selected persons meet the selection criteria;

2. the participant selected as contractor, supplier or service provider, which is a contracting entity, may conduct a

negotiated procedure without publication of a contract notice.

(7) The decisions of the participant selected as contractor, supplier or service provider related to the selection of a subcontractor shall not be subject to review in the cases where the participant designated as contractor, supplier or service provider is not a contracting entity.

(8) The contracting entity may oblige the participant designated as contractor, supplier or service provider to select the subcontractors according to the procedure established in Paragraphs (1) to (4) for all or certain activities proposed to be subcontracted if the said activities are of a value referred to in Item 4 of Article 20 (1) herein. This possibility shall be indicated in the contract notice.

(9) The contracting entity shall indicate in the decision designating a contractor, supplier or service provider the activities proposed to be subcontracted the subcontractors for which must be selected according to the procedure established by Paragraphs (1) to (4).

(10) The selection criteria indicated by the public procurement contracting entity shall be applied for the selection of a subcontractor under Paragraphs (1) to (4). The participant designated as contractor, supplier or service provider may set out other criteria as well which comply with the criteria indicated by the contracting entity.

(11) The selection criteria referred to in Paragraph (10) must be objective, non-discriminatory, must be related to the subject-matter of the subcontract, and must be proportionate to the extent thereof.

PART FIVE

RULES FOR AWARD OF LOW-VALUE PUBLIC PROCUREMENTS

Chapter Twenty Five

PUBLIC CONTEST. DIRECT NEGOTIATIONS

Section I

General Dispositions

Scope

Article 176. The provisions of this Chapter shall apply when awarding public procurements of a value referred to in Article 20 (2) herein.

Subsidiary Application

Article 177. The provisions of Parts One and Two shall apply to any matters unregulated in this Chapter.

Section II

Public Contest

Publication of Notice

Article 178. (1) To make known the commencement of a public contest procedure, the contracting entity shall publish a contract notice, which shall contain at least the information set out in Annex 19 hereto.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) In the notice referred to in Paragraph (1), the contracting entity shall set a time limit for the receipt of tenders, which must take into account the extent and complexity of the public procurement. The time limit may not be less than 20 days and shall run from the dispatch of the notice for publication.

(3) (New, SG No. 86/2018, effective 1.03.2019) The time limit referred to in Paragraph (2) may be shortened but

may not be less than 10 days if the contracting entity has published a prior information notice and the said notice:

1. was sent for publication between 35 days and 12 months before the date on which the contract notice was sent for publication, and
2. includes all the information under Section I of Part A of Annex 4 or Annex 5 hereto, depending on the type of the contracting entity.

(4) (Renumbered from Paragraph (3), SG No. 86/2018, effective 1.03.2019) Where circumstances requiring an urgent award of a procurement arise and complying with the time limit referred to in Paragraph (3) is therefore impossible, the contracting entity may fix a time limit for the receipt of tenders which shall be not less than 10 days from the dispatch of the contract notice for publication.

(5) (Repealed, renumbered from Paragraph (4), amended, SG No. 86/2018, effective 1.03.2019) The contracting entity shall be obliged to reason the application of Paragraph (4) in the decision commencing the procedure.

Alteration of Announced Conditions

Article 179. (1) (Supplemented, SG No. 86/2018, effective 1.03.2019) The contracting entity may make changes to the contract notice and/or to the procurement documents, acting on its own initiative or at the request of an interested party made within three days from the publication of the contract notice. The notice of modification or additional information and the decision whereby the said notice is approved shall be sent for publication within seven days from the publication of the contract notice in the PPR, and where the said time limit has been shortened under Article 178 (3) or (4) herein, within five days.

(2) Where the time limit for the submission of tenders is extended, account shall be taken of the time needed to integrate the clarification or changes when drawing up tenders.

Giving Clarification

Article 180. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Where clarification of the terms of the public procurement is requested within five days before the expiry of the time limit for the receipt of tenders, the contracting entity shall publish written clarification on the buyer profile.

(2) The clarification shall be published on the buyer profile within three days from the receipt of the request and shall not indicate the person who sent the query.

Designating Contractor, Supplier or Service Provider

Article 181. (1) In order to participate in the procedure, interested parties shall submit tenders, attaching thereto information regarding the absence of grounds for exclusion and compliance of the said parties with the selection criteria.

(2) (Supplemented, SG No. 86/2018, effective 1.03.2019) During the procedure, the technical and price proposals of participants may be assessed before examining the documents on compliance with the selection criteria where this possibility has been indicated by the contracting entity in the notice and the requirements of Article 104 (3) herein have been complied with.

(3) In the cases referred to in Paragraph (2), the verification for the existence of grounds for exclusion and for compliance with the selection criteria shall be carried out in a manner which is not influenced by the results of the assessment of the technical and price proposals.

(4) The commission appointed by the contracting entity shall draw up a memorandum on the selection of participants, the examination, assessment and ranking of tenders.

(5) The contracting entity shall endorse the memorandum referred to in Paragraph (4) according to the procedure established by Article 106 herein.

(6) Within 10 days from the endorsement of the memorandum, the contracting entity shall issue a decision designating a contractor, supplier or service provider or closing the procedure.

(7) When the procedure is closed, the grounds under Article 110 shall apply.

(8) (Repealed, SG No. 86/2018, effective 1.11.2019).

Section III

Direct Negotiations

Direct Negotiations with Specific Persons

Article 182. (1) The contracting entity may conduct direct negotiations with specific persons where any of the grounds referred to in Item 3 and Items 5 to 9 of Article 79 (1) herein applies or where:

1. (amended, SG No. 86/2018, effective 1.03.2019) an urgent award of the procurement is necessary due to exceptional circumstances and the time limits referred to in Article 178 (2) and (4) herein cannot be complied with; the circumstances invoked to justify urgency shall not be attributable to the contracting entity;

2. the award procedure through a public contest has been terminated because no tenders have been submitted or the tenders submitted are unsuitable and the initial conditions of the procurement are not substantially altered;

3. it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices;

4. the repetition of works or services has to be entrusted by the same contracting entity to the original contractor or service provider, provided that the following conditions apply:

(a) the initial procurement was awarded by public contest;

(b) the original contract notice indicated the possibility of a repeated award and the extent or quantity of possible additional works or services and the conditions under which they will be awarded;

(c) the total value of the new procurement was included and indicated when the value of the original procurement was established;

(d) the new procurement conforms to a basic project for the implementation of which the original procurement was awarded;

5. the public procurement is for services under Annex 2 hereto and is of a value referred to in Item 2 of Article 20 (2) herein.

(2) The contracting entity shall reason the applicable ground referred to in Paragraph (1) by the decision commencing the procedure.

(3) All persons offering products at prices lower than market prices shall be invited to negotiate in the cases referred to in Item 3 of Paragraph (1).

(4) The repeated award of works or services under Item 4 of Paragraph (1) shall be possible not earlier than three years following the conclusion of the original contract.

(5) (New, SG No. 86/2018, effective 1.03.2019) In the cases referred to in Item 5 of Paragraph (1), the contracting entity may conclude a contract only provided at least three participants are ranked.

(6) (Renumbered from Paragraph (5), SG No. 86/2018, effective 1.03.2019) The terms and procedure for the conduct of direct negotiations shall be established by the regulations for application of this Act.

Section IV

Public Procurement Contract

Concluding Contract

Article 183. The contracting entity shall conclude a public procurement contract in writing with the designated contractor, supplier or service provider under the terms and according to the procedure established by Article 112 herein.

Modification of Contract

Article 184. (1) The contracting entity may modify a public procurement contract under the terms established by Article 116 herein.

(2) (Repealed, SG No. 86/2018, effective 1.03.2019).

Publication of Information on Contracts

Article 185. (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity shall send for publication a notice on the basis of a standard form within 30 days from:

1. the signing of the contract: in the case of a concluded contract;
2. (amended, SG No. 86/2018, effective 1.03.2019) the signing of the supplementary agreement: in the case of a modification of a contract under Article 116 (1) herein;
3. completion of the contract: in the case of performance of the contract or an early termination of the contract.

Chapter Twenty Six

SOLICITATION OF TENDERS BY ADVERTISEMENT. INVITATION TO SPECIFIC PERSONS

Scope

Article 186. The provisions of this Chapter shall apply when awarding public procurements of a value referred to in Article 20 (3) herein.

Publication of Advertisement

Article 187. (1) (Amended, SG No. 86/2018, effective 1.11.2019) Contracting entities shall commence the award of a procurement of a value referred to in Article 20 (3) herein by publishing in the PPR an advertisement on solicitation of tenders, which shall be drawn up on the basis of a standard form and shall contain at least the information set out in Annex 20 hereto.

(2) (Amended and supplemented, SG No. 86/2018, effective 1.11.2019) Together with the publication of the advertisement, contracting entities shall afford access to the technical specifications and any other information related to the performance of the procurement, where applicable, on the buyer profile.

(3) (Repealed, SG No. 86/2018, effective 1.11.2019).

(4) In the advertisement, the contracting entity shall not be obliged to reason the indivisibility of the procurement into lots.

Receipt of Tenders

(Heading amended, SG No. 86/2018, effective 1.03.2019)

Article 188. (1) (Amended, SG No. 86/2018, effective 1.03.2019) The time limit for the receipt of tenders must take into account the extent and complexity of the procurement and may not be less than 10 days from the publication of the advertisement.

(2) (Repealed, SG No. 86/2018, effective 1.11.2019).

(3) (Repealed, SG No. 86/2018, effective 1.11.2019).

Clarification

Article 189. On a written request made up to three days before the expiry of the time limit for the receipt of tenders, the contracting entity shall be obliged to publish on the buyer profile, at the latest on the following working day, written clarification of the terms of the public procurement.

Article 190. (Repealed, SG No. 86/2018, effective 1.03.2019).

Invitation to Specific Persons

Article 191. (1) Instead of publishing an advertisement, contracting entities may invite a specific person or persons where one of the following requirements applies:

1. (amended, SG No. 86/2018, effective 1.03.2019) not a single tender has been received, and the initial conditions of the procurement are not altered;

2. awarding the public procurement to another person is impossible in view of the existence of copyrights or other intellectual property rights, or of exclusive rights acquired by virtue of a law or of an administrative act, as well as where the nature of the supply or service is limited to a precisely specified supplier or service provider for reasons which are not attributable to the contracting entity;

3. an urgent award of the procurement is necessary due to exceptional circumstances and the time limits referred to in Article 188 (1) herein cannot be complied with; the circumstances invoked to justify urgency shall not be attributable to the contracting entity;

4. the products involved are manufactured for the purpose of research, experimentation, study or development and are in a limited quantity not to form a market price or to recover research and development costs;

5. for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or as the extension of existing supplies, where a change of supplier would oblige the contracting entity to acquire products having different technical characteristics which would result in incompatibility or technical difficulties in operation and maintenance;

6. the procurement has as its subject-matter the supply of a product which is traded on a commodity market, according to a list approved by an act of the Council of Ministers, acting on a proposal by the Minister of Finance;

7. it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices.

(2) In the cases referred to in Item 1 of Paragraph (1), where tenders have been received from persons other than those indicated in the invitation, the contracting entity shall examine and rank the said tenders if they meet the conditions as announced and conform to the technical specifications as published.

(3) In the cases referred to in Item 6 of Paragraph (1), contracting entities shall conclude the public procurement contract by the rules and regulations of the market concerned.

Designating Contractor, Supplier or Service Provider

Article 192. (Amended, SG No. 86/2018, effective 1.03.2019) (1) The contracting entity shall exclude any participant where to any of the circumstances referred to in Article 54 (1) herein applies and which do not meet the selection criteria set by the contracting entity, if any.

(2) The grounds referred to in Items 1, 2 and 7 of Article 54 (1) herein shall apply to the persons who represent the participant.

(3) The participants shall accompany the tender by a declaration on the basis of a standard form on the absence of the grounds for exclusion and compliance with the selection criteria, if any. Where the participant is represented by multiple persons, the declaration on the circumstances referred to in Items 3 to 6 of Article 54 (1) herein shall be signed by the person who is competent to represent the said participant on his or her own.

(4) The results of the examination and assessment of the tenders and of the ranking of the participants shall be covered in a memorandum. The contracting entity shall endorse the memorandum, whereafter the said memorandum shall be sent to the participants and shall be published on the buyer profile on one and the same day.

Termination of Public Procurement Award

Article 193. (Amended, SG No. 86/2018, effective 1.11.2019) The contracting entity may terminate the procurement award until the conclusion of the public procurement award contract by publishing information in the PPR, indicating therein, inter alia, the reasons for the termination.

Conclusion and Modification of Contract

Article 194. (1) The contracting entity shall conclude a public procurement contract with the designated contractor, supplier or service provider within 30 days from the date on which the contractor, supplier or service provider is designated. In the cases referred to in Item 3 of Article 191 (1) herein, the contract shall be concluded not later than five working days from the date on which the contractor, supplier or service provider is designated.

(2) The contracting entity may conclude a contract with the participant ranked next where the participant selected as contractor, supplier or service provider either declines to conclude a contract or does not appear for the conclusion of the contract within the time limit set by the contracting entity without citing objective reasons.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The contracting entity may modify a public procurement contract under the terms established by Article 116 herein.

(4) (New, SG No. 86/2018, effective 1.11.2019) Within five days from the conclusion of the contract, the contracting entity shall send information for publication in the PPR.

Reserving Procurements in Solicitation of Tenders by Advertisement

Article 194a. (New, SG No. 86/2018, effective 1.03.2019) (1) Contracting entities may apply the procedure under Articles 187 to 189 herein also to procurements which fall within the scope of the list referred to in Item 1 of Article 12 (1) herein and the value whereof requires awarding through a public contest, where the procurement is reserved and is awarded to specialised undertakings or cooperatives of people with disabilities or to economic operators whose main aim is the social and professional integration of people with disabilities or disadvantaged people.

(2) In the cases referred to in Paragraph (1), the participant designated as contractor, supplier or service provider must prove that at least 70 per cent of the staff thereof consists of people with disabilities or disadvantaged people and that those people will be assigned to performing the procurement, as well as that the terms established by Article 12 (6) herein are complied with.

(3) In the cases referred to in Paragraph (1), the contracting entity shall indicate in the advertisement that the procurement is reserved for persons which meet the requirements referred to in Paragraphs (1) and (2).

Subsidiary Application

Article 195. The provisions of Parts One and Two herein shall apply to any matters unregulated in this Chapter.

PART SIX

CORRECTION OF INFRINGEMENTS IN PROCEDURES

Chapter Twenty Seven

REVIEW PROCEDURE

Section I

General Dispositions

Decisions Subject to Review

Article 196. (1) Any decision of the contracting entities shall be subject to review according to the procedure established by this Chapter where made under a procedure for:

1. (amended, SG No. 86/2018, effective 1.03.2019) public procurement award, including on the basis of a framework agreement, a dynamic purchasing system or qualification systems;
2. conclusion of a framework agreement;
3. setting up a dynamic purchasing system or establishment of qualification systems;
4. a design contest.

(2) The following shall not be subject to review:

1. and decisions designating a contractor, supplier of service provider of the public procurement by reopening of competition, where the total value of the procurements awarded under the framework agreement by the contracting entity concerned is less than or equal to the value referred to in Article 20 (3) herein;
2. any decisions commencing a procedure in the part regarding the reasons for the indivisibility of the subject-matter of the procurement into lots.

(3) The decisions referred to in Paragraph (1) may be appealed before the Commission on Protection of Competition as to the legality thereof, including as to the presence of discriminatory economic, technical or qualification requirements in the contract notice, the documents or in any other document related to the procedure.

(4) (Supplemented, SG No. 49/2018) Any decisions referred to in Article 175 (5) herein shall also be subject to review according to the procedure established by this Chapter and the notice for voluntary transparency.

(5) Any actions or omissions of the contracting entity whereby the access to, or participation of persons in, the procedure is impeded shall also be subject to review according to the procedure established by this Chapter. The actions of the contracting entity for the issuing of the decisions referred to in Paragraph (1) shall not be subject to separate review.

Good Faith

Article 196a. (New, SG No. 49/2018) Parties participating in the proceedings and their representatives shall be obligated to exercise their procedural rights in good faith. Liability for damages resulting from not exercising such rights in good faith shall be realised in accordance with the general claim procedure.

Time Limit for Lodging Appeal

Article 197. (1) An appeal may be lodged within 10 days from:

1. (supplemented, SG No. 49/2018) the expiry of the time limit referred to in Article 100 (3) herein: against the decision commencing the procedure and/or the decision approving the notice of modification or additional information and/or the decision establishing a qualification system;

2. the expiry of the time limit referred to in Article 100 (4) herein: against the decision approving the invitation to confirm interest and/or the decision approving the notice of modification or additional information whereby the changes to an invitation to confirm interest are approved;

3. the expiry of the five-day time limit referred to in Article 100 (5) herein: against the decision commencing the procedure and/or the decision approving the notice of modification or of additional information;

4. the expiry of the time limit referred to in Article 179 herein: against the decision commencing the procedure and/or the decision approving the notice of modification or of additional information;

5. (amended, SG No. 49/2018) the publication of:

(a) the decisions on conduct of negotiated procedures referred to in Items 8 to 10 and 13 of Article 18 (1) herein;

(b) the decisions referred to in Items 7, 11 and 12 of Article 100 (7) herein;

6. (amended, SG No. 86/2018, effective 1.11.2019) the serving of the decision on pre-selection or the decision concluding the dialogue;

7. (amended, SG No. 49/2018, SG No. 86/2018, effective 1.11.2019) the serving of the decision:

(a) designating a contractor, supplier or service provider;

(b) ranking the participants in the design contest;

(c) to admit or to refuse to admit [interested parties] to a qualification system or to a dynamic purchasing system;

(d) ending the participation in a qualification system or in a dynamic purchasing system;

(e) terminating the procedure;

8. on publication of the notice for voluntary transparency.

(2) (Supplemented, SG No. 49/2018) The appeal referred to in Article 196 (5) shall be lodged within 10 days from the notification of the relevant action, and if the person is not notified as well as in the event of omission – within 10 days from the date of expiry of the time limit for the performance of the relevant action.

(3) (Amended, SG No. 49/2018, repealed, SG No. 86/2018, effective 1.11.2019).

Right of Appeal

Article 198. (1) An appeal may be lodged by:

1. any interested party: in the cases referred to in Items 1 to 5 and 8 of Article 197 (1) and Article 197 (2) herein;

2. any candidate concerned in the procedure: in the cases referred to in Items 2, 6 and 7 of Article 197 (1) and Article 197 (2) herein;

3. any candidate or participant concerned: in the cases referred to in Items 5 and 7 of Article 197 (1) and Article 197 (2) herein.

(2) Within the time limit referred to in Item 1 of Article 197 (1) herein, an appeal against the decision commencing the procedure and/or against the decision approving changes to the conditions under a procedure announced may also be lodged by professional associations and organisations in the branch concerned for the protection of the interests of the members thereof.

(3) (Repealed, SG No. 49/2018).

Lodging Appeal

Article 199. (1) An appeal shall be lodged with the Commission on Protection of Competition with a copy to the contracting entity whose decision, action or omission is being appealed.

(2) The appeal must be written in the Bulgarian language and must contain:

1. name of the body wherewith the appeal is lodged;

2. (amended, SG No. 49/2018) the business name of the merchant appellant or the name of the legal-person appellant, as well as the registered office and the last address of the place of management stated in the relevant register, the email address or fax number thereof, if any; respectively, the forename, patronymic and surname and the address, telephone number, email address or fax number, if any, of the natural-person appellant;

3. name and address of the contracting entity;

4. (supplemented, SG No. 49/2018) data on the public procurement, including its unique number in the PPR, and the decision, action or omission which is being appealed;

5. (amended, SG No. 49/2018) the circumstances on which the appellant bases its capacity as an interested party, where applicable;

6. (new, SG No. 49/2018) comprehensive and specific statement of all objections and the grounds for them, as well as of the requests made by the appellant;

7. (renumbered from item 6, SG No. 49/2018) signature of the person who lodges the appeal.

(3) The following shall accompany an appeal lodged with the Commission on Protection of Competition:

1. a copy of the decision being appealed, where the said decision is not published in the PPR;

2. evidence of compliance with the time limit referred to in Article 197 (1) and (2) herein;

3. documentary proof of stamp duty paid;

4. proof of dispatch of the appeal to the contracting entity;

5. (new, SG No. 49/2018) evidence of the circumstances under Item 5 of Paragraph (2);

6. (new, SG No. 49/2018) evidence of the powers of representation where the appeal is lodged through a representative;

7. (renumbered from item 5, SG No. 49/2018) other evidence, if the appellant is in possession of such.

(4) (Amended, SG No. 49/2018) If the appeal does not comply with the requirements referred to in Paragraph (2) and Items 1 to 3, 5 and 6 of Paragraph (3), the Commission on Protection of Competition shall notify the appellant and shall allow the appellant three days to correct the non-conformities.

Section II

Institution of Procedure

Institution of Procedure

Article 200. (1) The Chairperson of the Commission on Protection of Competition shall issue a directive instituting a procedure within three days from the receipt of the appeal or from the correction of the non-conformities therein. The directive shall designate a member of the Commission to monitor the investigation of the appeal and, where necessary, to give instructions. The contracting entity shall be notified of the procedure as instituted.

(2) The contracting entity shall send an opinion on the appeal, supported by evidence where necessary, within three days from the receipt of the notification referred to in Paragraph (1).

(3) After the institution of the procedure, the Chairperson of the Commission on Protection of Competition shall issue an order designating officials of the administration of the Commission to conduct an investigation into the appeal.

(4) Where the procurement contains or requires classified information or has an object in the fields of defence and security, the officials referred to in Paragraph (3) must hold a clearance for access to information classified up to the relevant level according to the requirements of the Classified Information Protection Act.

Refusal to Institute Procedure

Article 201. (1) The Chairperson of the Commission on Protection of Competition shall not institute a procedure where:

1. the appeal was lodged after the expiry of the time limit referred to in Article 197 (1) and (2) herein;
2. the non-conformities have not been corrected within the time limit referred to in Article 199 (4) herein;
3. the appeal was lodged before the expiry of the relevant time limit referred to in Article 100 (3), (4) or (5) and Article 179 (1) herein;
4. the appeal was withdrawn before the institution of the procedure;
5. the decision is not subject to review.

(2) (Amended, SG No. 86/2018, effective 18.10.2019) In the cases referred to in Paragraph (1), the Chairperson of the Commission on Protection of Competition shall issue a directive reverting the appeal.

Correction of Infringement by Contracting Entity

Article 202. The contracting entity may correct the infringement of its own accord before the receipt from the Commission on Protection of Competition of the communication referred to in Article 209 (3) herein on the completion of the investigation into the appeal.

Section III Interim Measure

Suspension of Procedure

Article 203. (1) An appeal against any decision, action or omission of the contracting entity, except for an appeal against the decision designating a contractor, supplier or service provider, shall not suspend the public procurement award procedure unless suspension of the procedure has been requested as an interim measure.

(2) A request for the imposition of an interim measure shall be made simultaneously with the lodging of the appeal. A request for the imposition of an interim measure may not be made where appealing any decision, action or omission of the

contracting entity related to a procedure referred to in Item 4 of Article 79 (1), Article 138 (1), Item 3 or 4 of Article 164 (1), or Item 1 of Article 182 (1) herein.

(3) (Amended, SG No. 49/2018, SG No. 86/2018, effective 1.03.2019) Where the interim measure referred to in Paragraph (1) has been requested by the appeal, the public procurement award procedure shall be suspended from the notification of the contracting entity by the Commission on Protection of Competition of the procedure instituted under Article 200 (1) herein until the entry into effect of:

1. the ruling whereby the request for an interim measure is left without consideration, or
2. the decision on the appeal, if the interim measure has been imposed.

(4) (Supplemented, SG No. 86/2018, effective 1.03.2019) An appeal against the decision designating a contractor, supplier or service provider shall suspend the public procurement award procedure from the moment of lodgement of the said appeal until the conclusive settlement of the dispute, except where anticipatory enforcement has been admitted or where the decision was made in a procedure commenced on the basis of Item 4 of Article 79 (1), Article 138 (1), Items 3 and 4 of Article 164 (1), or Item 1 of Article 182 (1) herein..

(5) (New, SG No. 86/2018, effective 1.03.2019) In the cases where the public procurement is divided into lots, an appeal against a decision, action or omission of the contracting entity, including against the decision designating a supplier, contractor or service provider, shall not suspend the public procurement award procedure for the lots which are not included in the subject of contestation.

Pronouncement on Interim Measure Request

Article 204. (1) Where the appeal contains a request for the imposition of an interim measure, the Commission on Protection of Competition, sitting in a private session, shall pronounce on the said request by a reasoned ruling within seven days from the institution of the procedure.

(2) The Commission on Protection of Competition shall pronounce on the request after an assessment of the possible consequences of the imposition of an interim measure for all interests that may be injured, including for the public interest and defence and security interests, making the said assessment on the basis of the allegations in the appeal, the opinion of the contracting entity and the evidence filed by the parties.

(3) The Commission on Protection of Competition may not impose an interim measure where the adverse consequences for all interests that may be injured outweigh the benefit of the imposition of the said measure.

(4) The pronouncement on the interim measure shall not be binding on the Commission on Protection of Competition when deciding the dispute on the merits, nor shall it affect the rest of the requests of the appellant.

(5) (Repealed, SG No. 86/2018, effective 18.10.2019).

(6) An appellate review of the ruling whereby an interim measure is imposed shall not suspend the procedure before the Commission on Protection of Competition.

Anticipatory Enforcement of Decision Designating Contractor, Supplier or Service Provider

Article 205. (1) Where a decision designating a contractor, supplier or service provider is appealed, the contracting entity may, within the time limit for the submission of an opinion under Article 200 (2) herein, request the Commission on Protection of Competition to admit anticipatory enforcement of the decision. Any request for anticipatory enforcement made after the expiry of the said time limit shall not be examined by the Commission on Protection of Competition.

(2) The contracting entity shall reason the request referred to in Paragraph (1) and shall file evidence in support of the allegations thereof.

(3) The Commission on Protection of Competition, sitting in a private session, shall pronounce on the request to admit anticipatory enforcement of the decision by a ruling within three days after receipt of the ruling.

(4) The Commission on Protection of Competition shall admit anticipatory enforcement of the decision designating a contractor, supplier or service provider in exceptional circumstance, where this is necessary in order to safeguard human life or public health, to protect vital State or public interests, including defence and security interests, or if a delay of enforcement may cause substantial damage or damage which would be difficult to repair.

(5) Anticipatory enforcement under Paragraph (4) shall not be admitted where reasoned by economic interests linked to costs resulting from:

1. delay in the performance of the contract;
2. conduct of a new procedure for the award of the procurement.

(6) The Commission on Protection of Competition shall admit anticipatory enforcement of the decision designating a supplier, contractor or service provider in all cases where the implementation of a wider defence or security programme which is essential for the interests of Bulgaria would be seriously endangered.

(7) (Amended, SG No. 49/2018, SG No. 86/2018, effective 18.10.2018) The interlocutory appeal shall suspend the enforcement of the ruling being appealed.

Suspension of Procedure before Commission on Protection of Competition

Article 206. (1) Where a procedure has been instituted against a decision designating a contractor, supplier or service provider and anticipatory enforcement has not been admitted, the Commission on Protection of Competition shall verify ex officio whether any other procedure against another decision of the contracting entity in the same procedure is pending.

The Commission on Protection of Competition shall suspend the procedure instituted acting on an appeal against a decision designating a contractor, supplier or service provider where the said Commission finds that a procedure referred to in Paragraph (2) is pending.

(3) The procedure shall be resumed either ex officio or at the request of one of the parties after the ground for suspension no longer applies.

Section IV

Appeal Examination Procedure

Investigation

Article 207. The investigation of the case file shall be conducted by the officials designated under Article 200 (3) herein and shall cover the circumstances of the appeal.

Evidence and Expert Opinions in Procedure

Article 208. (1) Written and oral evidence, including expert opinions, shall be admissible in the procedure before the Commission on Protection of Competition. The Commission may refer to information which is publicly accessible or which has come to the knowledge of the Commission in connection with the activities thereof.

(2) (New, SG No. 86/2018, effective 1.11.2019) Article 184 of the Code of Civil Procedure shall apply to the presentation of electronic documents, including such created or sent through the platform referred to in Article 39a (1) herein.

(3) (Renumbered from Paragraph (2), SG No. 86/2018, effective 1.11.2019) When expert opinions are used in the procedure before the Commission on Protection of Competition, the sums due for fees of the experts shall be remitted in advance by the party which requested the expert examination. Where an expert examination is ordered on the initiative of the Commission on Protection of Competition, the costs of the expert fee shall be awarded against the appellant if the appeal is left without consideration or the procedure is terminated and shall be awarded against the contracting entity in the

cases referred to in Items 2 to 6 of Article 215 (2) herein.

(4) (Renumbered from Paragraph (3), SG No. 86/2018, effective 1.11.2019) No evidence collected in the procedure may be disclosed if it constitutes an industrial, trade or other secret protected by law. Where any such evidence contains data constituting classified information, the procedure established by the Classified Information Protection Act shall apply.

(5) (Renumbered from Paragraph (4), SG No. 86/2018, effective 1.11.2019) The parties to the procedure, State bodies and officials shall be obliged to cooperate with the Commission on Protection of Competition in the fulfilment of the obligations assigned thereto by the law.

Completion of Investigation

Article 209. (1) After the completion of the investigation, the work team shall submit to the monitoring member of the Commission on Protection of Competition a report which shall contain a factual and legal analysis of the case, as well as a proposal for the manner of closing the procedure.

(2) The monitoring member of the Commission on Protection of Competition shall notify the Chairperson of the completion of the investigation. The Chairperson of the Commission on Protection of Competition shall schedule, by an endorsement, a private session for an examination of the case file.

(3) Within three days from the receipt of the communication on the completion of the investigation, the parties shall have the right to familiarise themselves with the evidence collected under the case file.

(4) The parties shall be obliged to present all evidence thereof not later than on the day before the session for an examination of the appeal.

Summoning and Serving Communications

Article 210. (1) The parties shall be summoned at the addresses indicated in the appeal, and the time limit for summoning shall be not less than three days before the session.

(2) (Amended, SG No. 49/2018) The parties shall be deemed notified and the summons or notifications shall be deemed served if they have been sent to the email address or fax number, if any, provided thereby. Where the parties do not submit a fax number or contact email address, the said parties shall be presumed notified by publication of a communication in the public register on the official internet site of the Commission on Protection of Competition.

(3) The parties may be defended by a lawyer.

Commission on Protection of Competition: Sessions

Article 211. (1) For the valid transaction of business at sessions, at least four of the members of the Commission on Protection of Competition shall have to be present thereat.

(2) Where the procurement contains or requires classified information, including where the procurement has an object in the fields of defence and security, the members of the Commission on Protection of Competition who participate in the case file examination procedure must hold a clearance for access to information classified up to the relevant level according to the requirements of the Classified Information Protection Act.

(3) No member of the Commission on Protection of Competition may participate in an investigation procedure under this Act if he or she has an interest in the outcome of the said procedure or where there are reasonable doubts as to his or her impartiality. Such member of the Commission on Protection of Competition shall be recused either on his or her own initiative or at the request of the parties.

(4) The session shall commence by addressing the preliminary matters regarding the validity of the procedure. The parties to the procedure may be asked questions.

(5) When the person presiding over the session determines that the circumstances concerning the appeal have been

clarified, the said person shall afford the parties an opportunity to present opinions.

(6) After the factual and legal aspects of the dispute are clarified, the session shall be closed by the person presiding.

Time Limits for Pronouncement on Appeal

Article 212. (1) The Commission on Protection of Competition shall pronounce on the appeal within one month from the institution of the procedure for public procurements of a value referred to in Article 20 (1) herein, and in the rest of the cases, within 15 days from the institution of the procedure.

(2) The decision together with the reasons shall be drawn up and made known not later than seven days from the pronouncement on the appeal.

Termination of Procedure before Commission on Protection of Competition

Article 213. (1) The Commission on Protection of Competition shall terminate the procedure by a ruling:

1. (amended, SG No. 49/2018) upon ascertainment that the appeal is inadmissible, including where the appellant has not substantiated and proved its legal interest;

2. if the natural-person appellant has died or if the legal-person appellant has been dissolved;

3. upon withdrawal of the appeal.

(2) (Repealed, SG No. 86/2018, effective 18.10.2018).

Subsidiary Application

Article 214. The procedure for appellate review of individual administrative acts under the Administrative Procedure Code shall apply to any unregulated matters regarding the review procedure before the Commission on Protection of Competition.

Section V

Commission on Protection of Competition: Decisions

Rendering Decisions

Article 215. (1) The Commission on Protection of Competition shall make decisions and shall render rulings by open ballot and by a majority of four votes.

(2) The Commission on Protection of Competition, sitting in a private session, shall render a decision whereby:

1. the Commission shall leave the appeal without consideration;

2. the Commission shall set aside the unlawful decision commencing a public procurement award procedure;

3. the Commission shall set aside the decision and shall revert the case file for continuation of the public procurement award procedure as from the last lawful decision or action or for termination of the procedure;

4. (amended, SG No. 49/2018) the Commission shall find the decision unlawful and shall impose the sanctions provided for in the cases specified in Paragraphs (5) and (6);

5. the Commission shall declare the decision of the contracting entity null and void;

6. the Commission shall revoke the unlawful action or shall find the omission unlawful and shall revert the case file for continuation of the public procurement award procedure as from the last lawful decision or action or for termination of the

procedure;

7. the Commission shall set aside the decision where the Commission finds that the contract has been concluded in violation of Article 112 (6) or (8) herein and where the Commission identifies an infringement of the law which has affected the chances of the appellant participating in the procedure or being designated as contractor, supplier or service provider.

(3) In the cases referred to in Items 3 and 6 of Paragraph (2), the Commission on Protection of Competition may give mandatory instructions on the course of the public procurement award procedure.

(4) (Amended, SG No. 49/2018) Where before or in the course of the procedure the contracting entity concludes a contract, on the day of conclusion of the contract the said entity shall notify the Commission on Protection of Competition, sending a copy of the contract as well.

(5) The Commission on Protection of Competition shall find the decision unlawful and shall impose a sanction at the amount of up to 10 per cent of the value of the contract as concluded where the Commission has admitted anticipatory enforcement but, when rendering the decision, the Commission identifies an infringement of this Act which has affected the chances of the appellant participating in the procedure or being designated as contractor, supplier or service provider.

(6) Where the contract has been concluded in violation of Article 112 (6) or (8) herein but no infringement of the law is identified which has affected the chances of the appellant participating in the procedure or being designated as contractor, supplier or service provider, the Commission on Protection of Competition shall impose a sanction at the amount of 3 per cent of the value of the contract as concluded.

(7) In the cases referred to in Paragraphs (5) and (6), where the value of the contracts is not stated therein, the specific amount of the sanction shall be imposed by the Commission on Protection of Competition on the basis of an expert examination ordered to determine the anticipated value of the contract as concluded. Where an expert examination is ordered, the costs of the fee of the expert shall be paid by the contracting entity.

(8) The decision of the Commission on Protection of Competition shall be in writing and shall state:

1. date, place of rendition and number;
2. the factual and legal grounds for rendering the decision;
3. the decision which is being appealed and the name of the body which issued the said decision;
4. the names or, respectively, the corporate name of the parties;
5. what is decreed;
6. the party against which the costs are awarded;
7. the authority before which the decision may be appealed, and time limit for appeal.

Appellate Review of Decisions of Commission on Protection of Competition before Supreme Administrative Court

Article 216. (1) The decision of the Commission on Protection of Competition shall be subject to appellate review before a three-judge panel of the Supreme Administrative Court within 14 days from being communicated to the parties.

(2) The time limit for correcting non-conformities in the appeal lodged with the Supreme Administrative Court shall be three days from the receipt of the communication.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The parties shall be served with summonses and communications at the email address or fax number indicated thereby. Where the parties have not indicated an email address or a fax number, the summoning and the serving of communications in the case shall follow the procedure established by Article 42 (1) and (3) of the Code of Civil Procedure.

(4) The parties shall be summoned to the first session not later than three days before the date of the session.

(5) The Supreme Administrative Court shall pronounce within one month from the receipt of the appeal, and the judgment of the said Court shall be final.

(6) The provisions of Chapter Twelve of the Administrative Procedure Code shall apply to any unregulated matters regarding the proceeding on the appeal.

(7) (New, SG No. 86/2018, effective 1.03.2019) The enforceable judgments shall be reversible according to the procedure established by Articles 237 to 249 of the Administrative Procedure Code.

Appellate Review of Directives and Rulings of Commission on Protection of Competition

Article 216a. (New, SG No. 86/2018, effective 18.10.2018) (1) The directive referred to in Article 201 (2) herein and the rulings referred to in Article 204 (1), Article 205 (3) and in Article 213 (1) herein shall be subject to appellate review before a three-judge panel of the Supreme Administrative Court within three days from being communicated to the parties. The court, sitting in camera, shall pronounce within 14 days from the institution of the proceeding on the interlocutory appeal.

(2) The time limit for remedying the non-conformity of the interlocutory appeal lodged with the Supreme Administrative Court shall be three days from the receipt of the communication served according to the procedure established by Article 216 (3) herein.

(3) The provisions of Chapter Thirteen of the Administrative Procedure Code shall apply to any unregulated matters regarding the proceeding on the interlocutory appeal.

Section VI

Costs. Damages. Payments

Costs

Article 217. (1) The Commission on Protection of Competition shall pronounce on the liability for the costs in accordance with the provisions of this Chapter and under the terms and according to the procedure established by Article 143 of the Administrative Procedure Code.

(2) (Amended, SG No. 49/2018) Acting at the request of the parties made within the time limit for appeal, the Commission on Protection of Competition may supplement or amend the decision rendered in the part thereof concerning the costs.

(3) The Commission on Protection of Competition shall communicate the supplement or amendment as requested to the opposing party, with an instruction to submit a response within three days.

(4) The ruling on the costs shall be rendered in a private session and shall be served on the parties. The said ruling may be appealed according to the procedure whereunder the decision is subject to appellate review. Where the decision is not subject to appellate review, the ruling on the costs shall be final.

Damages

Article 218. Each interested party may claim damages for injuries sustained as a result of infringements during a procedure and upon the conclusion of a public procurement contract, under the terms established by Article 203 (1), Article 204 (1), (3) and (4) and Article 205 of the Administrative Procedure Code.

Payment of Sanctions

Article 219. The sums enforcing the sanctions referred to in Article 215 (5) and (6) herein shall be paid from the budget of legal persons whose heads are natural-person contracting entities.

Stamp Duty

Article 220. (1) (Amended, SG No. 77/2018, effective 1.01.2019) Stamp duty and costs shall be due for the procedures under this Chapter before the Commission on Protection of Competition and the proceedings before the Supreme Administrative Court fixed by a rate schedule approved by the Council of Ministers. The Stamp duties of cassation appeal before the Supreme Administrative Court shall be determined by the amount of fees, payable for the proceedings on appeal before the Commission for Protection of Competition. Stamp duties for motions for reversal of effective judicial acts and interlocutory appeals before the Supreme Administrative Court, are determined under the procedure of the Code of Administrative Procedure.

(2) (Repealed, SG No. 77/2018, effective 1.01.2019).

Chapter Twenty Eight

INFRINGEMENTS IDENTIFIED BY EUROPEAN COMMISSION

Procedure for Identification and Correction of Infringements

Article 221. (1) On the day of receipt or at the latest on the next working day, the Permanent Representation of the Republic of Bulgaria to the European Union shall forward to the administration of the Council of Ministers, the Ministry of Foreign Affairs, the Ministry of Finance and to the Public Procurement Agency any notification received from the European Commission of infringements that the Commission has identified as committed by contracting entities have committed during a procedure until the conclusion of the public procurement award contract.

(2) The Executive Director of the Public Procurement Agency shall send the notification referred to in Paragraph (2) to the relevant contracting entity, which must submit a response within five days from the receipt of the said notification.

(3) By the response referred to in Paragraph (2), the contracting entity shall notify the Public Procurement Agency and shall file the relevant evidence where:

1. the contracting entity concedes that the allegations of the European Commission are well founded and corrects the infringement, or

2. the infringement cited in the notification is already the subject of review.

(4) Outside the cases referred to in Paragraph (3), where the contracting entity finds that there has not been an infringement, the said entity shall send the Public Procurement Agency a reasoned opinion and shall file evidence.

(5) The contracting entity shall be obliged to cease any actions related to conduct of the procedure or the conclusion of a public procurement contract as from the time of receipt of the notification referred to in Paragraph (5) until the conclusive settlement of the dispute.

(6) In the cases referred to in Paragraph (4), within 10 days from the receipt of the reasoned opinion, the Executive Director of the Public Procurement Agency:

1. shall lodge an appeal with the Commission on Protection of Competition, where the infringement indicated in the notification referred to in Paragraph (1) has resulted from a decision of the contracting entity;

2. shall approach the competent State body, where the infringement ensued from the application of a statutory instrument which is not compatible with European Union law.

(7) Within five days, the body referred to in Item 2 of Paragraph (6) shall notify the Public Procurement Agency by a reasoned opinion and shall indicate relevant measures, where the said body envisages such measures.

(8) The Executive Director of the Public Procurement Agency shall prepare a reply to the European Commission, which shall contain:

1. a confirmation that the infringement has been corrected: in the cases referred to in Item 1 of Paragraph (3);
2. information that the infringement is already the subject of a review procedure: in the cases referred to in Item 2 of Paragraph (3);
3. information on the measures taken: in the cases referred to in Item 1 of Paragraph (6) and Paragraph (7).

(9) The reply referred to in Paragraph (8), accompanied by evidence, shall be sent to the Permanent Representation of the Republic of Bulgaria to the European Union, the administration of the Council of Ministers, the Ministry of Foreign Affairs and to the Ministry of Finance within 17 days from the receipt at the Public Procurement Agency of the notification referred to in Paragraph (1).

(10) The Permanent Representation of the Republic of Bulgaria to the European Union shall communicate to the European Commission the reply referred to in Paragraph (8) not later than the expiry of a period of 21 days from the date of receipt of the notification referred to in Paragraph (1).

Notification

Article 222. (1) Contracting entities shall be obliged to notify the Public Procurement Agency in writing:

1. of the result of the review in the cases referred to in Item 2 of Article 221 (3) herein: within seven days from the entry into effect of the decision of the Commission on Protection of Competition;
2. where the procedure whereto the notification referred to in Article 221 (1) herein relates has been terminated by an enforceable decision and a new procedure relating in whole or in part to the same subject-matter has commenced: within three days from the commencement of the procedure.

(2) In the cases referred to in Paragraph (1), the Executive Director of the Public Procurement Agency shall notify the European Commission according to the procedure established by Article 221 (9) herein within seven days from receipt of the notification.

Information Exchange

Article 223. Information exchange under Articles 221 and 222 herein shall be performed using electronic means with an electronic signature or by fax.

Chapter Twenty Ninth

VOIDANCE OF CONTRACTS OR FRAMEWORK AGREEMENTS

Right Holders

Article 224. (1) Voidance of a concluded contract or framework agreement in the cases referred to in Article 119 may be sought by:

1. any interested party: for an infringement under Items 1 and 2 of Article 119 (1) herein;
2. any interested party and candidate concerned: for an infringement under Item 3 (a) and (b) of Article 119 (1) herein;
3. any candidate concerned and/or participant concerned: for an infringement under Item 3 (c) of Article 119 (1) herein.

(2) Voidance may not be sought where:

1. there is an enforceable decision of the Commission on Protection of Competition under Article 215 (5) herein;

2. a notice for voluntary transparency has been published according to Article 28 herein and the said notice has entered into effect.

Time Limit and Procedure

Article 225. (1) Voidance of the contract or of the framework agreement under Article 119 herein may be sought within two months from the publication of a procurement award notice in the PPR, and where a notice has not been published, within two months from becoming aware of the said notice, but in any case not later than one year from the conclusion.

(2) Where the contracting entity has concluded a contract or a framework agreement before the closing of the review procedure, the time limit for seeking voidance pursuant to Item 3 of Article 119 (1) herein shall be two months from the entry into effect of the decision whereby the appealed decision of the contracting entity was set aside.

(3) The action for voidance of the contract or framework agreement shall be brought according to the procedure established by the Code of Civil Procedure.

Consequences

Article 226. Where the contract or framework agreement is voided, each of the parties must restate to the other party everything received therefrom. In case this is impossible, relations shall be settled by means of restitution of the monetary equivalent of what was received under the contract.

PART SEVEN MANAGEMENT AND CONTROL

Chapter Thirteen BODIES

Conducting State Policy in Public Procurement Field

Article 227. The Minister of Finance shall implement the State policy in the field of public procurement through the Public Procurement Agency.

Public Procurement Agency

Article 228. (1) The Public Procurement Agency shall be a public-financed legal person with a head office in the City of Sofia.

(2) The Public Procurement Agency shall be managed and represented by an Executive Director, who shall be appointed by the Minister of Finance.

(3) The operation, structure, working arrangements and staff size of the Public Procurement Agency shall be determined by rules of organisation adopted by the Council of Ministers.

Powers of Agency

Article 229. (1) The Executive Director of the Public Procurement Agency shall perform the following functions:

1. develop drafts of statutory instruments in the field of public procurement;
2. (amended, SG No. 86/2018, effective 1.03.2019) provide methodological guidance to contracting entities and, to this end:
 - (a) issue general methodological instructions based on monitoring and summarise the practice;

(b) (amended, SG No. 86/2018, effective 1.03.2019) give clarification on the application of this Act;

(c) provide direct consultations;

(d) (new, SG No. 86/2018, effective 1.03.2019) exercise control through random selection of public procurement award procedures;

(e) (new, SG No. 86/2018, effective 1.03.2019) exercise control of negotiated procedures;

(f) (new, SG No. 86/2018, effective 1.03.2019) exercise control over modifications of public procurement contracts on the basis of Item 2 of Article 116 (1) herein;

3. popularise good practices in public procurement awards, including such related to the application of environmental, social, innovative requirements, etc.;

4. (amended, SG No. 86/2018, effective 1.03.2019) coordinate the process of preparation and publication of standardised requirements and documents;

5. (repealed, SG No. 86/2018, effective 1.03.2019);

6. (repealed, SG No. 86/2018, effective 1.03.2019);

7. (repealed, SG No. 86/2018, effective 1.03.2019);

8. (repealed, SG No. 86/2018, effective 1.03.2019);

9. approach the competent bodies for the exercise of follow-up control as to observance of this Act;

10. lodge appeals with the Commission on Protection of Competition against the decisions of contracting entities whereby infringements have been committed during a public procurement award procedure, identified by the European Commission until conclusion of the contract and specified in the notification referred to in Article 221 (1) herein;

11. (amended, SG No. 86/2018, effective 1.03.2019) maintain and manage the platform referred to in Article 39a (1) herein;

12. (amended, SG No. 86/2018, effective 1.03.2019) develop and endorse standard forms of documents and the rules for use of the platform referred to in Article 39a (1) herein;

13. (repealed, SG No. 86/2018, effective 1.03.2019);

14. (amended, SG No. 86/2018, effective 1.03.2019) monitor public procurements by summarising and analysing:

(a) the information on the platform referred to in Article 39a (1) herein;

(b) the results of the activity referred to in Item 2;

(c) other information received at the Public Procurement Agency;

15. publish a monthly bulletin of indicators characterising the key elements of the public procurement market;

16. maintain lists of contracting entities under this Act and notify the European Commission of any changes in the said lists;

17. compile, maintain and update a list of external experts with professional competence related to the subject-matters of public procurements, whom contracting entities may use when preparing and conducting public procurement award procedures;

18. maintain and update a list referred to in Article 57 (4) herein;

19. pursue cooperation in the field of public procurement with other bodies, as well as with branch and other organisations;

20. (repealed, SG No. 86/2018, effective 1.03.2019);

21. participate in the international cooperation of the Republic of Bulgaria with organisations in other countries in the field of public procurement;

22. (amended, SG No. 86/2018, effective 1.03.2019) participate in the activity of the expert council for cooperation;

23. pursue cooperation with the European Commission, including by sending information related to:

(a) the cases of application of Item 1 of Article 13 (1) herein, as well as under Item 13 (b) of Article 13 (1) herein, where such information has been requested by the European Commission;

(b) any difficulties, in law or in fact, encountered by Bulgarian resident persons when participating in public service procurement award procedures in third countries;

(c) any difficulties, in law or in fact, encountered by Bulgarian resident persons when participating in public service procurement award procedures in third countries which are due to non-observance of international labour law provisions;

24. (amended, SG No. 86/2018, effective 1.03.2019) prepare and send a monitoring report on the state of the public procurement market on the basis of the information referred to in Item 14, as well as the enforceable rulings on admitted anticipatory enforcement under Article 205 (3) herein and the related decisions of the Commission on Protection of Competition under Article 215 (5) herein;

25. maintain and update the information which is collected and stored in the online repository of certificates e-Certis, established by the European Commission; communicate to other Member States, upon request, clarification on the information in e-Certis;

26. (amended, SG No. 86/2018, effective 1.03.2019) communicate to other Member States, upon request, information related to the application of Articles 48, 51, 52, 54 to 59, Article 64 (3) to (7) and Article 72 (8) herein;

27. submit to the Minister of Finance an annual activity report of the Agency.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) The control referred to in Item 2 (d) and (e) of Paragraph (1) shall cover public procurement procedures of an estimated value equal to or greater than:

1. BGN 1,000,000: for works;

2. BGN 200,000: for supplies and services.

(3) (New, SG No. 86/2018, effective 1.03.2019) The control referred to in Item 2 (f) of Paragraph (1) shall cover public procurement contracts of a value covered under Paragraph (2), where the value of the modification is equal to or greater than 20 per cent of the value of the contract as concluded. Where the value of the contracts is not indicated therein, the amount of the modification shall be calculated on the basis of the estimated value of the procurement.

(4) (Renumbered from Paragraph (3), SG No. 86/2018, effective 1.03.2019) The Executive Director of the Public Procurement Agency shall have the right to require from contracting entities and from competent bodies or persons the necessary information related to the implementation of the powers of the said Executive Director under this Act, including in connection with the preparation of the standardised requirements and documents referred to in Item 4 of Paragraph (1).

(5) (Renumbered from Paragraph (4), amended, SG No. 86/2018, effective 1.03.2019) The persons shall be obliged to comply with the request referred to in Paragraph (4) within the time limit and in the manner determined by the Executive

(6) (Renumbered from Paragraph (5), amended and supplemented, SG No. 86/2018, effective 1.03.2019) The standard forms of decisions referred to in Items 1, 2 and 9 of Article 22 (1) herein, the notices which are sent to the PPR, including under Article 29 (2) herein, and the information referred to in Items 5 and 6 of Article 36 (1) Article 230 (4) herein shall be endorsed by the Executive Director of the Public Procurement Agency.

(7) (Renumbered from Paragraph (6), amended, SG No. 86/2018, effective 1.03.2019) The following shall be published on the Public Procurement Portal:

1. the information referred to in Item 2 (a), Items 16, 17 and 18 of Paragraph (1) and the bulletin referred to in Item 15 of Paragraph (1);
2. (amended, SG No. 86/2018, effective 1.03.2019) the endorsed standard forms referred to in Paragraph (6);
3. the Common Procurement Vocabulary;
4. (amended, SG No. 86/2018, effective 1.03.2019) other information specified by an order of the Executive Director of the Public Procurement Agency.

(8) (Renumbered from Paragraph (7), SG No. 86/2018, effective 1.03.2019) The State experts at the Public Procurement Agency, who are involved in the conduct of policies in the field of public procurement, must hold an educational qualification degree of Master.

(9) (Renumbered from Paragraph (8), SG No. 86/2018, effective 1.03.2019) The terms and procedure for the issuing of standardised requirements and documents referred to in Item 4 of Paragraph (1) and for the compilation and maintenance of the list referred to in Item 17 of Paragraph (1) shall be established by the regulations for application of this Act.

Article 229a. (New, SG No. 63/2017, effective 1.01.2018, repealed, SG No. 86/2018, effective 1.03.2019).

Contracting Entities' Obligations

Article 230. (1) Contracting entities shall be obliged to notify the Public Procurement Agency regarding:

1. (amended, SG No. 86/2018, effective 1.03.2019) the international agreements concluded on the basis of Item 1 and Item 13 (b) of Article 13 (1) herein;
2. the subject-matter of the contracts concluded pursuant to Item 1 of Article 15 (1) herein;
3. the cases where contracting entities apply the exclusion referred to in Item 2 of Article 15 (1) herein;
4. (amended, SG No. 86/2018, effective 1.03.2019) the affiliated undertaking, the subject-matter and the value of the procurements which are awarded, as well as to furnish evidence of compliance with the requirements referred to in Item 5 of Article 15 (1) herein with regard to the contracting entity and the affiliated undertaking by contracting entities;
5. the joint venture, the subject-matter and the value of the procurements which are awarded, as well as to furnish evidence of compliance with the requirements referred to in Item 6 of Article 15 (1) herein with regard to the contracting entity and the joint venture of which the sector contracting entity forms part;
6. (amended, SG No. 86/2018, effective 1.03.2019) the economic operators whereto any circumstances referred to in Item 5 (a) of Article 54 (1) and Item 4 of Article 55 (1) herein apply;
7. (amended, SG No. 86/2018, effective 1.11.2019) all resources spent on public procurements of a value referred to in Article 20 (4), (6) and (7) herein.

(2) Contracting entities shall provide the information referred to in Items 2 to 5 of Paragraph (1) after being requested to do so in writing by the Public Procurement Agency and within the time limit set in the said request.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) The information referred to in Item 6 of Paragraph (1) shall be prepared on the basis of a standard form and shall be sent within one month from the entry into effect of the instrument whereby the infringement is proved.

(4) The information referred to in Item 7 of Paragraph (1) shall be prepared on the basis of a standard form and shall be sent by the 31st day of March of each year succeeding the reporting year.

(5) (New, SG No. 86/2018, effective 1.03.2019) The information referred to in Item 1 of Paragraph (1) shall be sent within 30 days from the conclusion of the contract.

Applying Standardised Requirements and Documents

Article 231. (Amended, SG No. 86/2018, effective 1.03.2019) (1) Drafts of standardised requirements and documents referred to in Item 4 of Article 229 (1) herein shall be developed on a proposal by a contracting entity or group of contracting entities.

(2) The drafts referred to in Paragraph (1) shall be coordinated with the competent authorities and the relevant branch organisations and shall be published for consultation on the Public Procurement Portal.

(3) The standardised requirements and documents shall be approved by the Minister of Finance and by the minister responsible for the remit concerned.

(4) Contracting entities shall be obliged to apply the standardised requirements and documents referred to in Paragraph (3).

(5) Contracting entities shall not be obliged to apply standardised requirements and documents referred to in Paragraph (3) in whole or in part where the nature of the procurement so entails, but shall be obliged to state reasons in writing, which shall be published in the procurement dossier.

Chapter Thirty One

CONTROL

Section I

External Control Exercised by Public Procurement Agency

Control through Random Selection

Article 232. (Effective 1.09.2016 - SG No. 13/2016, amended, SG No. 86/2018, effective 1.03.2019) (1) The control referred to in Item 2 (d) of Article 229 (1) herein shall be exercised over the procedures where the notices to make known the commencement thereof are subject to publication in the PPR, except for such conducted according to the procedure established by Articles 148 to 175 herein.

(2) The procedures referred to in Paragraph (1) shall be determined through a random selection according to methods which take into account the risk level.

(3) Control under Paragraph (1) shall be exercised at two stages:

1. before the commencement of the procedure is made known: over the draft decision, notice and technical specification and, where applicable, also over the draft assessment methods;

2. after the commencement of the procedure is made known: over the approved documents referred to in Item 1.

(4) Where the commencement of the procedure is made known by a prior notice, control under Paragraph (1) shall also cover the invitation to confirm interest before and after the said invitation is sent to the persons which have expressed

interest.

(5) The verification of the technical specifications shall cover compliance with the requirements of Article 49 (2) herein and, where applicable, also conformity to specifications standardised according to Article 231 herein.

(6) The control referred to in Item 1 of Paragraph (3) shall be completed by the drawing up of a preliminary opinion, which shall be sent to the contracting entity.

(7) In case the contracting entity does not comply with the recommendations in the opinion referred to in Paragraph (6), the said entity shall send reasons in writing to the Public Procurement Agency simultaneously with the publication in the PPR of the decision commencing the procedure and the notice whereby the commencement of the procedure is made known.

(8) The control referred to in Item 2 of Paragraph (3) shall be completed by a definitive opinion, and the reasons submitted under Paragraph (7) shall be considered, *inter alia*, when the said opinion is drawn up.

(9) Control shall be completed after implementing the stage referred to in Item 1 of Paragraph (3) in the cases:

1. referred to in Article 74 (2) or Article 133 (2) herein;
2. an urgent award under Article 74 (4), Article 75 (7), Article 76 (6), Article 133 (4), Article 134 (3), Article 135 (3), Article 136 (3) and Article 137 (4) herein;
3. of procedure referred to in Item 12 of Article 18 (1) herein.

(10) The contracting entity shall file reasons in writing with the dossier referred to in Article 121 herein when the said entity ignores the findings of the definitive opinion and, in the cases referred to in Paragraph (9), the findings of the preliminary opinion.

(11) The terms and procedure for the exercise of *ex ante* control under Paragraph (1) shall be established by the regulations for application of this Act.

External Expertise

Article 232a. (New, SG No. 86/2018, effective 1.03.2019) (1) In the exercise of the control under Item 1 of Article 232 (3) herein regarding the verification of the technical specifications and the assessment methods, the Public Procurement Agency may use external experts who are specialists in the field concerned.

(2) The external experts shall be included in a list maintained by the Public Procurement Agency, which shall be published on the Public Procurement Portal.

(3) The external expert shall verify the documents referred to in Paragraph (1) according to Article 232 (5) herein, as well as for compliance with the provisions of the legislation which regulates the activities in the subject matter of the public procurement under verification.

(4) An opinion shall be drawn up on the result of the verification, which shall be sent to the contracting entity together with the preliminary opinion referred to in Article 232 (6) herein.

(5) The Public Procurement Agency and the external expert shall exchange information by electronic means in compliance with the Electronic Document and Electronic Trust Services Act.

(6) The terms and procedure for the designation of external experts, for the assignment and performance of the verification, as well as for the payment thereof, shall be established by an ordinance of the Council of Ministers.

Control over Negotiated Procedures

Article 233. (1) (Amended, SG No. 86/2018, effective 1.03.2019) The Public Procurement Agency shall exercise

control under Item 2 (e) of Article 229 (1) herein over negotiated procedures which are commenced by public and sector contracting entities on the grounds referred to in Items 3, 4, 6, 9 and 10 of Article 79 (1) and Items 1 and 5 of Article 182 (1) herein.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) Control under Paragraph (1) shall not be exercised over procedures for supply or services for access, transport and distribution of natural gas, heat or electricity, or drinking water with companies holding special or exclusive rights.

(3) (Amended, SG No. 86/2018, effective 1.03.2019) Control under Paragraph (1) shall be carried out after the publication of the decision commencing the procedure in the PPR and shall cover a verification for conformity of the legal basis as stated to the reasons in the decision commencing the procedure and the evidence furnished by the contracting entity.

(4) (Amended, SG No. 86/2018, effective 1.11.2019) The Public Procurement Agency shall prepare an opinion on the results of the control, which shall be sent to the contracting entity.

(5) The terms and procedure for the exercise of control under Paragraph (1) shall be established by the regulations for application of this Act.

Article 234. (Repealed, SG No. 86/2018, effective 1.03.2019).

Control upon Modification of Public Procurement Contract

Article 235. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Control under Item 2 (f) of Article 229 (1) herein shall cover verification for the presence of conditions for application of the ground referred to in Item 2 of Article 116 (1) herein.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) For the exercise of control, the contracting entity, before concluding the supplementary agreement, shall send a statement of reasons supported by evidence explaining why the contract needs to be modified.

(3) For the control exercised under Paragraph (1), the Public Procurement Agency shall provide an opinion on legality, which the Agency shall send to the contracting entity.

(4) The terms and procedure for the exercise of control under Paragraph (1) shall be established by the regulations for application of this Act.

Contracting Entities' Obligations Related to Exercise of Control by Public Procurement Agency

Article 236. (Amended, SG No. 86/2018, effective 1.03.2019) For the exercise of control under Articles 232, 233 and 235 herein, contracting entities shall be obliged to send to the Public Procurement Agency:

1. the drafts of the documents referred to in Item 1 of Article 232 (3) herein;
2. the evidence to the reasons for the decision: in the cases referred to in Article 233 herein;
3. (amended, SG No. 86/2018, effective 1.03.2019) reasons and evidence: in the cases referred to in Article 235 herein.

Information Exchange

Article 237. Information exchange related to the exercise of control by the Public Procurement Agency shall be performed entirely by electronic means according to a procedure established by the regulations for application of this Act and rules endorsed by the Executive Director of the Public Procurement Agency.

Section II

Ex Post External Control Exercised by Bulgarian National Audit Office and Public Financial Inspection Agency

Scope

Article 238. (1) Ex post external control as to the implementation of this Act, including control as to the performance of public procurement contracts and of framework agreements, shall be exercised by the Bulgarian National Audit Office and by the authorities of the Public Financial Inspection Agency.

(2) The contracting entities, which fall within the scope of the Bulgarian National Audit Office Act, shall be subject to control by the Bulgarian National Audit Office.

(3) The contracting entities which fall within the scope of the Public Financial Inspection Act shall be inspected by the authorities of the Public Financial Inspection Agency as to compliance with this Act within the framework of financial inspection.

(4) The authorities of the Public Financial Inspection Agency shall carry out periodic ex post inspections as to compliance with the public procurement regime of any contracting entities which do not fall within the scope of the Public Financial Inspection Act, on the basis of an approved annual plan.

(5) The orders on the carrying out of inspections by the authorities of the Public Financial Inspection Agency shall be issued by the Director of the Public Financial Inspection Agency or by officials authorised thereby.

(6) The orders referred to in Paragraph (5) shall not be subject to review.

(7) The Executive Director of the Public Procurement Agency may request from the authorities of the Public Financial Inspection Agency to exercise the powers thereof in a specific case.

Rules for Performance of Checks by Public Financial Inspection Agency

Article 239. (1) (Amended, SG No. 86/2018, effective 1.03.2019) When carrying out any inspections under Article 238 herein, the authorities of the Public Financial Inspection Agency shall have the right:

1. to unrestricted access to the whole information, including classified information, according to their level of access on a need-to-know-basis, as well as to all documents, including such in an electronic format, which are kept at the site inspected;

2. to unrestricted access to the office premises and to all employees at the site inspected;

3. to check the assets and liabilities, the accounting system in place and all documents, including such in an electronic format;

4. to require, within time limits set thereby, from officials at the site inspected to produced documents, certified copies of documents, information and statements and any other documents relevant to the inspections carried out;

5. to require, within time limits set thereby, from officials at the site inspected, declarations on all bank accounts in the country and abroad;

6. to require, within time limits set thereby, from officials at the site inspected, to provide explanations in writing on matters concerning the inspections carried out;

7. to require, within time limits set thereby, and to familiarise themselves with the reports of the internal auditors and other control authorities which are kept at the organisation or entity inspected;

8. to require certified copies of documents, information and statements from legal persons and sole traders outside the site inspected in connection with the carrying out of inspections;

9. to carry out cross-checks at legal persons and sole traders outside the site inspected, where necessary when carrying out an inspection;

10. to familiarise themselves with materials collected in judicial proceedings, as well as with judgments relevant to the activity inspected;

11. to search premises, means of transport, as well as other places where documents of the site inspected are kept, and to seize documents, computer information data records and computer information data storage mediums in order to secure evidence: with the assistance of the authorities of the Ministry of Interior, after a warrant obtained from the court.

(2) Persons at the sites inspected shall be obliged to cooperate with the authorities of the Public Financial Inspection Agency and to provide the requisite documents, information and statements associated with public procurements.

Obligations upon Carrying Out Inspections

Article 240. When carrying out any inspections under Article 238 herein, the control authorities shall be obliged:

1. to identify themselves, producing an official identity card and an order on the carrying out of the inspection;

2. to record accurately the results of the control activity;

3. to respect the confidentiality of any information as may have come to the knowledge thereof in the course of carrying out the inspections.

Results of Control

Article 241. (1) The control authorities of the Public Financial Inspection Agency shall draw up a report on the results of a check as performed, containing the findings as arrived at, supported by evidence.

(2) (Amended, SG No. 86/2018, effective 1.03.2019) The report referred to in Paragraph (1) shall be served on the contracting authority. After the serving of the report, the head of the site inspected may give a written opinion within a 14-day time limit from the serving of the report. The financial inspector who carried out the inspection shall issue a reasoned conclusion in writing within 14 days from the receipt of the written opinion.

(3) Should any administrative violations be identified, the control authorities shall draw up written statements on administrative violations.

(4) Should there be reason to believe that criminal offences have been committed, the records of the check shall be sent to the prosecuting magistracy.

(5) Where any infringements of the public procurement award procedures have been identified, the relevant parts of the financial inspection report or of the report referred to in Paragraph (1) regarding the infringements of the procedures as identified shall be sent in good time to the Director of the Public Procurement Agency.

(6) Information on the results of control exercised as to compliance with this Act may only be provided by the Director of the Public Financial Inspection Agency or by officials empowered thereby, as well as by the Executive Director of the Public Procurement Agency in the cases referred to in Paragraph (5).

Interaction between Review Bodies and Control Authorities

Article 242. Where, upon the exercise of the powers thereof under this Act, the authorities referred to in Article 238 (1) herein identify non-compliance with any enforceable decisions and/or rulings of the Commission on Protection of Competition, the said authorities shall send the findings thereof to the Commission on Protection of Competition.

Section III

Other Bodies Exercising External Control

Scope

Article 243. Other bodies as well, acting within the powers thereof, may exercise ex ante, current and follow-up control over public procurements of contracting entities

Section IV

Management of Public Procurements at Public Contracting Entities

Internal Rules

Article 244. (1) Public contracting entities shall adopt internal rules for management of the public procurement cycle where the said entities authorise an annual budget, including the resources provided under various European funds and programmes, equal to or greater than BGN 5 million.

(2) The minimum contents of the rules referred to in Paragraph (1) shall be determined by the regulations for application of this Act.

Administrative Support

Article 245. (1) Public contracting entities shall set up an internal specialised unit as part of the administration which shall be responsible for management of the public procurement cycle if the following conditions are simultaneously fulfilled:

1. the annual budget, including the resources provided under various funds and programmes of the European Union, is of a value exceeding BGN 20 million;
2. the average annual number of public procurement award procedures conducted during the preceding three years exceeds 20.

(2) The staff size and complement of the unit referred to in Paragraph (1) shall be determined depending on the extent and complexity of the public procurements managed.

Section V

Control Practices Coordination

Expert Council for Cooperation

Article 246. (Amended, SG No. 86/2018, effective 1.03.2019) (1) There shall be established a standing expert council for cooperation with the participation of representatives of the Bulgarian National Audit Office, the Public Procurement Agency and the Public Financial Inspection Agency.

(2) The expert council shall adopt guidelines for the application of this Act in connection with the control activity of the institutions referred to in Paragraph (1).

(3) The complement of the expert council shall include at least three officials designated by the heads of the institutions referred to in Paragraph (1), with at least one of the representatives holding a management position.

(4) The council shall be directed by a chairperson who shall be elected from among the members of the said council for a term of two years. The chairperson may not be a representative of one and the same institution during two consecutive terms.

(5) The activity of the council shall be assisted by the administration of the Public Procurement Agency.

(6) The guidelines shall be drawn up, updated or revoked on a motion by the heads of the institutions referred to in

Paragraph (1).

(7) The guidelines shall be published on the internet sites of the institutions referred to in Paragraph (1).

(8) Where necessary, representatives of other institutions as well may be recruited in the work of the council referred to in Paragraph (1).

(9) The work of the council shall follow rules endorsed by the institutions referred to in Paragraph (1).

PART EIGHT

ADMINISTRATIVE PENALTY PROVISIONS

Article 247. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who violates the prohibition of Article 2 (2), Article 11 (5), Article 16, Article 21 (14), (15) or (17), Article 149 (8) or Article 150 (4) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

(2) The sanction referred to in Paragraph (1) shall furthermore be imposed on any contracting entity who violates the prohibition under Article 7 (3) herein.

Article 248. (1) (New, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who concludes a contract in non-compliance with the requirements of Items 5 to 8 of Article 14 (1), Items 5 and 6 of Article 15 (1) and Item 13 of Article 149 (1) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 50,000, whichever of the two amounts is lower.

(2) (Previous text of Article 248, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who fails to fulfil the obligation thereof under Article 14 (7), Article 15 (6) or Article 149 (7) herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

Article 249. Any contracting entity, who violates Article 12 (3) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

Article 250. Any contracting entity, who conducts a procedure referred to in Items 3 to 10 or Item 13 of Article 18 (1) herein in the absence of the conditions specified in this Act, shall be liable to a fine of 5 per cent of the value of the contract concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

Article 251. Any contracting entity, who formulates a technical specification in violation of Article 49 (2) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

Article 252. Any contracting entity, who violates the prohibition of Article 174 (5) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

Article 253. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who endorses tender assessment methods in violation of Article 70 (7), (9) or (10) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 5,000, whichever of the two amounts is lower.

(2) The sanction referred to in Paragraph (1) shall furthermore be imposed on any contracting entity who violates the prohibition under Article 70 (12) herein.

Article 254. (1) (Previous text of Article 254, supplemented, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who concludes a public procurement contract in violation of Item 2 or 4 of Article 112 (1) or Article 112 (4) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 5,000 whichever of the two amounts is lower.

(2) (New, SG No. 86/2018, effective 1.03.2019) The sanction referred to in Paragraph (1) shall furthermore be

imposed on any contracting entity who concludes a contract before the expiry of the 14-day period referred to in Article 112 (6) herein or in violation of the prohibition referred to in Article 112 (8) herein.

Article 255. (1) Any contracting entity, who concludes a framework agreement for a term longer than the term specified in Article 81 (3) or Article 169 (2) herein in the absence of the terms established by Article 81 (4) or Article 169 (3) herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

(2) Any contracting entity, who concludes a contract for a term longer than the term specified in Article 113 (1) herein in the absence of any of the terms established by Article 113 (2) or (3) herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

(3) Any contracting entity, who modifies a public procurement contract or a framework agreement in the absence of the grounds referred to in Article 116 (1) herein, shall be liable to a fine of 1 per cent of the value of the contract or framework agreement concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

(4) Any contracting entity, who concludes a contract on the basis of a framework agreement and the conditions in the said contract depart substantially from the conditions laid down in the framework agreement, shall be liable to a fine of 1 per cent of the value of the contract concluded, including VAT, or BGN 10,000, whichever of the two amounts is lower.

Article 255a. (New, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who terminates a procedure in the absence of the grounds referred to in Article 110 (1) herein, or who fails to terminate a procedure in the presence of the said grounds, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

Article 256. (1) (Amended, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who awards a public procurement and, to this end, concludes a contract or incurs costs or undertakes to incur costs whereby the minimum threshold amount referred to in Article 20 (1) or (2) herein is reached or exceeded, without applying a procedure under Article 18 (1) herein in conformity with the value of the procurement despite the presence of grounds for this, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, and where there is no written contract, 2 per cent of the cost incurred or of the undertaking to incur a cost, or BGN 10,000, whichever of the two amounts is lower.

(2) (New, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who awards a public procurement and, to this end, concludes a contract or incurs costs or undertakes to incur costs whereby the minimum threshold amount referred to in Article 20 (3) herein is reached or exceeded, without applying the public procurement award procedure provided for in this Act in conformity with the value of the procurement despite the presence of grounds for this, shall be liable to a fine of 1 per cent of the value of the contract concluded, including VAT, and where there is no written contract, 2 per cent of the cost incurred or of the undertaking to incur a cost, or BGN 3,000, whichever of the two amounts is lower.

(3) (Renumbered from Paragraph (2), SG No. 86/2018, effective 1.03.2019) Any contracting entity, who concludes a contract without conducting a public procurement award procedure in the presence of grounds for the conduct of such a procedure, or who fails to comply with the requirement under Article 99 herein, shall be liable to a fine of 10 per cent of the value of the contract concluded, including VAT, or BGN 50,000, whichever of the two amounts is lower.

Article 256a. (New, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who fails to send in good time the information subject to publication in the Public Procurement Register or in the Official Journal of the European Union, shall be liable to a fine of BGN 200 or exceeding this amount but not exceeding BGN 1,000.

Article 256b. (New, SG No. 86/2018, effective 1.03.2019) Any contracting entity, who replaces the selected contractor, supplier or service provider in violation of Item 4 or 5 of Article 116 (1) herein or who admits a replacement or inclusion of a new subcontractor upon the performance of a public procurement contract in violation of Article 66 (14) herein, shall be liable to a fine of 2 per cent of the value of the contract concluded, including VAT, or BGN 5,000, whichever of the two amounts is lower.

Article 256c. (New, SG No. 86/2018, effective 1.11.2019) Any contracting entity, who fails to fulfil the obligation thereof under Article 122 (2) herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

Article 257. (Amended, SG No. 86/2018, effective 1.03.2019) In the cases referred to in Articles 247, 249 to 255

and 256 to 256b herein, where the contract does not specify a total value or a total value cannot be determined, the fine shall be based on the estimated value indicated in the contract notice, on the cost incurred or of the undertaking to incur a cost under the contract or, in the absence of these, on the resources for the relevant activity allocated in the budget of the contracting entity.

Article 257a. (New, SG No. 86/2018, effective 1.03.2019) A fine in a double amount shall be imposed where any violations under this Act are re-committed.

Article 258. (1) (Amended and supplemented, SG No. 86/2018, effective 1.03.2019) Upon non-compliance with any enforceable decisions and/or rulings of the Commission on Protection of Competition or non-fulfilment of the obligation referred to in Article 208 (5) herein, natural persons shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000, and, respectively, legal persons and sole traders shall be liable to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 10,000.

(2) The Commission on Protection of Competition shall identify the infringement committed and shall impose the sanctions referred to in Paragraph (1) by a decision which shall be subject to appellate review before the Supreme Administrative Court.

(3) The pecuniary penalties and the fines under enforceable decisions of the Commission on Protection of Competition shall be subject to collection according to the procedure established by the Tax and Social-Insurance Procedure Code.

Article 259. In the cases referred to in Article 7 (1) and (2) herein, the sanctions referred to in Articles 247 to 256 herein shall be imposed on the official designated.

Article 260. (1) The written statements identifying infringements of this act, ascertained by authorities of the Bulgarian National Audit Office, shall be drawn up by empowered auditors within six months from the day on which the infringer was detected but not later than three years after the commission of any such infringement.

(2) The penalty decrees shall be issued by the President of the Bulgarian National Audit Office or by officials empowered thereby.

(3) The identification of infringements, the issuing, appellate review and enforcement of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

Article 261. (1) The written statements identifying infringements of this Act shall be drawn up by officials of the Public Financial Inspection Agency within six months from the day on which the infringer was detected by authorities of the Agency upon the conduct of a financial inspection or verification but not later than three years after the commission of any such infringement.

(2) The penalty decrees shall be issued by the Minister of Finance or by officials empowered thereby.

(3) The identification of infringements, the issuing, appellate review and enforcement of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

§ 1. All values subject to VAT are stated in this Act net of VAT.

§ 2. Within the meaning given by this Act:

1. "Lawyer" shall be a person within the meaning given by Article 3 (2) or Article 11 of the Bar Act, as well as a person who has acquired a competence to practise the profession of a lawyer in a third country, where qualified to act as representing counsel in an arbitration or conciliation or in proceedings referred to in Item 7 (a) of Article 13 (1) herein.

2. "Military equipment" shall be equipment specifically designed or adapted for military purposes and intended for use as an arm, munitions or war material.

3. (Amended, SG No. 86/2018, effective 1.03.2019) "Civil procurements" shall be all procurements which are not specified in Article 148 (1) herein, covering the procurement of non-military products, works or services for logistical purposes and concluded in accordance with the conditions under Article 151 herein.

4. "Public procurement contract" shall be a contract for pecuniary interest concluded in writing according to the procedure established by this Act between one or more contracting entities and one or more contractors, suppliers or service providers and having as its object works, the supply of products or the provision of services.

5. "Subcontract" shall be a contract for pecuniary interest concluded in writing between the contractor, supplier or service provider and one or more persons and having as its object works, supplies of products or the performance of services.

6. "Media service provider" shall be a person referred to in Article 4 of the Radio and Television Act.

7. "Member State" shall be any Member State of the European Union, as well as any State which is a Contracting Party to the Agreement on the European Economic Area.

8. "European Technical Assessment" shall be the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the respective European Assessment Document, as defined in point 12 of Article 2 of Regulation (EU) No. 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88/5 of 4 April 2011).

9. "European technical approval" shall be a favourable technical assessment of the fitness for use of a product for a particular purpose, based on the fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. European technical approvals are issued by bodies designated for this purpose by the Member State.

10. "Electronic means" shall be electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

10a. (New, SG No. 86/2018, effective 1.03.2019) "Electronic invoice" shall mean an invoice that has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing.

11. "Life cycle" shall be all consecutive and/or interlinked stages, including research and development to be carried out, production, trading and its conditions, transport, use and maintenance, throughout the existence of the product or the works or the provision of the service, from raw material acquisition or generation of resources to disposal, clearance and end of service or utilisation.

12. "Candidate concerned" shall be a candidate that has not been definitively excluded from participation at the stage of pre-selection because the said candidate has not been notified of because the exclusion or the review procedure for the decision whereby the said candidate has been excluded has not been closed.

13. "Participant concerned" shall be a participant that has not been definitively excluded from a procedure. An exclusion shall be definitive where the participant has been notified of the decision whereby the said participant has been excluded and the said decision has entered into effect. A participant concerned shall furthermore be any participant that has been ranked but who has not been selected as a contractor, supplier or service provider.

14. "Interested party" shall be any person who or which has or has had an interest in obtaining a particular public procurement and who or which has been or risks being harmed by an alleged infringement.

15. "Law of the State in which the candidate or participant is established" shall be:

(a) in the case of natural persons: the national law (lex patriae) thereof, within the meaning given by Article 48 of the Private International Law Code;

(b) in the case of legal persons: the law of the State determined according to Article 56 of the Private International Law Code;

(c) in the case of combinations or other entities which are not legal persons: the law of the State in which they are registered or instituted.

16. "Label requirements" shall be the requirements to be met by the works, products, services, processes or procedures in question in order to obtain the label concerned.

17. "Exceptional circumstances" shall be any circumstances caused by events unforeseeable by the contracting entity, such as a natural disaster, accident or calamity, and other such, which harm, immediately endanger or may result in subsequent endangerment of the life or health of people, the environment, public order, national security, national defence, or may materially impede or disrupt the normal performance of statutory activities of the contracting entity.

18. "Innovation" shall be the implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations.

19. "Candidate" shall be a business entity that has submitted a request to participate in a restricted procedure, a competitive procedure with negotiation, a negotiated procedure with prior call for competition, a competitive dialogue, an innovation partnership, or that participates in a restricted design contest.

20. "Classified information" shall be any information or material, regardless of the form, nature or mode of transmission thereof, to which a certain level of security classification or protection has been attributed, and which, in the interests of national security and in accordance with the laws, regulations or administrative provisions in force in the Member State concerned, requires protection against any misappropriation, destruction, removal, disclosure, loss or access by any unauthorised individual, or any other type of compromise.

21. (Amended, SG No. 7/2018) "Conflict of interest" shall be any situation where the contracting entity, staff members thereof or persons employed thereby outside the structure thereof, who are involved in the preparation or award of the public procurement or may influence the outcome thereof, have an interest that may result in a benefit within the meaning given by Article 54 of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act and which might be perceived to compromise their impartiality and independence in the context of the public procurement award.

22. "Crisis" shall be any situation in a Member State or third country in which a harmful event has occurred which clearly exceeds the dimensions of harmful events in everyday life and which substantially endangers or restricts the life and health of people, or has a substantial impact on property values, or requires measures in order to supply the population with necessities. A crisis shall also be deemed to have arisen if the occurrence of such a harmful event is deemed to be impending. Armed conflicts and wars shall likewise be crises.

23. "Label" means any document, certificate or attestation confirming that the works, products, services, processes or procedures in question meet certain requirements.

24. (Amended, SG No. 86/2018, effective 1.03.2019) "Research and development" shall be all activities which cover fundamental research, applied research and experimental development.

Fundamental research consists in experimental or theoretical work undertaken mainly with a view to acquiring new knowledge regarding the underlying foundation of phenomena and observable facts, without any particular application or use in view.

Applied research consists of original work undertaken with a view to acquiring new knowledge. Such research is directed primarily towards a particular practical end or objective.

Experimental development consists in work based on existing knowledge obtained from research or practical experience with a view to initiating the manufacture of new materials, products or devices, establishing new processes, systems and services or considerably improving those that already exist. Experimental development may include the realisation of technological demonstrators, i.e. devices demonstrating the performance of a new concept or a new

technology in a relevant or representative environment.

25. "Unsuitable tender" shall be a tender which does not conform to technical specifications and does not meet the requirements for performance of the procurement or is submitted by a participant that does not meet the selection criteria set or is subject to exclusion on any of the grounds indicated in the procedure.

26. "Unsuitable request to participate" shall be a request submitted by a candidate that does not meet the selection criteria set or is subject to exclusion on one of the grounds indicated in the procedure.

27. "Unforeseen circumstances" shall be circumstances which occur after the conclusion of the contract, could not be foreseen by due care, do not result from any act or omission of the parties, but make performance impossible under the terms agreed.

28. "Objectively not separable parts" shall be parts of the subject-matter of the public procurement which, owing to their nature, cannot be awarded to more than one contractor, supplier or service provider.

29. "Lot" shall be such a part of the subject-matter of a public procurement that, even though it can be treated as a separate subject-matter of a public procurement, is systemically related to the other lots into which the subject-matter of the said public procurement is subdivided.

30. "Common Procurement Vocabulary (CPV)" shall be a hierarchically structured nomenclature for classification, divided into divisions, groups, classes, categories and subcategories, and applicable to public procurements for the purpose of standardising the references used by contracting entities to describe the subject-matter of the public procurement award procedures conducted thereby.

31. "Common technical specification" shall be a technical specification in the field of information and communication technologies laid down in accordance with Articles 13 and 14 of Regulation (EU) No. 1025/2012 of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316/12 of 14 November 2012).

32. "Conformity assessment body" shall be a body that performs conformity assessment activities including calibration, testing, certification and inspection accredited in accordance with Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93 (OJ L 218/30 of 13 August 2008).

32a. (New, SG No. 86/2018, effective 1.03.2019) "Provision of the use of airports" shall be the carrying out of activities concerning: maintenance of the airfield and development of airport infrastructure; containment and elimination of obstacles; maintenance of visual signalling devices; arrangement of emergency rescue, salvage and fire-prevention services for flights both within the airport perimeter and in the surrounding area; physical security of the airport; flight safety.

32b. (New, SG No. 86/2018, effective 1.03.2019) "Provision of the use of ports" shall be the carrying out of activities concerning: maintenance of the aquatic areas adjacent to public-transport ports, the navigable and approach channels; survey and dredging; maintenance of moorage walls, port call facilities, port industrial track and crane tracks, fire-protection, water-supply and sewerage system, high and low voltage power lines, public-transport surfacing within the perimeter of ports; physical security of the port.

33. "Written" or "in writing" shall be any expression consisting of words or figures which can be read, reproduced and subsequently communicated, including information which is transmitted and stored by electronic means.

33a. (New, SG No. 86/2018, effective 1.03.2019) A violation shall be "re-committed" if committed within one year from the date on which a penalty decree whereby the person concerned was sanctioned for a violation of the same type has become enforceable.

34. (Amended, SG No. 86/2018, effective 1.03.2019) "Subcontractor" shall be a third party that has agreed to perform a specified share of the subject-matter of a public procurement.

35. "Ancillary purchasing activities" shall be activities consisting in the provision of support to purchasing activities, in particular in the following forms:

(a) technical infrastructure enabling contracting entities to award public procurements or to conclude framework agreements for works, supplies or services;

(b) advice on the conduct or design of public procurement award procedures;

(c) preparation and management of public procurement award procedures on behalf and for the account of the contracting entity concerned.

36. "Postal item" shall be an item addressed in the final form in which it is to be carried, irrespective of weight. In addition to items of correspondence, such items may also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value, irrespective of weight.

37. "Postal money orders" shall be services within the meaning given by Item 9 of § 1 of the Supplementary Provision of the Postal Services Act.

38. "Postal services" shall be services consisting of the clearance, sorting, routing or delivery of postal items, regardless of whether they fall within or outside the scope of the universal postal service within the meaning given by the Postal Services Act.

39. "Government" shall be any State, regional or local government of a Member State or of a third country.

40. "Programme" shall be an audio-visual programme, referred to in Article 2 (3) of the Radio and Television Act, or a radio programme, referred to in Article 2 (4) of the Radio and Television Act.

41. "Professional competence" shall be the availability of knowledge obtained through education or further training, and/or of skills acquired in the process of holding a particular post or position in pursuit of employment, civil-service or civil-law relationships.

42. "Public undertaking" shall be any undertaking over which public contracting entities referred to in Items 1 to 14 of Article 5 (2) herein may exercise a dominant influence. A dominant influence on the part of a public contracting entity referred to in Items 1 to 14 of Article 5 (2) herein shall be presumed in any of the following cases in which the contracting entity, directly or indirectly:

(a) holds the majority of the undertaking's subscribed capital;

(b) controls the majority of the votes attaching to shares/interests issued by the undertaking;

(c) can appoint more than half of the undertaking's management or supervisory body.

43. "Body governed by public law" shall be any legal person which fulfils the following conditions:

(a) it is established for the specific purpose of meeting needs in the general interest which do not have an industrial or commercial character;

(b) it is financed for more than 50 per cent by State, regional or local authorities or by other bodies governed by public law, or is subject to management supervision by those bodies; or having a managerial or supervisory body, more than half of whose members are appointed by a public contracting entity referred to in Items 1 to 14 of Article 5 (2) herein.

The needs in the general interest do not have an industrial or commercial character where the person operates in normal market conditions, aims to make a profit, and bears on its own the losses resulting from the exercise of its activity.

A medical-treatment facility, i.e. a commercial corporation the capital of which is at least two-thirds privately owned, which is financed for more than 50 per cent by State, regional or local authorities or by other bodies governed by public

law, or is subject to management supervision by those bodies; or having an administrative, managerial or supervisory body, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law, and which has an industrial or commercial nature, even though it meets needs in the general interest, shall not be a "body governed by public law" within the meaning given by and for the purposes of the Public Procurement Act.

43a. (New, SG No. 86/2018, effective 1.03.2019) "Public resources" shall be the resources within the meaning given by Item 1 of § 1 of the Supplementary Provision of the Public Sector Financial Management and Control Act.

43b. (New, SG No. 86/2018, effective 1.03.2019) "Syntax" shall mean the machine readable language or dialect used to represent the data elements contained in an electronic invoice.

44. "Affiliated undertaking" shall be an undertaking the annual accounts of which are consolidated with those of the contracting entity in accordance with the Accountancy Act, or any undertaking which:

(a) may be, directly or indirectly, subject to a dominant influence by the contracting entity, or

(b) which may exercise a dominant influence over the contracting entity, or

(c) in common with the contracting entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

45. "Persons having close links" shall have the meaning given to this term by Items 13 and 14 of § 1 of the Supplementary Provisions of the Public Offering of Securities Act.

46. "Specialised undertakings or cooperatives of persons with disabilities" shall have the meaning given to this term by Article 28 (1) of the Integration of Persons with Disabilities Act or the equivalent thereof under the law of a Member State.

47. "Special or exclusive rights" shall be rights granted by a competent authority by virtue of a law, regulation or administrative provision the effect of which is to limit the exercise of sector activities to one or more entities and which therefore substantially affects the ability of other entities to carry out such activity.

The following shall not be "special or exclusive rights": rights which have been granted by means of a procedure for which adequate publicity has been ensured and which:

(a) (supplemented, SG No. 96/2017, effective 1.01.2018) have been awarded according to the procedure established by this Act, or by the Concessions Act, or by the Subsurface Resources Act, or

(b) procedures under other legal acts of the European Union listed in Annex 12 hereto, which ensure adequate prior transparency, for granting authorisations based on objective criteria.

48. "Standard" shall be a technical specification adopted by a recognised standardisation body for repeated or continuous application, compliance with which is not compulsory and which may be:

(a) (amended, SG No. 86/2018, effective 1.03.2019) "international standard": a standard within the meaning given by Article 2(1)(a) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316/12 of 14 November 2012);

(b) (amended, SG No. 86/2018, effective 1.03.2019) "european standard": a standard within the meaning given by Article 2(1)(b) of Regulation (EU) No. 1025/2012;

(c) "national standard": a standard adopted by a national standards organisation and made available to the general public.

49. "Defence standard" shall be a technical specification the observance of which is not compulsory and which is

approved by a standardisation body specialising in the production of technical specifications for repeated or continuous application in the field of defence.

50. "Business entity" shall be any natural or legal person or entity, or a combination of any such persons and/or entities, which offers the execution of works and/or a work, the supply of products or the provision of services on the market.

51. "Work" shall be the outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function.

52. "Joint venture" shall be a contractual combination of sector contracting entities for the pursuit of the sector activities under Article 123 herein.

53. "Technical reference" shall be any deliverable produced by European standardisation bodies, other than European standards, according to procedures adapted to the development of market needs.

54. "Technical specifications" shall be:

(a) in the case of public works procurements, the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, which permits a material, a product or a supply to be described in a manner such that it fulfils the use for which it is intended by the contracting entity; those characteristics include levels of environmental and climate performance, design for all requirements (including accessibility for persons with disabilities) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, and production processes and methods at any stage of the life cycle of the works; those characteristics also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting entity is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

(b) in the case of public supply or service procurements, a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental and climate performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods at any stage of the life cycle of the supply or service and conformity assessment procedures.

55. "Third country" shall be any country which is not a Member State.

55a. (New, SG No. 86/2018, effective 1.03.2019) "Third party" shall be any person other than the candidate or participant.

56. "Management of the single account system and the fiscal reserve" shall cover:

(a) centralising resources, revenues and payments through transit items and SEBRA [electronic budget payment system] and the related services, activities, software and hardware according to the Public Finance Act;

(b) managing the liquidity of the single account system and investing temporarily uncommitted resources in financial instruments according to the Public Finance Act;

(c) managing the assets of the State Fund for Guaranteeing the Stability of the State Pension System according to the State Fund for Guaranteeing the Stability of the State Pension System Act;

(d) managing the rest of the accounts and assets included in the fiscal reserve.

57. "Other services than postal services" shall be services provided in the following areas:

(a) mail service management services (services both preceding and subsequent to despatch, including mailroom management services);

(b) services concerning postal items not included in Littera (a), such as direct mail bearing no address.

58. "Contract performance conditions" shall be the specific and objective requirements laid down by the contracting entity concerning the process of performance of the procurement, excluding the procurement award criteria. Contract performance conditions shall not be subject to a comparative assessment and shall not influence the ranking of tenders.

59. (Amended, SG No. 86/2018, effective 1.03.2019) "Participant" shall be an economic operator who or which has submitted a tender or a conceptual design or who or which is invited to negotiate.

60. "Fixed networks intended to provide a service to the public" shall be:

(a) the transmission and distribution networks within the meaning given by the Energy Act: for the activities covered under Articles 124 and 125 herein;

(b) the water-supply system and the sewer system within the meaning given by Items 32 and 33 of § 1 (1) of the Supplementary Provisions of the Water Act: for the activities covered under Article 124 herein.

61. "Financial instruments" shall be financial instruments within the meaning given by the Markets in Financial Instruments Act.

62. "Disadvantaged persons" shall be the persons within the meaning given by Article 2 of Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187/1 of 26 June 2014).

63. "Central purchasing body" shall be a contracting entity providing centralised purchasing activities and, possibly, ancillary purchasing activities. For procurements in the field of defence and/or security, a central purchasing body may be a contracting entity which provides centralised purchasing activities, or a European public body, which:

(a) acquires supplies and/or services intended for contracting entities, or

(b) concludes contracts or framework agreements for works, supplies or services intended for contracting entities.

64. "Centralised purchasing activities" shall be activities conducted on a permanent basis, in one of the following forms:

(a) the acquisition of supplies and/or services intended for contracting entities;

(b) the award of public procurements or the conclusion of framework agreements for works, supplies or services intended for contracting entities.

65. "Sensitive equipment, works or service" shall be equipment, works or service for security purposes, involving, requiring and/or containing classified information.

66. (Supplemented, SG No. 86/2018, effective 1.03.2019) "Total annual turnover" shall be the sum total of the net revenues from sales within the meaning given by the Accountancy Act.

67. "Turnover in the area covered by the procurement" shall be a sum equal to the share of the net revenues from sales derived from an activity covered by the public procurement.

§ 3. This Act transposes the requirements of:

1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94/65 of 28 March 2014);

2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94/375 of 28 March 2014);

3. Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216/76 of 20 August 2009);

4. Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335/31 of 20 December 2007);

5. Council Directive 89/665/EEC of 21 December 1989 | on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts;

6. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors;

7. (New, SG No. 86/2018, effective 1.03.2019) Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120/5 of 15 May 2009);

8. (New, SG No. 86/2018, effective 1.03.2019) Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133/1 of 6 May 2014).

TRANSITIONAL AND FINAL PROVISIONS

§ 4. This Act shall supersede the Public Procurement Act (promulgated in the State Gazette No. 28 of 2004; amended in No. 53 of 2004, Nos. 31, 34 and 105 of 2005, Nos. 18, 33, 37 and 79 of 2006, No. 59 of 2007, Nos. 94, 98 and 102 of 2008, Nos. 24 and 82 of 2009, Nos. 52, 54, 97, 98 and 99 of 2010, Nos. 19, 43, 73 and 93 of 2011, Nos. 33, 38 and 82 of 2012, No. 15 of 2013, Nos. 35 and 40 of 2014 and Nos. 8, 12, 14, 17, 35 and 79 of 2015).

§ 5. In the Integration of Persons with Disabilities Act (promulgated in the State Gazette No. 81 of 2004; amended in Nos. 28, 88, 94, 103 and 105 of 2005, Nos. 18, 30, 33, 37, 63, 95, 97 and 108 of 2006, Nos. 31, 46 and 108 of 2007, Nos. 41 and 74 of 2009, Nos. 24, 62 and 98 of 2010, Nos. 15, 66 and 68 of 2013, Nos. 27, 40 and 98 of 2014 and Nos. 14 and 79 of 2015), Article 30 shall be repealed.

§ 6. In the Commercial Register Act (promulgated in the State Gazette No. 34 of 2006; amended in Nos. 80 and 105 of 2006, Nos. 53, 59 and 104 of 2007, Nos. 50 and 94 of 2008, No. 44 of 2009, No. 101 of 2010, Nos. 34 and 105 of 2011, Nos. 25, 38 and 99 of 2012, No. 40 of 2014 and Nos. 22, 54 and 95 of 2015), in Article 23 (6), the words "under Article 7 of the Public Procurement Act" shall be replaced by "under Article 5 of the Public Procurement Act".

§ 7. In the Commerce Act (promulgated in the State Gazette No. 48 of 1991; amended in No. 25 of 1992, Nos. 61 and 103 of 1993, No. 63 of 1994, No. 63 of 1995, Nos. 42, 59, 83, 86 and 104 of 1996, Nos. 58, 100 and 124 of 1997, Nos. 21, 39, 52 and 70 of 1998, Nos. 33, 42, 64, 81, 90, 103 and 114 of 1999, No. 84 of 2000, Nos. 28, 61 and 96 of 2002, Nos. 19, 31 and 58 of 2003, Nos. 31, 39, 42, 43, 66, 103 and 105 of 2005, Nos. 38, 59, 80 and 105 of 2006, Nos. 59, 92 and 104 of 2007, Nos. 50, 67, 70, 100 and 108 of 2008, Nos. 12, 23, 32, 47 and 82 of 2009, Nos. 41 and 101 of 2010, Nos. 14, 18 and 34 of 2011, Nos. 53 and 60 of 2012, Nos. 15 and 20 of 2013, No. 27 of 2014 and Nos. 22 and 95 of 2015), in § 1d of the Supplementary Provisions, the words "under Article 7 of the Public Procurement Act" shall be replaced by "under Article 5 (2) to (4) of the Public Procurement Act".

§ 8. In the Tax and Social-Insurance Procedure Code (promulgated in the State Gazette No. 105 of 2005; amended in Nos. 30, 33, 34, 59, 63, 73, 80, 82, 86, 95 and 105 of 2006, Nos. 46, 52, 53, 57, 59, 108 and 109 of 2007, Nos. 36, 69 and 98 of 2008, Nos. 12, 32, 41 and 93 of 2009, Nos. 15, 94, 98, 100 and 101 of 2010, Nos. 14, 31, 77 and 99 of 2011, Nos. 26, 38, 40, 82, 94 and 99 of 2012, Nos. 52, 98, 106 and 109 of 2013, No. 1 of 2014; Constitutional Court Judgment No. 2 of 2014, promulgated in No. 14 of 2014; amended in Nos. 18, 40, 53 and 105 of 2014 and Nos. 12, 14,

60, 61 and 94 of 2015), Paragraph (10) in Article 87 shall be amended as follows:

"(10) Within five days from the receipt of a request from a contracting entity under Article 5 of the Public Procurement Act or from a person organising a public procurement award procedure under the Public Procurement Act, the revenue authority shall provide information on the existence or lack of obligations of the person, with the exception of obligations under written statements which have not become enforceable, as well as rescheduled, deferred or secured obligations. The National Revenue Agency may offer contracting entities access by electronic means to information on the existence or lack of obligations of the parties."

§ 9. In the Forests Act (promulgated in the State Gazette No. 19 of 2011; amended in the State Gazette No. 19 of 2011; amended in No. 43 of 2011, Nos. 38, 60, 82 and 102 of 2012, Nos. 15, 27, 66 and 109 of 2013, Nos. 28, 53, 61 and 98 of 2014 and Nos. 60, 79 and 100 of 2015), in Article 174 (3), the words "and contracting entities" shall be deleted.

§ 10. In the State Gazette Act (promulgated in the State Gazette No. 89 of 1995; corrected in No. 92 of 1995; amended in No. 123 of 1997, No. 56 of 1999, No. 1 of 2000, No. 97 of 2001, Nos. 9 and 42 of 2003, No. 31 of 2005, No. 36 of 2006, Nos. 16 and 110 of 2008 and No. 15 of 2013), in Article 7 (2), the words "for public procurement awards under the Public Procurement Act" shall be deleted.

§ 11. In the Road Traffic Act (promulgated in the State Gazette No. 20 of 1999; amended in No. 1 of 2000, Nos. 43 and 76 of 2002, Nos. 16 and 22 of 2003, Nos. 6, 70, 85 and 115 of 2004, Nos. 79, 92, 99, 102, 103 and 105 of 2005, Nos. 30, 34, 61, 64, 80, 82, 85 and 102 of 2006, Nos. 22, 51, 53, 97 and 109 of 2007, Nos. 36, 43, 69, 88 and 102 of 2008, Nos. 74, 75, 82 and 93 of 2009, Nos. 54, 98 and 100 of 2010, Nos. 10, 19, 39 and 48 of 2011; Constitutional Court Judgment No. 1 of 2012, promulgated in No. 20 of 2012; amended in Nos. 47, 53, 54, 60 and 75 of 2012, Nos. 15 and 68 of 2013, Nos. 53 and 107 of 2014 and Nos. 14, 19, 37, 79, 92, 95, 101 and 102 of 2015), in Article 99 (3), the words "under Item 13 of Article 12 (1)" shall be replaced by "under Item 13 of Article 13 (1)".

§ 12. In the Access to Public Information Act (promulgated in the State Gazette No. 55 of 2000; amended in Nos. 1 and 45 of 2002, No. 13 of 2005, Nos. 24, 30 and 59 of 2006, Nos. 49 and 57 of 2007, No. 104 of 2008, No. 77 of 2010, No. 39 of 2011 and No. 97 of 2015), in Item 4 of § 1 of the Supplementary Provisions, the words "under Item 1 or 3 of Article 7" shall be replaced passim by "Items 1 to 14 of Article 5 (2)", and the words "30 per cent" shall be replaced by "50 per cent".

§ 13. In the Electronic Government Act (promulgated in the State Gazette No. 46 of 2007; amended in No. 82 of 2009, No. 20 of 2013 and No. 40 of 2014), in Item 11 of the Supplementary Provisions, the words "under Article 7" shall be replaced by "under Article 5 (2) to (4)".

§ 14. In the Municipal Property Act (promulgated in the State Gazette No. 44 of 1996; amended in No. 104 of 1996, No. 55 of 1997, Nos. 22 and 93 of 1998, Nos. 23, 56, 64, 67, 69 and 96 of 1999, No. 26 of 2000, No. 34 of 2001, No. 120 of 2002, No. 101 of 2004, Nos. 29, 30 and 36 of 2006, Nos. 59, 63 and 92 of 2007, Nos. 54, 70 and 100 of 2008, Nos. 10, 17, 19 and 41 of 2009, No. 87 of 2010, Nos. 15 and 19 of 2011, Nos. 45 and 91 of 2012, No. 15 of 2013; Constitutional Court Judgment No. 6 of 2013, promulgated in No. 65 of 2013; amended in Nos. 66 and 109 of 2013 and Nos. 98 and 105 of 2014), in Article 22 (3), sentence two shall be deleted.

§ 15. The Privatisation and Post-privatisation Control Act (promulgated in the State Gazette No. 28 of 2002; amended in No. 78 of 2002, Nos. 20 and 31 of 2003; Constitutional Court Judgment No. 5 of 2003, promulgated in No. 39 of 2003; amended in Nos. 46 and 84 of 2003, Nos. 55 and 115 of 2004, Nos. 28, 39, 88, 94, 103 and 105 of 2005, Nos. 36, 53, 72 and 105 of 2006, No. 59 of 2007, Nos. 36, 65, 94, 98 and 110 of 2008, Nos. 24, 42, 82 and 99 of 2009, Nos. 18, 50, 89 and 97 of 2010, Nos. 19 and 98 of 2011, Nos. 20, 38, 54 and 60 of 2012, Nos. 15, 23, 66 and 68 of 2013, No. 98 of 2014 and Nos. 14, 34, 41 and 61 of 2015) shall be amended as follows:

1. Article 5 shall be amended to read as follows:

"Article 5. In the cases of sale of shares by public offering, the Privatisation and Post-privatisation Control Agency or the municipal councils shall commission investment intermediaries to prepare and conclude a privatisation transaction."

2. § 8 of the Supplementary Provisions shall be repealed.

§ 16. In the Concessions Act (promulgated in the State Gazette No. 36 of 2006; amended in Nos. 53, 65 and 105 of 2006, Nos. 41, 59 and 109 of 2007, Nos. 50, 67 and 102 of 2008, Nos. 47, 99 and 103 of 2009, Nos. 52 and 54 of 2010, Nos. 50 and 73 of 2011, Nos. 45 and 102 of 2012, Nos. 15, 24 and 66 of 2013, Nos. 98 and 107 of 2014 and No. 14 of 2015), Item 14 of § 1 of the Supplementary Provision shall be amended to read as follows:

"14. "Persons having close links" shall be:

- (a) lineal relatives up to any degree of consanguinity;
- (b) collateral relatives up to the fourth degree of consanguinity inclusive;
- (c) affines up to the second degree of affinity inclusive;
- (d) spouses or de facto cohabitants;
- (e) partners;
- (f) any two persons, of whom one participates in the management of the corporation of the other;
- (g) a corporation and a person who holds more than 5 per cent of the voting interests or shares issued in the corporation.

A corporation whereof the capital is wholly State-owned or municipality-owned and a person who exercises the rights of the State or of the municipality, as the case may be, in the said corporation shall not be persons having close links."

§ 17. The Public-Private Partnership Act (promulgated in the State Gazette No. 45 of 2012; amended in Nos. 87 and 102 of 2012 and No. 15 of 2013) shall be amended and supplemented as follows:

1. In Article 33 (1), the words "a negotiated procedure with publication of a contract notice" shall be replaced by "a competitive procedure with negotiation".

2. In Article 35:

(a) Paragraph (1) shall be amended to read as follows:

"(1) The notice of a procedure for selection of a private partner shall contain the information covered under Part B of Annex 4 to Item 2 (a) of Article 23 (5) of the Public Procurement Act, where applicable, and the said notice shall mandatorily describe:

- 1. the facility by which the activity of general interest will be performed, and shall indicate that the said activity will be carried out by means of PPP;
- 2. all guarantees specified in the draft PPP contract;
- 3. the maximum amount of payments, as well as the other forms of financial support.";

(b) in Item 2 of Paragraph (3), the words "Article 25 (4)" shall be replaced by "Article 105 (1) and (2)".

3. Article 36 shall be amended to read as follows:

"Article 36. (1) The requirements referred to in Articles 54 to 65, Articles 67 to 69 and Article 111 of the Public Procurement Act shall apply to candidates and participants in the procedure.

(2) Participants shall submit a tender according to the requirements of the Public Procurement Act and the Regulations for Application of the Public Procurement Act. A financial and economic model for the implementation of the PPP shall be attached to the tender."

4. In Article 38:

(a) in sentence two of Paragraph (1), the words "the memorandum" shall be replaced by "the report", and the words "Article 72" shall be replaced by "Article 103 (3)";

(b) in Item 2 of Paragraph (2), the words "Article 39" shall be replaced by "Article 110";

(c) in Paragraph (3), the words "Article 74 (2)" shall be replaced by "Article 112 (3)".

5. In Item 1 of Article 39, the words "a negotiated procedure with publication of a contract notice" shall be replaced by "a competitive procedure with negotiation".

6. In Article 42 (1), the words "a negotiated procedure with publication of a contract notice" shall be replaced by "a competitive procedure with negotiation".

7. In Item 2 of Article 57 (1), the words "Article 47 (1), (2) and (5)" shall be replaced by "Article 54 (1) and the circumstances under Article 55 (1) as stated in the notice or in the invitation".

8. In Article 72, the words "Chapter Eleven "Appeal" shall be replaced by "Part Six "Correction of Infringements in Procedures".

§ 18. The award of any public procurements, the conclusion of any framework agreements and the carrying out of any design contests, for which a commencing decision was taken or an invitation was published until the entry into force of this Act according to the procedure established by Chapter Eight A of the repealed Public Procurement Act as hereby superseded, shall be completed according to the hitherto effective procedure.

§ 19. The contracts based on any framework agreement concluded until the entry into force of this Act shall be awarded according to the procedure effective by the date of the decision commencing a procedure for the conclusion of a framework agreement.

§ 20. Any dynamic purchasing systems and pre-selection systems, established until the entry into force of this Act, shall continue in effect until the 30th day of June 2016.

§ 21. Where an appeal has been lodged with the Commission on Protection of Competition or with the Supreme Administrative Court, as the case may be, until the entry into force of this Act, the proceeding on the said appeal shall be instituted and completed according to the hitherto effective procedure.

§ 22. The ex ante control over any documents received at the Public Procurement Agency until the entry into force of this Act shall be exercised according to the hitherto effective procedure.

§ 23. The provisions of Articles 116 and 118 herein shall apply to any public procurement contracts or framework agreements concluded until the entry into force of this Act.

§ 24. (Repealed, SG No. 86/2018, effective 18.10.2018).

§ 25. (1) Contracting entities shall set up the units referred to in Article 245 (1) herein by the 31st day of December 2016.

(2) The executive administrations under Article 36 of the Administration Act shall set up the units within the limits of the total staff size thereof established in the relevant organic instruments.

§ 26. (1) (Effective 16.02.2016 - SG No. 13/2016) The Council of Ministers shall adopt the regulations for application of this Act, the ordinance referred to in Article 13 (2) herein and the rate schedule referred to in Article 220 (1) herein by the 15th day of April 2016.

(2) Within three months from the entry into force of this Act, the Council of Ministers, acting on a proposal by the Minister of Labour and Social Policy, shall adopt a decision establishing a list of the products and services in conformity

with the Common Procurement Vocabulary under Item 1 of Article 12 (1) herein.

§ 27. (Effective 16.02.2016 - SG No. 13/2016) The Minister of Transport, Information Technology and Communications shall issue the ordinance referred to in Article 71 (5) herein by the 15th day of April 2016.

§ 28. (Amended, SG No. 63/2017, effective 30.06.2017, repealed, SG No. 86/2018, effective 18.10.2018).

§ 29. This Act shall enter into force as from the 15th day of April 2016, with the exception of:

1. (Amended, SG No. 63/2017, effective 30.06.2017, SG No. 86/2018, effective 18.10.2018) Article 39 herein, which shall enter into force in respect of central purchasing bodies as from the 1st day of January 2017;

2. (Repealed, SG No. 86/2018, effective 18.10.2018);

3. (Amended, SG No. 63/2017, effective 30.06.2017, repealed, SG No. 86/2018, effective 18.10.2018);

4. Article 59 (4) herein, which shall enter into force as from the 1st day of July 2018;

5. Article 67 herein:

(a) Paragraph (4) regarding the mandatory provision of ESPD in electronic form, which shall enter into force as from the 1st day of April 2018;

(b) Item 2 of Paragraph (8), which shall enter into force as from the 1st day of June 2018;

6. Article 97 herein, which shall enter into force as from the 1st day of January 2017;

7. Article 232 herein, which shall enter into force as from the 1st day of September 2016;

8. § 26 (1) and § 27 herein, which shall enter into force as from the day of promulgation of this Act in the State Gazette.

This Act was passed by the 43rd National Assembly on the 2nd day of February in the year 2016, and the Official Seal of the National Assembly has been affixed thereto.

TRANSITIONAL AND FINAL PROVISIONS

to the Act for Amendment and Supplement to the Tax Insurance Procedure Code

(SG No. 63/2017, effective 4.08.2017)

.....

§ 83. (1) The law shall enter into force on the day of its promulgation in the State Gazette with the exception of:

.....

2. Item 1 of Paragraph (68), which shall enter into force as from the 1st day of January 2018;

3. Item 2 of Paragraph (68), which shall enter into force as from the 30th day of June 2017;

.....

TRANSITIONAL AND FINAL PROVISIONS

to the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act

(SG No. 7/2018)

.....

§ 28. In the Public Procurement Act (promulgated in the State Gazette No. 13 of 2016; amended in No. 34 of 2016, Nos. 63, 85 and 96 of 2017), the words "Article 2 (3) of the Conflict of Interest Prevention and Ascertainment Act" shall be replaced passim by "Article 54 of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act".

.....

TRANSITIONAL AND FINAL PROVISIONS

to the Markets in Financial Instruments Act

(SG No. 15/2018, effective 16.02.2018)

.....

§ 26. (1) For the award of public procurement contracts, the conclusion of framework agreements and conducting competitions for projects for which after the entry into force of this Act a decision of opening a procedure has been made, a notice under Article 187, paragraph 1 of the Public Procurement Act has been published or a call under Article 82, paragraph 4, paragraph 1 and Article 191 of the Public Procurement Act has been sent, the removal under Article 54, paragraph 1, item 6 of the Public Procurement Act for violations under Article 61, paragraph 1, Article 62, paragraph 1 or 3, Article 63, paragraph 1 or 2 and Article 228, paragraph 3 of the Labour Code shall apply, provided the violations are committed after its entry into force.

(2) For the award of public procurement contracts, the conclusion of framework agreements and conducting competitions for projects for which until the entry into force of this Act a decision of opening a procedure has been made, a notice under Article 187, paragraph 1 of the Public Procurement Act has been published or a call under Article 82, paragraph 4, item 1 and Article 191 of the Public Procurement Act has been sent, the removal under Article 54, paragraph 1, item 6 of the Public Procurement Act for violations under Article 61, paragraph 1, Article 62, paragraph 1 or 3, Article 63, paragraph 1 or 2 and Article 228, paragraph 3 of the Labour Code shall not apply to violations committed until its entry into force, unless the act of the contracting authority on removal of the person has entered into force.

§ 27. The award of public procurement contracts, the conclusion of framework agreements and conducting competitions for projects for which before the entry into force of this Act a decision on opening a procedure has been made, a notice has been published under Article 187, paragraph 1 of the Public Procurement Act or a call has been sent under Article 191 of the Public Procurement Act, except for the cases under § 26, shall be completed according to the hitherto effective procedure.

.....

TRANSITIONAL PROVISION

to the Act to Amend and Supplement the Public Procurement Act

(SG No. 49/2018)

§ 12. The hitherto effective procedure shall apply to the appeals filed with the Commission on Protection of Competition prior to the entry of this Act into force.

TRANSITIONAL AND FINAL PROVISIONS

to the Act to Amend and Supplement the Public Procurement Act

(SG No. 86/2018, effective 1.03.2019)

§ 131. (1) Any public procurement awards, the conclusion of any framework agreements and the conduct of any design contests, for which a commencing decision till 1 November 2019 was adopted or an advertisement on solicitation of tenders was published until the entry into force of this Act shall be completed according to the hitherto effective procedure.

(2) Contracting entities shall be obliged to send the requisite information related to the award and performance of the procurements under Paragraph (1) according to the procedure effective by the time of commencement of the said procurements.

(3) The contracts based on any framework agreement concluded until the entry into force of this Act shall be awarded according to the procedure effective by the date of the decision commencing a procedure for the conclusion of a framework agreement. The requisite information related to the award and performance of the contracts shall likewise be sent according to this procedure.

§ 132. The ex ante control over any documents received at the Public Procurement Agency until the entry into force of this Act shall be exercised according to the hitherto effective procedure.

§ 133. (1) § 66 herein shall furthermore apply to any public procurement contracts or framework agreements concluded until the entry into force of this Act.

(2) § 77 herein shall furthermore apply to any public procurement contracts or framework agreements in the fields of defence and security concluded until the entry into force of this Act.

§ 134. Contracting entities shall be obliged to maintain the buyer profiles created thereby, as well as to publish thereon the necessary information on any procurements commenced until the entry into force of Article 36a (5) [of the Public Procurement Act until the lapse of one year from the completion of the performance of the last contract and from the termination of the award of the procurements published on the said profiles.

§ 135. The external experts, who are included in the list referred to in Article 229a (2) [of the Public Procurement Act] until the entry into force of this Act, shall be entered ex officio in the list referred to in Article 232a (2) [of the Public Procurement Act].

§ 136. (Effective 18.10.2018 - SG No. 86/2018) The competent authorities shall bring into conformity with this Act the statutory instruments on the application thereof by the 1st day of March 2019.

§ 137. (Effective 18.10.2018 - SG No. 86/2018) Central purchasing bodies shall conduct public procurement award procedures through the platforms set up thereby according to the hitherto effective procedure until the 1st day of January 2021 with the exception of the obligations referred to in Articles 35 and 36 [of the Public Procurement Act] which shall be fulfilled through the platform referred to in Article 39a (1) [of the Public Procurement Act] as from the 1st day of November 2019.

§ 138. (Effective 18.10.2018 - SG No. 86/2018) Any proceedings instituted before the Supreme Administrative Court on interlocutory appeals lodged until the promulgation of this Act shall be completed according to the hitherto effective procedure.

.....

§ 141. This Act shall enter into force as from the 1st day of March 2019, with the exception of:

1. § 95, 97, 98, 100, 102, 136 and 138 herein, which shall enter into force as from the day of promulgation of this Act in the State Gazette;

2. Item 3 of § 14, § 22, § 24 with regard to the repeal of Articles 40 and 41 [of the Public Procurement Act], Item 2 of § 42, Item 2 of § 43, Item 2 of § 44, § 47, 51, 52, 53, Item 2 of § 69, § 127 and 137 herein, which shall enter into force as from the 18th day of October 2018;

3. Item 4 of § 10, § 12, Item 1 and Item 2 of § 14, § 16, 17, 18, 20, 21, § 23 with regard to Article 39a (a), Items 1 to 4, 8, 10 and 11 of Article 39a (2) and Article 39a (4) to (11) [of the Public Procurement Act], § 24 with regard to the repeal of Article 43 [of the Public Procurement Act], § 25, Item 1 of § 39, Item a of § 42, Item 1 of § 43, Item 1 of § 44, § 65, 67, 68, Item 1 of § 69, § 70, 73, 76, Item 2 of § 81, § 84, 85, Item 3 of § 86, § 88, 90, Item 2 of § 91, § 94, 99, Item 1 (d) of § 105, Item 3 of § 109, § 122 regarding Article 256c [of the Public Procurement Act] and § 130 herein, which shall enter into force as from the 1st day of November 2019;

4. § 19 with regard to Article 36a (5) [of the Public Procurement Act] and § 23 with regard to Items 5 to 7 and 9 of Article 39a (2) and Article 39a (3) [of the Public Procurement Act], which shall enter into force as from the 1st day of January 2021.

ACT

to the 2019 National Health Insurance Fund Budget Act

(SG No. 102/2018, effective 1.01.2019)

§ 43. This Act shall enter into force on 1 January 2019, with the exception of:

1. paragraph 29, item 13, litterae b, items 14 and 15, § 30 and § 42, item 2 which shall enter into force from the date of this Act being promulgated in State Gazette;

2. Paragraph 28, Items 6 through 12 and Items 14 through 19, § 35, Item 3, with the exception of Article 7a, Paragraph 4 and Article 7c, Paragraph 4, Items 5 and 6, Items 8 through 22 and Items 36 through 40, § 41, Items 2 through 8, Item 9, litteraes "a" and "c" and item 10, which shall enter into force on 1 April 2019;

3. Paragraph 29, Item 5, letter "a" regarding the words "and through Ministry of Health's budget for payment of the medical devices, aids, appliances and equipment for people with disabilities", Item 9, letter "a" regarding the words "as well as medical devices, aids, appliances and equipment for people with disabilities", Item 9, letter "d" regarding the words "and the aids, appliances and equipment for people with disabilities" and regarding the words "as well as with the persons carrying out activities for provision and repair of medical devices, aids, appliances and equipment for people with disabilities, registered as traders and entered in the register of the persons carrying out activities for provision and repair of aids, appliances, equipment and medical devices for people with disabilities" and Item 9, letter "e" regarding Paragraph 15, item 3 and Paragraph 16 regarding the words 'as well as with the persons carrying out activities for provision and repair of aids, appliances, equipment and medical devices for people with disabilities, registered as traders and entered in the register of the persons carrying out activities of provision and repair of aids, appliances, equipment and medical devices for people with disabilities – for the payment of medical devices, aids, appliances and equipment for people with disabilities/, Item 25, letter "a" – Paragraph 1, Item 13 regarding the words /aids, appliances and equipment for people with disabilities/ and Item 25, letter "b" concerning paragraph 4 regarding the words "and the persons carrying out activities for provision and repair of medical devices, aids, appliances and equipment for people with disabilities, registered as traders and entered in the register of the persons carrying out activities for provision and repair of aids, appliances, equipment and medical devices for people with disabilities" and "and aids, appliances and equipment for people with disabilities", § 36 and § 37 concerning Article 14, Paragraph 8, Item 2, letter "b", which shall enter into force on 1 January 2020.

Annex 1

to Item 1 (a) of Article 3 (1)

NACE Rev. 1 (1)				
SECTION F			CONSTRUCTION	
Division	Group	Class	Subject	Notes
45			Construction	This division includes:

				– construction of new buildings and works, restoring and common repairs	4
	45.1		Site preparation		45
		45.11	Demolition and wrecking of buildings; earth moving	<p>This class includes:</p> <ul style="list-style-type: none"> – demolition of buildings and other structures; – clearing of building sites; – earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc. – site preparation for mining; – overburden removal and other development and preparation of mineral properties and sites. <p>This class also includes:</p> <ul style="list-style-type: none"> – building site drainage; – drainage of agricultural or forestry land. 	45
		45.12	Test drilling and boring	<p>This class includes:</p> <ul style="list-style-type: none"> – test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes. <p>This class excludes:</p> <ul style="list-style-type: none"> – drilling of production oil or gas wells, see 11.20; – water well drilling, see 45.25; – shaft sinking, see 45.25; – oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20. 	45
	45.2		Building of complete constructions or parts thereof; civil engineering		45

		45.21	General construction of buildings and civil engineering works	<p>This class includes:</p> <ul style="list-style-type: none"> – construction of all types of buildings, construction of civil engineering constructions; – bridges, including those for elevated highways, viaducts, tunnels and subways; – long-distance pipelines, communication and power lines; – urban pipelines, urban communication and power lines; – ancillary urban works; – assembly and erection of prefabricated constructions on the site. <p>This class excludes:</p> <ul style="list-style-type: none"> – service activities incidental to oil and gas extraction, see 11.20; 	45
				<ul style="list-style-type: none"> – erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28; – construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, see 45.23; – building installation, see 45.3; – building completion, see 45.4; – architectural and engineering activities, see 74.20; – project management for construction, see 74.20. 	
		45.22	Erection of roof covering and frames	<p>This class includes:</p> <ul style="list-style-type: none"> – erection of roofs; – roof covering; – waterproofing. 	45
		45.23	Construction of highways, roads, airfields and sports	<p>This class includes:</p> <ul style="list-style-type: none"> – construction of highways, streets, roads, other vehicular and pedestrian ways; 	45 DA03 4

			facilities	<ul style="list-style-type: none"> – construction of railways; – construction of airfield runways; – construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations; - painting of markings on road surfaces and car parks. <p>This class excludes:</p> <ul style="list-style-type: none"> - preliminary earth moving, see 45.11. 	e – – –
		45.24	Construction of water projects	<p>This class includes:</p> <p>construction of:</p> <ul style="list-style-type: none"> - waterways, harbour and river works, pleasure ports (marinas), locks, etc. – dams and dykes; – dredging; – subsurface work. 	4
		45.25	Other construction work involving special trades	<p>This class includes:</p> <ul style="list-style-type: none"> – construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment; – construction of foundations, including pile driving; – water well drilling and construction, shaft sinking; - erection of non-self-manufactured steel elements; – steel bending; – bricklaying and stone setting; – scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms; – erection of chimneys and industrial ovens. 	45 4

				<p>This class excludes:</p> <ul style="list-style-type: none"> – renting of scaffolds without erection and dismantling, see 71.32. 	
	45.3		Building installation		4
		45.31	Installation of electrical wiring and fittings	<p>This class includes:</p> <ul style="list-style-type: none"> – installation in buildings or other construction projects of: – electrical wiring and fittings; – telecommunications systems; – electrical heating systems; – residential antennas and aerials; – fire alarms; – burglar alarm systems; – lifts and escalators; – lightning conductors, etc. 	4
		45.32	Insulation work activities	<p>This class includes:</p> <ul style="list-style-type: none"> – installation in buildings or other construction projects of thermal, sound or vibration insulation. <p>This class excludes:</p> <ul style="list-style-type: none"> – waterproofing, see 45.22. 	4
		45.33	Plumbing	<p>This class includes:</p> <ul style="list-style-type: none"> – installation in buildings or other construction projects of: – plumbing and sanitary equipment; – gas fittings; – heating, ventilation, refrigeration or air-conditioning equipment and ducts; – sprinkler systems. <p>This class excludes:</p>	4

				– installation of electrical heating systems, see 45.31.	
		45.34	Other building installation	<p>This class includes:</p> <ul style="list-style-type: none"> – installation of illumination and signalling systems for roads, railways, airports and harbours; – installation in buildings or other construction projects of fittings and fixtures n.e.c. 	4
	45.4		Building completion		4
		45.41	Plastering	<p>This class includes:</p> <ul style="list-style-type: none"> – application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials. 	4
		45.42	Joinery installation	<p>This class includes:</p> <ul style="list-style-type: none"> - installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials; - interior completion such as ceilings, wooden wall coverings, movable partitions, etc. <p>This class excludes:</p> <ul style="list-style-type: none"> – laying of parquet and other wood floor coverings, see 45.43. 	4
		45.43	Floor and wall covering	<p>This class includes:</p> <ul style="list-style-type: none"> – laying, tiling, hanging or fitting in buildings or other construction projects of: – ceramic, concrete or cut stone wall or floor tiles; - parquet and other wood floor coverings carpets and linoleum floor coverings; 	45
				<ul style="list-style-type: none"> - including of rubber or plastic; - terrazzo, marble, granite or slate floor or wall coverings; 	

				– wallpaper.	
		45.44	Painting and glazing	<p>This class includes:</p> <ul style="list-style-type: none"> – interior and exterior painting of buildings; – painting of civil engineering structures; – installation of glass, mirrors, etc. <p>This class excludes:</p> <ul style="list-style-type: none"> – installation of windows, see 45.42. 	4
		45.45	Other building completion	<p>This class includes:</p> <ul style="list-style-type: none"> - installation of private swimming pools; - steam cleaning, sand blasting and similar activities for building exteriors; – other building completion and finishing work n.e.c. <p>This class excludes:</p> <ul style="list-style-type: none"> – interior cleaning of buildings and other structures, see 74.70. 	4 DA04
	45.5		Renting of construction or demolition equipment with operator		4
		45.50	Renting of construction or demolition equipment with operator	<p>This class excludes:</p> <ul style="list-style-type: none"> – renting of construction or demolition machinery and equipment without operators, see 71.32. 	4

Annex 2
to Article 11 (3)

LIST OF SOCIAL AND OTHER SPECIFIC SERVICES

CPV Code	Description
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 (Supply services of domestic help personnel); 79624000-4 (Supply services of nursing personnel) and 79625000-1 (Supply services of medical personnel) from 85000000-9 to	Health and social and related services

85323000-9; 98133100-5, 98133000-4; 98200000-5 and; 98500000-8 (Private households with employed persons) and 98513000-2 to 98514000-9 (Manpower services for households, Agency staff services for households, Clerical staff services for households, Temporary staff for households, Home-help services and Domestic services)	
85321000-5 and 85322000-2, 75000000-6 (Administration, defence and social security services), 75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4 Education and training services to 80660000-8; from 92000000-1 to 92700000-8 79950000-8 (Exhibition, fair and congress organisation services), 79951000-5 (Seminar organisation services), 79952000-2 (Event services), 79952100-3 (Cultural event organisation services), 79953000-9 (Festival organisation services), 79954000-6 (Party organisation services), 79955000-3 (Fashion shows organisation services), 79956000-0 (Fair and exhibition organisation services)	Administrative social, educational, healthcare services
75300000-9	Compulsory social security services, except compulsory security services
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Benefit services
98000000-3; 98120000-0; 98132000-7; 98133110-8 and 98130000-3	Other community, social and personal services including those furnished by trade unions, political organisations, youth organisations and other membership organisation services
98131000-0	Religious services
55100000-1 to 55410000-7; 55521000-8 to 55521200-0 (55521000-8 Catering services for private households, 55521100-9 Meals-on-wheels services, 55521200-0 Meal delivery service) 55520000-1 Catering services, 55522000-5 Catering services for transport enterprises, 55523000-2 Catering services for other enterprises or other institutions, 55524000-9 School catering services 55510000-8 Canteen services, 55511000-5 Canteen and other restricted-clientele cafeteria services, 55512000-2 Canteen management services, 55523100-3 School-meal services	Hotel and restaurant services
from 79100000-5 to 79140000-7; 75231100-5;	Legal services, to the extent not excluded pursuant to Article 13 (1) herein
from 75100000-7 to 75120000-3; 75123000-4; from 75125000-8 to 75131000-3	Other administrative services and government services
from 75200000-8 to 75231000-4	Provision of services to the community
from 75231210-9 to 75231230-5; from 75240000-0 to 75252000-7; 794300000-7; 98113100-9	Prison related services, public security and rescue services, to the extent not excluded pursuant to Item 5 of Article 14 (1)
79700000-1 to 79721000-4 (Investigation and security services)	Investigation and security services

services, security services, alarm-monitoring services, guard services, surveillance services, tracing system services, absconder-tracing services, patrol services, identification badge release services, investigation services and detective agency services) 79722000-1 (graphology services), 79723000-8 (waste analysis services)	
98900000-2 (Services provided by extra-territorial organisations and bodies) and 98910000-5 (Services specific to international organisations and bodies)	International services
64000000-6 (Postal and telecommunications services), 64100000-7 (Post and courier services), 64110000-0 (Postal services), 64111000-7 (Postal services related to newspapers and periodicals), 64112000-4 (Postal services related to letters), 64113000-1 (Postal services related to parcels), 64114000-8 (Post office counter services), 64115000-5 (Mailbox rental), 64116000-2 (Post-restante services), 64122000-7 (Internal office mail and messenger services)	Postal Services
50116510-9 (Tyre-remoulding services), 71550000-8 (Blacksmith services)	Miscellaneous services

Annex 3

to Item 2 (b) of Article 20 (1)

LIST OF PRODUCTS WITH REGARD TO PROCUREMENTS AWARDED BY PUBLIC CONTRACTING ENTITIES FIELD OF DEFENCE

Chapter 25:	Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes except: ex ex 27.10: special engine fuels
Chapter 28:	Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth elements, of radioactive elements and of isotopes except: ex ex 28.09: explosives ex ex 28.13: explosives ex ex 28.14: tear gas ex ex 28.28: explosives ex ex 28.32: explosives ex ex 28.39: explosives

	<p>ex ex 28.50: toxic products</p> <p>ex ex 28.51: toxic products</p> <p>ex ex 28.54: explosives</p>
Chapter 29:	<p>Organic chemicals except:</p> <p>ex ex 29.03: explosives</p> <p>ex ex 29.04: explosives</p> <p>ex ex 29.07: explosives</p> <p>ex ex 29.08: explosives</p> <p>ex ex 29.11: explosives</p> <p>ex ex 29.12: explosives</p> <p>ex ex 29.13: toxic products</p> <p>ex ex 29.14: toxic products</p> <p>ex ex 29.15: toxic products</p> <p>ex ex 29.21: toxic products</p> <p>ex ex 29.22: toxic products</p> <p>ex ex 29.23: toxic products</p> <p>ex ex 29.26: explosives</p> <p>ex ex 29.27: toxic products</p> <p>ex ex 29.29: explosives</p>
Chapter 30:	Pharmaceutical products
Chapter 31:	Fertilisers
Chapter 32:	Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, fillers and stoppings, inks
Chapter 33:	Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, and prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes, waxes'
Chapter 35:	Albuminoidal substances, glues, enzymes
Chapter 37:	Photographic and cinematographic goods
Chapter 38:	Miscellaneous chemical products,

	<p>except:</p> <p>ex ex 38.19: toxic products</p>
Chapter 39:	<p>Artificial resins and plastic materials, celluloses esters and ethers, articles thereof, except:</p> <p>ex ex 39.03: explosives</p>
Chapter 40:	<p>Rubber, synthetic rubber, factice, and articles thereof, except:</p> <p>ex ex 40.11: bullet-proof tyres</p>
Chapter 41:	Raw hides and skins (other than fur skins) and leather
Chapter 42:	Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of gut (other than silk-worm gut)
Chapter 43:	Fur skins and artificial fur, manufactures thereof
Chapter 44:	Wood and articles of wood, wood charcoal
Chapter 45:	Cork and articles of cork
Chapter 46:	Manufactures of straw of esparto and of other plaiting materials, basketware and wickerwork
Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry, manuscripts and plans
Chapter 65:	Headgear and parts thereof
Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down, artificial flowers, artificial hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles of imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof

Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof
Chapter 81:	Other base metals employed in metallurgy and articles thereof
Chapter 82:	Tools, implements, cutlery, spoons and forks, of base metal, parts thereof, except: ex ex 82.05: tools ex ex 82.07: tools, parts
Chapter 83:	Miscellaneous articles of base metal
Chapter 84:	Boilers, machinery and mechanical appliances, parts thereof, except: ex ex 84.06: engines ex ex 84.08: other engines ex ex 84.45: machinery ex ex 84.53: automatic data-processing ex ex 84.55: parts of machines under heading No 84.53 ex ex 84.59: nuclear reactors
Chapter 85:	Electrical machinery and equipment, parts thereof, except: ex ex 85.13: telecommunication equipment ex ex 85.15: transmission apparatus
Chapter 86:	Railway and tramway locomotives, rolling-stock and parts thereof, railway and tramway and fittings, traffic signalling equipment of all kinds (not electrically powered), except: ex ex 86.02: armoured locomotives, electric ex ex 86.03: other armoured locomotives ex ex 86.05: armoured wagons ex ex 86.06: repair wagons ex ex 86.07: wagons
Chapter 87:	Vehicles, other than railway or tramway rolling-stock, and parts thereof, except: ex ex 87.08: tanks and other armoured vehicles ex ex 87.01: tractors ex ex 87.02: military vehicles ex ex 87.03: breakdown lorries ex ex 87.09: motorcycles

	ex ex 87.14: trailers
Chapter 89:	Ships, boats and floating structures, except: ex ex 89.01A: warships
Chapter 90:	Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof, except: ex ex 90.05: binoculars ex ex 90.13: miscellaneous instruments, lasers ex ex 90.14: telemeters ex ex 90.28: electrical or electronic measuring instruments ex ex 90.11: microscopes ex ex 90.17: medical instruments ex ex 90.18: mechano-therapy appliances ex ex 90.19: orthopaedic appliances ex ex 90.20: X-ray apparatus
Chapter 91:	Manufacture of watches and clocks
Chapter 92:	Musical instruments, sound recorders or reproducers, television image and sound reproducers, parts and accessories of such articles
Chapter 94:	Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar furnishings, except: ex ex 94.01A: aircraft seats
Chapter 95:	Articles and manufactures of carving or moulding material
Chapter 96:	Brooms, brushes, powder-puffs and sieves
Chapter 98:	Miscellaneous manufactured articles

Annex 4
to Item 2 (a) of Article 23 (5)

PUBLIC CONTRACTING ENTITIES' NOTICES

PART A INFORMATION RELATED TO PRIOR INFORMATION NOTICES

Section I

Minimum information to be included in prior information notices

1. Name, identification number (UIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the public contracting entity and, where different, of the service from which additional information may be obtained.

2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available, an indication of how the procurement documents can be accessed.

3. Type of public contracting entity and main activity exercised.

4. Where appropriate, indication that the public contracting entity is a centralised purchasing body or that any other form of joint procurement is involved.

5. CPV codes; where the public procurement is divided into lots, this information shall be provided for each lot.

6. NUTS code for the main location of works in case of public works procurements or NUTS code for the main place of delivery or performance in public supply and service procurements; where the public procurement is divided into lots, this information shall be provided for each lot.

7. Brief description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services.

8. Where this notice is not used to make known the commencement of a procedure, estimated date(s) for publication of a contract notice or contract notices in respect of the procurement(s) referred to in this prior information notice.

9. Date of dispatch of the notice.

10. Any other relevant information.

11. Indication whether the contract is covered by the Agreement on Government Procurement (GPA).

Section II

Minimum additional information to be included in the prior information notice where it is used to make known the commencement of a procedure

1. A reference to the fact that interested parties shall advise the public contracting entity of their interest in the public procurement or procurements.

2. Type of public procurement award procedure (restricted procedures, whether or not involving a dynamic purchasing system, or competitive procedures with negotiation).

3. Where appropriate, indication:

(a) whether the purpose is to set up a framework agreement;

(b) whether the purpose is to set up a dynamic purchasing system.

4. As far as already known, time-frame for delivery or provision of products, works or services and duration of the public procurement contract.

5. As far as already known, conditions for participation, including:

(a) where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities, of persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

(b) where appropriate, indication whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession;

(c) brief description of selection criteria.

6. As far as already known, brief description of criteria to be used for award of the public procurement.

7. As far as already known, estimated total value for public procurement(s); where the public procurement is divided into lots, this information shall be provided for each lot.

8. Time limits for receipt of expressions of interest.

9. Address where expressions of interest shall be transmitted.

10. Language or languages authorised for the presentation of requests to participate or tenders.

11. Where appropriate, indication:

(a) whether electronic submission of tenders or requests to participate will be required/accepted;

(b) whether electronic ordering will be used;

(c) whether electronic invoicing will be used;

(d) electronic payment will be accepted.

12. Information whether the public procurement is related to a project and/or programme financed by resources of the European Union.

13. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning time limits for review procedures, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

PART B

MINIMUM INFORMATION TO BE INCLUDED IN THE CONTRACT NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the public contracting entity and, where different, of the service from which additional information may be obtained.

2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available, an indication of how the procurement documents can be accessed.

3. Type of public contracting entity and main activity exercised.

4. Where appropriate, indication that the public contracting entity is a centralised purchasing body or that any other form of joint procurement is involved.

5. CPV codes; where the public procurement is divided into lots, this information shall be provided for each lot.

6. NUTS code for the main location of works in case of public works procurements or NUTS code for the main place of delivery or performance in public supply and service procurements; where the public procurement is divided into lots, this information shall be provided for each lot.

7. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the public procurement is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.

8. Estimated total value for public procurement(s); where the public procurement is divided into lots, this information shall be provided for each lot.

9. Admission or prohibition of variants.

10. Time-frame for delivery or provision of supplies, works or services and, as far as possible, duration of the public procurement contract.

(a) In the case of a framework agreement, indication of the planned duration of the framework agreement, stating, where appropriate, the reasons for any duration exceeding four years; as far as possible, indication of value or extent and frequency of public procurements to be awarded, number and, where appropriate, proposed maximum number of participating persons.

(b) In the case of a dynamic purchasing system, indication of the planned duration of that system; as far as possible, indication of value or extent and frequency of public procurements to be awarded.

11. Conditions for participation, including:

(a) where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

(b) where appropriate, indication whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession; reference to the relevant law, regulation or administrative provision;

(c) a list and brief description of criteria regarding the personal situation of interested parties that may lead to their exclusion and of selection criteria; minimum level(s) of standards possibly required; indication of required information (self-declarations, documentation).

12. Type of award procedure; where appropriate, reasons for use of an accelerated procedure (in open and restricted procedures and competitive procedures with negotiation).

13. Where appropriate, indication:

(a) whether the purpose is to set up a framework agreement;

(b) whether the purpose is to set up a dynamic purchasing system;

(c) whether an electronic auction will be used (in the event of open or restricted procedures or competitive procedures with negotiation).

14. Where the public procurement is to be subdivided into lots, indication of the possibility of tendering for one, for several or for all of the lots; indication of any possible limitation of the number of lots that may be awarded to any one participant.

15. In the case of a restricted procedure, a competitive

procedure with negotiation, a competitive dialogue or an innovation partnership, where recourse is made to the option of reducing the number of candidates to be invited to submit tenders, to negotiate or to engage in dialogue: minimum and, where appropriate, proposed maximum number of candidates and objective criteria to be used to choose the candidates

16. In the case of a competitive procedure with negotiation, a competitive dialogue or an innovation partnership, indication, where appropriate, of recourse to a staged procedure in order gradually to reduce the number of tenders to be negotiated or solutions to be discussed.

17. Where appropriate, particular conditions to which performance of the public procurement is subject.

18. Criterion to be applied for award of the public procurement or procurements. Except where the most economically advantageous offer is identified on the basis of price alone, indicators representing the most economically advantageous tender as well as their weighting shall be indicated where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document.

19. Time limit for receipt of tenders (open procedures) or requests to participate (restricted procedures, competitive procedures with negotiation, dynamic purchasing systems, competitive dialogues, innovation partnerships).

20. Address to which tenders or requests to participate shall be transmitted.

21. In the case of open procedures:

(a) time frame during which the participant must maintain its tender;

(b) date, time and place for the opening of tenders;

(c) persons authorised to be present at such opening.

22. Language or languages in which tenders or requests to participate must be drawn up.

23. Where appropriate, indication:

(a) whether electronic submission of tenders or requests to participate will be accepted;

(b) whether electronic ordering will be used;

(c) whether electronic invoicing will be accepted;

(c) whether electronic invoicing will be used;

24. Information whether the public procurement is related to a project and /or programme financed by resources of the European Union.

25. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning deadlines for review procedures, or, if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

26. Date(s) and reference(s) of previous publications in the Official Journal of the European Union relevant to the public procurement(s) advertised in this notice.

27. In the case of recurrent public procurement contracts, estimated timing for further notices to be published.

28. Date of dispatch of the notice.

29. Indication whether the public procurement is covered by the GPA.

30. Any other relevant information.

PART C
MINIMUM INFORMATION TO BE INCLUDED IN THE
CONTRACT AWARD NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the public contracting entity and, where different, of the service from which additional information may be obtained. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of a public contracting entity and, where different, of the service from which additional information may be obtained.

2. Type of public contracting entity and main activity exercised.

3. Where appropriate, indication whether the public contracting entity is a centralised purchasing body or that any other form of joint procurement is involved.

4. CPV codes.

5. NUTS code for the main location of works in case of public works procurements or NUTS code for the main place of delivery or performance in public supply and service procurements.

6. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the public procurement is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.

7. Type of public procurement award procedure; in the case of negotiated procedure without prior publication, justification.

8. Where appropriate, indication:

(a) whether the purpose is to set up a framework agreement;

(b) whether the purpose is to set up a dynamic purchasing system.

9. Criterion which was used for award of the public procurement or procurements. Where appropriate, indication whether the holding of an electronic auction was involved (in the event of open or restricted procedures or competitive procedures with negotiation).

10. Date of the conclusion of the contract(s) or of the framework agreement(s) following the decision to award the public procurement(s) or conclude an agreement.

11. Number of tenders received with respect of each procurement award, including:

(a) number of tenders received from participants which are small and medium enterprises;

(b) number of tenders received from another Member State or from a third country;

(c) number of tenders received electronically.

12. For each public procurement award, name, address including NUTS code, telephone, fax number, email address and internet address of the successful participant(s) including:

(a) information whether the successful participant is a small or medium enterprise;

(b) information whether the contract was awarded to a combination participant: name of the combination and of the members thereof.

13. Value of the successful tender (tenders) or the highest tender and lowest tender taken into consideration for the public procurement

award or awards.

14. Where appropriate, for each public procurement award, value and proportion of procurement likely to be subcontracted to third parties.

15. Information whether the public procurement is related to a project and /or programme financed by resources of the European Union.

16. Information on termination of the procedure, where applicable.

17. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or, if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

18. Date(s) and reference(s) of previous publications in the Official Journal of the European Union relevant to the public procurement(s) advertised in this notice.

19. Date of dispatch of the notice.

20. Any other relevant information.

PART D

MINIMUM INFORMATION TO BE INCLUDED IN THE NOTICE OF MODIFICATION OF A PUBLIC PROCUREMENT CONTRACT

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the public contracting entity and, where different, of the service from which additional information may be obtained.

2. CPV codes.

3. NUTS code for the main location of works in case of public works procurements or NUTS code for the main place of delivery or performance in public supply and service procurements.

4. Description of the procurement before and after the modification: nature and extent of works, nature and quantity or value of supplies, nature and extent of services.

5. Where applicable, increase in price caused by the modification.

6. Description of the circumstances which have rendered necessary the modification.

7. Date of procurement award decision.

8. Where applicable, the name, address including NUTS code, telephone, fax number, e-mail address and internet address of the new contractor(s), supplier(s) or service provider(s).

9. Information whether the public procurement is related to a project and /or programme financed by resources of the European Union.

10. Name and address of the body responsible for review and, where applicable, mediation procedures. Precise information concerning the deadline for review procedures, or, if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

11. Date(s) and reference(s) of previous publications in the Official Journal of the European Union relevant to the public procurement(s) advertised in this notice.

12. Date of dispatch of the notice.
13. Any other relevant information.

PART E

MINIMUM INFORMATION TO BE INCLUDED IN THE NOTICE FOR VOLUNTARY TRANSPARENCY

1. Name and particulars of the contracting entity.
2. Description of the subject-matter of the contract which the contracting entity intends to conclude.
3. Ground on which the contract is concluded and reasons for applying this ground.
4. Name and particulars of the selected contractor, supplier or service provider.

PART F

MINIMUM INFORMATION TO BE INCLUDED IN THE DESIGN CONTEST NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.
2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.
Where unrestricted and full direct access, free of charge, is not available, an indication of how the procurement documents can be accessed.
3. Type of public contracting entity and main activity exercised.
4. Where appropriate, indication whether the public contracting entity is a centralised purchasing body or that any other form of joint procurement is involved.
5. CPV codes; where the public procurement is divided into lots, this information shall be provided for each lot.
6. Description of the principal characteristics of the project.
7. Number and value of any prizes.
8. Type of design contest (open or restricted).
9. In the event of an open design contest, time limit for the submission of projects.
10. In the event of a restricted design contest:
 - (a) number of participants contemplated;
 - (b) names of the participants already selected, if any;
 - (c) criteria for the selection of participants;
 - (d) time limit for receipt of requests to participate
11. Where appropriate, indication that the participation is restricted to a specified profession.
12. Criteria to be applied in the evaluation of the projects.
13. Indication whether the jury's decision is binding on the contracting entity.
14. Payments to be made to all participants, if any.
15. Indication whether any public procurements following the design contest will or will not be awarded to the winner or winners of the design contest.

16. Date of dispatch of the notice.
17. Any other relevant information.

PART G

MINIMUM INFORMATION TO BE INCLUDED IN THE NOTICE OF THE RESULTS OF A DESIGN CONTEST

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.
2. Type of public contracting entity and main activity exercised.
3. Where appropriate, indication whether the public contracting entity is a centralised purchasing body or that any other form of joint procurement is involved.
4. CPV codes.
5. Description of the principal characteristics of the project.
6. Value of the prizes.
7. Type of design contest (open or restricted).
8. Criteria which were applied in the evaluation of the projects.
9. Date of the jury decision.
10. Number of participants:
 - (a) number of participants who are small and medium enterprises;
 - (b) number of foreign participants.
11. Name, address including NUTS code, telephone, fax number, email address and internet address of the winner(s) of the contest and indication whether the winner(s) are small and medium enterprises.
12. Information whether the design contest is related to a project or programme financed by resources of the European Union.
13. Date(s) and reference(s) of previous publications in the Official Journal of the European Union relevant to the project(s) concerned by this notice.
14. Date of dispatch of the notice.
15. Any other relevant information.

Annex 5

to Item 2 (b) of Article 23 (5)

SECTOR CONTRACTING ENTITIES' NOTICES

PART A

MINIMUM INFORMATION TO BE INCLUDED IN THE PERIODIC INDICATIVE NOTICE

Section I

Information to be included in all cases

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet

address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge. Where unrestricted and full direct access, free of charge, is not available, an indication of how the procurement documents can be accessed.

3. Main activity exercised. Where appropriate, indication that the sector contracting entity is a centralised purchasing body or that any other form of joint procurement is involved.

4. Depending on the public procurement object:

(a) for supply procurements: nature and quantity or value of the services or products to be supplied (CPV codes);

(b) for works procurements: nature and extent of the services to be provided, the general characteristics of the work or of the lots by reference to the work (CPV codes);

(c) for service procurements: intended total procurement in each of the service categories envisaged (CPV codes).

Where the public procurement is divided into lots, this information shall be provided for each lot.

5. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services; where the procurement is divided into lots, this information shall be provided for each lot.

6. Nature and quantity of the products, general nature of the work or category of service to be supplied and description, stating if framework agreement(s) are envisaged, including any options for further procurements and the estimated time available for exercising those options as well as the number of renewals, if any. In the case of recurring procurements, also, an estimate of the timing of the subsequent calls for competition. State whether purchase, lease, rental or hire-purchase or any combination of those is involved.

7. Where this notice is not used to make known the commencement of a procedure, estimated date for initiating the award procedures in respect of the procurement or procurements (if known).

8. Date of dispatch of the notice.

9. Any other relevant information.

Section II

Minimum additional information to be included where the notice is used to make known the commencement of a procedure

1. A reference to the fact that interested parties shall advise the contracting entity of their interest in the procurement or procurements.

2. Where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

3. Time limit for the receipt of an invitation to tender or to negotiate.

4. Time limits for delivery or completion or duration of service procurement and, as far as possible, the starting date.

5. Address to which interested parties shall send their expressions of interest in writing.
6. Time limits for receipt of expressions of interest.
7. Language or languages authorised for the presentation of applications or tenders.
8. Economic and technical conditions, and financial and technical guarantees required of suppliers.
9. Type of procurement award procedures (restricted procedures, whether or not involving a dynamic purchasing system, or negotiated procedures).
10. Where appropriate, particular conditions to which the performance of the procurement contract is subject.
11. Where appropriate, indication whether:
 - (a) electronic submission of tenders or requests to participate will be required/accepted;
 - (b) electronic ordering will be used;
 - (c) electronic invoicing will be used;
 - (d) electronic payment will be accepted.
12. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning time limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.
13. The criterion to be used for award of the procurement. Except where the most economically advantageous tender is identified on the basis of price alone, indicators representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of those indicators shall be mentioned, where they will not be indicated in the invitation to confirm interest.

PART B

MINIMUM INFORMATION TO BE INCLUDED IN THE CONTRACT NOTICE

A. Open procedures

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. Where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;
4. Object of the procurement (supply, works or service, where appropriate, state if it is a framework agreement or a dynamic purchasing system), description (CPV codes). Where appropriate, state whether tenders are requested for purchase, lease, rental or hire purchase or any combination of those.
5. NUTS code for the main location of works in case of works

or NUTS code for the main place of delivery or performance in supplies and service.

6. For supplies and works:

(a) nature and quantity of the products to be supplied (CPV codes), including any options for further procurement and, if possible, the estimated time available for exercising those options as well as the number of renewals, if any; in the case of recurring procurements, also, if possible, an estimate of the timing of the subsequent calls for competition for the products to be procured or the nature and extent of the services to be provided and general nature of the work (CPV codes);

(b) indication of whether the suppliers may tender for some and/or all the products required.

If, for works procurements, the work or the contract is subdivided into several lots, the order of value of the different lots and the possibility of tendering for one, for several or for all the lots;

(c) for works procurements: information concerning the purpose of the work or the procurement where the latter also involves the drawing-up of projects.

7. For services:

(a) the nature and quantity of the services to be procured, including any options for further procurement and, if possible, the estimated time available for exercising those options as well as the number of renewals, if any; in the case of recurring procurements, also, if possible, an estimate of the timing of the subsequent calls for competition for the services to be procured;

(b) indication of whether the performance of the service is reserved by law, regulation or administrative provision to a particular profession;

(c) reference of the law, regulation or administrative provision;

(d) indication of whether legal persons shall indicate the names and professional qualifications of the staff to be responsible for the performance of the service;

(e) indication of whether service providers may tender for a part of the services concerned.

8. Where known, indication of whether authorisation to submit variants exists or not.

9. Time limits for delivery or completion or duration of service procurement and, as far as possible, the starting date.

10. E-mail or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available, an indication of how the procurement documents can be accessed.

11. Information on tenders:

(a) final date for receipt of tenders or initial tenders where a dynamic purchasing system is introduced;

(b) address to which they shall be sent;

(c) language or languages in which they shall be drawn up;

(d) where applicable, the persons authorised to be present at such opening of tenders;

(e) date, time and place of such opening.

12. Where applicable, any deposits and guarantees required.

13. Main terms concerning financing and payment and/or references to the provisions in which those are contained.

14. Where appropriate, a requirement to establish a legal person by a combination participant to whom the procurement is awarded.

15. Minimum economic and technical conditions required of the participant to whom the procurement is to be awarded.

16. Period during which the participant is bound to keep open his tender.

17. Where appropriate, particular conditions to which the performance of the procurement is subject.

18. The criterion to be used for award of the procurement. Except where the most economically advantageous tender is identified on the basis of price alone, indicators representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of those indicators shall be indicated.

19. Where appropriate, date(s) and the reference(s) to publication in the Official Journal of the European Union of the periodic information notice.

20. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning time limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the department from which this information may be obtained.

21. Date of dispatch of the notice by the sector contracting entity.

22. Any other relevant information.

B. Restricted procedures

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.

3. Where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

4. Object of the procurement (supplies, works or services; where appropriate, state if it is a framework agreement); description (CPV codes). Where appropriate, state whether tenders are requested for purchase, lease, rental or hire purchase or any combination of those.

5. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in supplies and service.

6. For supplies and works:

(a) the nature and quantity of the products to be supplied (CPV codes), including any options for further procurement and, if possible, the estimated time available for exercising those options as well as the number of renewals, if any; in the case of recurring procurements, also, if possible, an estimate of the timing of the subsequent calls for competition for the supplies to be procured or the nature and extent of the services to be provided and general nature of the work (CPV

codes);

(b) indication of whether the suppliers may tender for some and/or all the products required.

If, for works procurements, the work or the contract is subdivided into several lots, the order of value of the different lots and the possibility of tendering for one, for several or for all the lots;

(c) information concerning the purpose of the work or the procurement where the latter also involves the drawing-up of projects.

7. For services:

(a) the nature and quantity of the services to be procured, including any options for further procurement and, if possible, the estimated time available for exercising those options as well as the number of renewals, if any; in the case of recurring procurements, also, if possible, an estimate of the timing of the subsequent calls for competition for the services to be procured;

(b) indication of whether the performance of the service is reserved by law, regulation or administrative provision to a particular profession;

(c) reference of the law, regulation or administrative provision;

(d) indication of whether legal persons shall indicate the names and professional qualifications of the staff to be responsible for the performance of the service;

(e) indication of whether service providers may tender for a part of the services concerned.

8. Where known, indication of whether authorisation to submit variants exists or not.

9. Time limits for delivery or completion or duration of the procurement and, as far as possible, for starting.

10. Where appropriate, a requirement to establish a legal person by a combination participant to whom the procurement is awarded.

11. Information on the requests to participate:

(a) final date for receipt of requests to participate;

(b) address to which they shall be sent;

(c) language or languages in which they shall be drawn up.

12. Final date for dispatch of invitations to tender.

13. Where applicable, any deposits and guarantees required.

14. Main terms concerning financing and payment and/or references to the provisions in which those are contained.

15. Information concerning the interested party's position and the minimum economic and technical conditions required of him.

16. The criterion to be used for award of the procurement. Except where the most economically advantageous tender is identified on the basis of price alone, indicators representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of those indicators shall be indicated.

17. Where appropriate, particular conditions to which the performance of the procurement is subject.

18. Where appropriate, the date(s) and reference(s) to publication in the Official Journal of the European Union of the periodic information notice.

19. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning time limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

20. Date of dispatch of the notice by the sector contracting entities.

21. Any other relevant information.

C. Negotiated procedures

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.

3. Where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

4. Nature of the procurement (supplies, works or services; where appropriate, state if it is a framework agreement); description (CPV codes). Where appropriate, state whether tenders are requested for purchase, lease, rental or hire purchase or any combination of those.

5. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in supplies and service.

6. For supplies and works:

(a) the nature and quantity of the products to be supplied (CPV codes), including any options for further procurement and, if possible, the estimated time available for exercising those options as well as the number of renewals, if any; in the case of recurring procurements, also, if possible, an estimate of the timing of the subsequent calls for competition for the products to be procured or the nature and extent of the services to be provided and general nature of the work (CPV codes);

(b) indication of whether the suppliers may tender for some and/or all the products required; if, for works procurements, the work or the contract is subdivided into several lots, the order of value of the different lots and the possibility of tendering for one, for several or for all the lots;

(c) for works procurements: information concerning the purpose of the work or the procurement where the latter also involves the drawing-up of projects.

7. For services:

(a) the nature and quantity of the services to be supplied, including any options for further procurement and, if possible, the estimated time available for exercising those options as well as the number of renewals, if any; in the case of recurring procurements, also, if possible, an estimate of the timing of the subsequent calls for competition for the services to be procured;

(b) indication of whether the performance of the service is reserved by law, regulation or administrative provision to a particular profession;

(c) reference of the law, regulation or administrative provision;

(d) indication of whether legal persons shall indicate the names and professional qualifications of the staff to be responsible for the

provision of the service;

(e) indication of whether service providers may tender for a part of the services concerned.

8. Where known, indication of whether authorisation to submit variants exists or not.

9. Time limits for delivery or completion or duration of the procurement and, as far as possible, for starting.

10. Where appropriate, the legal form to be taken by the combination participant to whom the procurement is awarded.

11. Information on the requests to participate:

(a) final date for receipt of requests to participate;

(b) address to which they shall be sent;

(c) language or languages in which they shall be drawn up.

12. Where appropriate, any deposits and guarantees required.

13. Main terms concerning financing and payment and/or references to the provisions in which those are contained.

14. Information concerning the interested party's position and the minimum economic and technical conditions required of him.

15. The criterion to be used for award of the procurement. Except where the most economically advantageous tender is identified on the basis of price alone, indicators representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of those indicators shall be indicated.

16. Where appropriate, the names and addresses of the participants already selected by the contracting entity.

17. Where appropriate, particular conditions to which the performance of the procurement is subject.

18. Where appropriate, the date(s) and reference(s) to publication in the Official Journal of the European Union of the periodic information notice.

19. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning time limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

20. Date of dispatch of the notice by the sector contracting entity.

21. Any other relevant information.

PART C

MINIMUM INFORMATION TO BE INCLUDED IN THE CONTRACT AWARD NOTICE

Section I

Information for publication in Official Journal of the European
Union(1)

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.

3. Object of the procurement (supplies, works or services and CPV codes; where appropriate state if it is a framework agreement).

4. At least a summary indication of the nature and quantity of the products, works or services provided.

5. (a) form of the call for competition (notice on the existence of a system of qualification; periodic notice; call for tenders;

(b) date(s) and reference(s) of publication of the notice in the Official Journal of the European Union;

(c) in the case of procurements awarded through the conduct of a procedure without a prior call for competition, indication of the relevant ground for conducting this procedure.

6. Procurement award procedure (open, restricted or negotiated).

7. Number of tenders received, specifying:

(a) number of tenders received from participants which are small or medium enterprises;

(b) number of tenders received from foreign participants;

(c) number of tenders received electronically.

In the case of multiple procurement awards (lots, multiple framework agreements), this information shall be given for each procurement award.

8. Date of the conclusion of the contract(s) or of the framework agreement(s) following the decision to award public procurement(s) or conclude an agreement.

9. Price paid for bargain purchases pursuant to Item 2 of Article 138 (1) herein.

10. For each procurement award, name, address including NUTS code, telephone, fax number, e-mail address and internet address of the successful participant(s) including:

(a) information whether the successful participant is a small or medium enterprise;

(b) information whether the procurement was awarded to a combination participant.

Name of the combination, as well as of the members thereof.

11. State, where appropriate, whether the procurement has been, or may be, subcontracted.

12. Price paid or the prices of the highest and lowest tenders taken into account in the award of the procurement.

13. Information on termination of the procedure, where applicable.

14. Name and address of the body responsible for the appeal and, where applicable, mediation procedures. Precise information concerning time limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

15. Optional information:

(a) value and share of the procurement which has been or may be subcontracted to third parties;

(b) award criteria.

Section II

Information not intended for publication

1. Number of procurements awarded (where a procurement has

been split between several suppliers).

2. Value of each procurement awarded.
3. Country of origin of the product or service (Community origin or non-Community origin; if the latter, broken down by third country).
4. Which award criterion was used?
5. Was the procurement awarded to a participant who submitted a variant?
6. Were any tenders excluded on the grounds that they were abnormally low?
7. Date of transmission of the notice by the sector contracting entity.

(1) Information in Items 6, 9 and 11 of Section I is deemed information not intended for publication where the contracting entity considers that publication thereof might be detrimental to a sensitive commercial interest.

PART D

MINIMUM INFORMATION TO BE INCLUDED IN THE NOTICE OF MODIFICATION OF A PUBLIC PROCUREMENT CONTRACT

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. CPV codes.
4. NUTS code for the main location of works in case of public works procurements or NUTS code for the main place of delivery or performance in public supply and service procurements.
5. Description of the procurement before and after the modification: nature and extent of works, nature and quantity or value of supplies, nature and extent of services.
6. Where applicable, increase in price caused by the modification.
7. Description of the circumstances which have rendered necessary the modification.
8. Date of procurement award decision.
9. Where applicable, the name, address including NUTS code, telephone, fax number, e-mail address and internet address of the new contractor(s), supplier(s) or service provider(s).
10. Information whether the public procurement is related to a project and /or programme financed by resources of the European Union.
11. Name and address of the body responsible for review and, where applicable, mediation procedures. Precise information concerning the deadline for review procedures, or, if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

PART E

MINIMUM INFORMATION TO BE INCLUDED IN THE NOTICE FOR VOLUNTARY TRANSPARENCY

1. Name and particulars of the contracting entity.
2. Description of the subject-matter of the contract which the contracting entity intends to conclude.
3. Ground on which the contract is concluded and reasons for applying this ground.
4. Name and particulars of the selected contractor, supplier or service provider.

PART F

MINIMUM INFORMATION TO BE INCLUDED IN THE DESIGN CONTEST NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, e-mail and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. Project description (CPV codes).
4. Nature of the contest: open or restricted.
5. In the case of open contests: final date for receipt of projects.
6. In the case of restricted contests:
 - (a) the number of participants envisaged;
 - (b) where applicable, names of participants already selected;
 - (c) criteria for the selection of participants;
 - (d) final date for receipt of requests to participate.
7. Where applicable, indication of whether participation is reserved to a particular profession.
8. Criteria to be applied in the evaluation of projects.
9. Where applicable, names of the selected members of the jury.
10. Indication of whether the decision of the jury is binding on the authority.
11. Where applicable, number and value of prizes.
12. Where applicable, details of payments to all participants.
13. Indication of whether the prize-winners are permitted any follow-up procurements.
14. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning the time limit for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.
15. Date of dispatch of the notice.
16. Any other relevant information.

PART G

MINIMUM INFORMATION TO BE INCLUDED IN THE RESULTS OF DESIGN CONTEST NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, e-mail and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.
3. Project description (CPV codes).
4. Total number of participants.
5. Number of foreign participants.
6. Winner(s) of the contest.
7. Where applicable, the prize(s).
8. Other information.
9. Reference of the design contest notice.
10. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning the time limit for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.
11. Date of dispatch of the notice.

Annex 6
to Item 2 (a) of Article 23 (7)

INFORMATION CONCERNING PUBLIC PROCUREMENTS FOR SOCIAL AND OTHER SPECIFIC SERVICES OF PUBLIC CONTRACTING ENTITIES

PART A MINIMUM INFORMATION TO BE INCLUDED IN THE CONTRACT NOTICE FOR SOCIAL AND OTHER SPECIFIC SERVICES

1. Name, identification number (UIC/BULSTAT), address including NUTS code, email and internet address of the public contracting entity.
2. NUTS code for the main location of works in the case of works procurements or NUTS code for the main place of delivery or performance in the case of supply and service procurements.
3. Brief description of the public procurement in question including CPV codes.
4. Conditions for participation, including:
 - (a) where applicable, indication whether the procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;
 - (b) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
5. Time limit(s) for contacting the public contracting entity in view of participation.
6. Brief description of the main features of the public procurement award procedure to be applied.

PART B MINIMUM INFORMATION TO BE INCLUDED IN THE PRIOR INFORMATION NOTICE FOR SOCIAL AND OTHER SPECIFIC SERVICES

1. Name, identification number (UIC/BULSTAT), address including NUTS code, email and internet address of the public contracting entity.

2. Brief description of the procurement in question including the estimated total value of the procurement and CPV codes.

3. As far as already known:

(a) NUTS code for the main location of works in case of works procurements or NUTS code for the main place of delivery or performance in case of supply and service procurements.

(b) time-frame for delivery or provision of supplies, works or services and duration of the public procurement contract.

(c) conditions for participation, including:

(aa) where applicable, indication whether the procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

(bb) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession;

(d) brief description of the main features of the public procurement award procedure to be applied.

4. A reference to the fact that interested parties shall advise the public contracting entity of their interest in the procurement or procurements and time limits for receipt of confirmations of interest and address to which confirmations of interest shall be transmitted.

PART C

MINIMUM INFORMATION TO BE INCLUDED IN THE CONTRACT AWARD NOTICE FOR SOCIAL AND OTHER SPECIFIC SERVICES

1. Name, identification number (UIC/BULSTAT), address including NUTS code, email and internet address of the public contracting entity.

2. Brief description of the public procurement in question including CPV codes.

3. NUTS code for the main location of works in case of works procurements or NUTS code for the main place of delivery or performance in case of supply and service procurements.

4. Number of tenders received.

5. Price paid or the highest or lowest price proposed.

6. For each public procurement award, name, address including NUTS code, email address and internet address of the successful participant or participants.

7. Any other relevant information.

Annex 7

to Item 2 (b) of Article 23 (7)

MINIMUM INFORMATION TO BE INCLUDED IN THE NOTICES CONCERNING PROCUREMENTS FOR SOCIAL

AND OTHER SPECIFIC SERVICES AWARDED BY SECTOR
CONTRACTING ENTITIES

PART A
CONTRACT NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, e-mail and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.

3. Description of the services or categories thereof and where applicable, incidental works and supplies to be procured, including an indication of the quantities or values involved, CPV codes.

4. NUTS code for the main place of performance of the services.

5. Where applicable, state whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under sheltered employment programmes.

6. Main conditions to be fulfilled by the interested parties in view of their participation, or, where appropriate, the electronic address where detailed information may be obtained.

7. Time limit(s) for contacting the contracting entity in view of participation.

8. Any other relevant information.

PART B
PERIODIC INDICATIVE NOTICE

1. Name, identification number (UIC/BULSTAT), address including NUTS code, e-mail and internet address of the sector contracting entity.

2. Brief description of the procurement in question including CPV codes.

3. As far as already known:

(a) NUTS code for the main location of works in case of works procurements or NUTS code for the main place of delivery or performance in case of supplies and services;

(b) time-frame for delivery or provision of products, works or services and duration of the contract;

(c) conditions for participation, including:

(aa) where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

(bb) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession;

(d) brief description of the main features of the procurement award procedure to be applied.

4. A reference to the fact that interested parties shall advise the

contracting entity of their interest in the procurement or procurements and time limits for receipt of expressions of interest and address to which expressions of interest shall be transmitted.

PART C

NOTICE ON THE EXISTENCE OF A QUALIFICATION SYSTEM

1. Name, identification number (UIC/BULSTAT), address including NUTS code, e-mail and internet address of the sector contracting entity.

2. Brief description of the public procurement in question including CPV codes.

3. As far as already known:

(a) NUTS code for the main location of works in case of works procurements or NUTS code for the main place of delivery or performance in case of supplies and services;

(b) time-frame for delivery or provision of supplies, works or services and duration of the contract;

(c) conditions for participation, including:

(aa) where applicable, indication whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under protected job programmes;

(bb) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession;

(d) brief description of the main features of the procurement award procedure to be applied.

4. A reference to the fact that interested parties shall advise the contracting entity of their interest in the procurement or procurements and time limits for receipt of expressions of interest and address to which expressions of interest shall be transmitted.

5. Period of validity of the qualification system and the formalities for its renewal.

PART D

CONTRACT AWARD NOTICE

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, e-mail and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.

3. At least a summary indication of the nature and quantity of the services and where applicable, incidental works and supplies provided.

4. Reference of publication of the notice in the Official Journal of the European Union.

5. Number of tenders received.

6. Name and address of the chosen participant(s).

7. Any other relevant information.

Annex 8
to Item 1 of Article 34 (1)

CONTENTS OF THE INVITATIONS FROM PUBLIC
CONTRACTING ENTITIES TO SUBMIT A TENDER, TO
PARTICIPATE IN A DIALOGUE, TO NEGOTIATE OR TO
CONFIRM INTEREST

Section I

Minimum contents of the invitations from public contracting entities to
submit a tender or to negotiate or to participate in a dialogue

1. A reference to the notice published.
2. The deadline for the receipt of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up.
3. In the case of competitive dialogue: the date and the address set for the start of consultation and the language or languages used.
4. A reference to the documents, including certificates to be submitted either in support of or to supplement the circumstances and information indicated in the ESPD.
5. The criteria for the award of the procurement and, where appropriate, also the assessment indicators, their relative weighting or, where appropriate, the descending order of importance of such indicators, where they are not given in the contract notice, in the invitation to confirm interest, in the technical specifications or the descriptive document.

In the case of public procurements awarded through a competitive dialogue or an innovation partnership, the information referred to in Item 2 shall appear in the invitation to submit a tender.

Section II

Minimum contents of the invitations to confirm interest

1. Nature and quantity, including all options concerning complementary procurements and, where possible, the estimated time available for exercising these options for renewable procurements, the nature and quantity and, where possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender.
2. Type of procedure: restricted procedure or competitive procedure with negotiation.
3. Where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate.
4. Where electronic access cannot be offered, the address and closing date for the submission of requests for procurement documents and the language or languages in which they are to be drawn up.
5. The address of the public contracting entity which is to award

the public procurement.

6. Economic and technical conditions, financial guarantees and information required from interested parties.

7. In the case of supply procurements: the means of acquisition or use of the product through purchase, lease, hire or hire-purchase.

8. The public procurement award criterion, the tender assessment indicators, their weighting or, where appropriate, the order of importance of such indicators, where this information is not given in the prior information notice or the technical specifications or in the invitation to tender or to negotiate.

Annex 9

to Item 1 of Article 34 (2)

CONTENTS OF THE INVITATIONS FROM SECTOR CONTRACTING ENTITIES TO SUBMIT A TENDER, TO PARTICIPATE IN A DIALOGUE, TO NEGOTIATE OR TO CONFIRM INTEREST

Section I

The minimum contents of the invitation to submit a tender, to participate in a dialogue or to negotiate must contain at least:

(a) the final date for receipt of tenders, the address to which they are to be sent, and the language or languages in which they are to be drawn up;

in the case of procurements awarded through a competitive dialogue or an innovation partnership, this information shall appear in the invitation to submit a tender.

(b) in the case of competitive dialogue: the date and the address set for the start of consultation and the language or languages used;

(c) a reference to any published call for competition;

(d) an indication of any documents to be attached;

(e) the criteria for the award of the procurement, where they are not indicated in the notice on the existence of a qualification system used to make known the commencement of a procedure;

(f) the procurement award criteria and, where appropriate, also the assessment indicators, their relative weighting or, where appropriate, the order of importance of such indicators, if this information is not given in the contract notice, the notice on the existence of a qualification system or the documents.

Section II

The invitations to confirm interest shall include at least the following information:

(a) nature and quantity, including all options concerning complementary procurements and, if possible, the estimated time available for exercising these options for renewable procurements, the nature and quantity and, where possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender;

(b) type of procurement award procedure: restricted or negotiated;

(c) where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate;

(d) where electronic access cannot be offered, the address and closing date for the submission of requests for procurement documents and the language or languages in which they are to be drawn up;

(e) the address of the sector contracting entity;

(e) economic and technical conditions, financial guarantees and information required from interested parties;

(g) the form of the procurement contract which is the subject of the invitation to tender: purchase, lease, hire or hire-purchase, or any combination of those;

and

(h) the public procurement award criteria and, where appropriate, also the assessment indicators, their weighting or, where appropriate, the order of importance of such indicators, if this information is not given in the indicative notice or the specifications or in the invitation to tender or to negotiate.

Annex 10

to Article 115

(Amended, SG No. 86/2018, effective 1.03.2019)

LIST OF SOCIAL AND ENVIRONMENTAL CONVENTIONS

1. Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise, adopted at San Francisco on 17 June 1948 (ratified by decree, State Gazette No. 19 of 1959) ([Convention promulgated in] State Gazette No. 35 of 1997).

2. Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, adopted at Geneva on 8 June 1949 (ratified by decree, State Gazette No. 19 of 1959) ([Convention promulgated in] State Gazette No. 35 of 1997).

3. Convention [No. 29] concerning Forced or Compulsory Labour, adopted at Geneva on 28 June 1930 (ratified by decree and promulgated, State Gazette No. 91 of 1932).

4. Convention No. 105 concerning the Abolition of Forced Labour, adopted at Geneva on 25 June 1957 (ratified by law, State Gazette No. 79 of 1998) ([Convention promulgated in] State Gazette No. 37 of 2000).

5. Convention No. 138 concerning Minimum Age for Admission to Employment, adopted at Geneva on 26 June 1973 (ratified by decree, State Gazette No. 13 of 1980) ([Convention promulgated in] State Gazette No. 38 of 1997).

6. Convention No. 111 concerning Discrimination in Respect of

Employment and Occupation, adopted at Geneva on 25 June 1958 (ratified by decree, Transactions of the Presidium of the National Assembly No. 46 of 1960) ([Convention promulgated in] State Gazette No. 35 of 1997).

7. Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, adopted at Geneva on 29 June 1951 (ratified by decree, Transactions of the Presidium of the National Assembly No. 54 of 1955) ([Convention promulgated in] State Gazette No. 35 of 1997).

8. Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted at Geneva on 17 June 1999 (ratified by law, State Gazette No. 54 of 2000) ([Convention promulgated in] State Gazette No. 68 of 2001).

9. Vienna Convention for the protection of the Ozone Layer, signed at Vienna on 22 March 1985 (ratified by decree, State Gazette No. 82 of 1989) ([Convention promulgated in] State Gazette No. 71 of 1999), and Montreal Protocol on substances that deplete the Ozone Layer, signed at Montreal on 16 September 1987 (ratified by decree, State Gazette No. 82 of 1989) ([Protocol promulgated in] State Gazette No. 71 of 1999).

10. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, signed at Basel on 22 March 1989 (ratified by law, State Gazette No. 8 of 1996) ([Convention promulgated in] State Gazette No. 1 of 1997).

11. Stockholm Convention on Persistent Organic Pollutants, done at Stockholm on 22 May 2001 (ratified by law, State Gazette No. 89 of 2004) ([Convention promulgated in] State Gazette No. 34 of 2005).

12. Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998, and its three regional Protocols (ratified by law, State Gazette No. 7 of 2000) ([Convention promulgated in] State Gazette No. 33 of 2004; amended in No. 88 of 2005 and No. 21 of 2009).

13. Convention concerning the Protection of Wages, adopted at Geneva on 1 July 1949 (ratified by decree, Transactions of the Presidium of the National Assembly No. 54 of 1955) ([Convention promulgated in] State Gazette No. 37 of 1997).

Annex 11

to Article 71 (5)
(Repealed, SG No. 86/2018, effective 1.03.2019)

Annex 12

to Article 130 (3)

LIST OF EUROPEAN UNION LEGAL ACTS

A. Transport or distribution of gas or heat

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211/94 of 14 August 2009)

B. Production, transmission or distribution of electricity

Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211/55 of 14 August 2009)

C. Production, transmission or distribution of drinking water

[No entry]

D. Contracting entities in the field of rail services

1. Rail freight transport

Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343/32 of 14 December 2012)

2. International rail passenger transport

Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area

3. National rail passenger transport

[No entry]

E. Contracting entities in the field of urban railway, tramway, trolleybus or motor bus services

[No entry]

F. Contracting entities in the field of postal services

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service

G. Extraction of oil or gas

Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons

H. Exploration for and extraction of coal or other solid fuels

[No entry]

I. Contracting entities in the field of seaport or inland port or other terminal equipment

[No entry]

K. Contracting entities in the field of airport installations

[No entry]

Annex 13
to Article 141 (1)

MINIMUM INFORMATION TO BE INCLUDED IN THE
NOTICE ON THE EXISTENCE OF A QUALIFICATION
SYSTEM

1. Name, identification number (EIC/BULSTAT), address including NUTS code, telephone, fax number, e-mail and internet address of the sector contracting entity and, where different, of the service from which additional information may be obtained.

2. Main activity exercised.

3. Where applicable, state whether the public procurement is restricted to specialised undertakings or cooperatives of persons with disabilities; to persons whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, or whether it will be executed under sheltered employment programmes.

4. Purpose of the qualification system (description of the products, services or works or categories thereof to be procured through the system - CPV codes). NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in supplies and service.

5. Conditions to be fulfilled by the interested parties in view of their qualification pursuant to the system and the methods according to which each of those conditions will be verified. Where the description of such conditions and verification methods is voluminous and based on documents available to interested parties, a summary of the main conditions and methods and a reference to those documents shall be sufficient.

6. Period of validity of the qualification system and the formalities for its renewal.

7. Reference to the fact that the notice is used to make known the commencement of a procedure, where applicable.

8. Address where further information and documentation concerning the qualification system can be obtained (where different from the addresses mentioned under Item 1).

9. Name and address of the body responsible for appeal and, where applicable, mediation procedures. Precise information concerning the time limit for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

10. Criteria to be used for award of the procurement. Except where the most economically advantageous tender is identified on the basis of price alone, indicators representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of

those indicators, shall be mentioned where they do not appear in the specifications or will not be indicated in the invitation to tender or to negotiate.

11. Where appropriate, indication:

(a) whether electronic submission of tenders or requests to participate will be required/accepted,

(b) whether electronic ordering will be used,

(c) whether electronic invoicing will be used,

(d) whether electronic payment will be accepted.

12. Any other relevant information.

Annex 14
to Article 151

Category No	Subject	CPV Reference No
1	Maintenance and repair services	50000000-5, from 50100000-6 to 50884000-5 (except from 50310000-1 to 50324200-4, 50116510-9, 50190000-3, 50229000-6, 50243000-9 and from 51000000-9 to 51900000-1)
2	Foreign military-aid-related services	75211300-1
3	Defence services, military defence services and civil defence services	75220000-4, 75221000-1, 75222000-8
4	Investigation and security services	From 79700000-1 to 79720000-7
5	Land transport services	60000000-8, from 60100000-9 to 60183000-9 (except 60160000-7, 60161000-4), and 64120000-3 to 64121200-2
6	Air transport services of passengers and freight, except transport of mail	60400000-2, from 60410000-5 to 60424100-9 (except 60411000-2, 60421000-5), from 60440000-9 to 60445000-9 and 60500000-3
7	Transport of mail by land and by air	60160000-7, 60161000-4, 60411000-5, 60421000-5
8	Rail transport services	From 60200000-0 to 60220000-6
9	Water transport services	From 60600000-4 to 60653000-0, and 63727000-1 to 63727200-3
10	Supporting and auxiliary transport services	From 63100000-0 to 63111000-0, 63120000-6 to 63121100-4, 63122000-6 to 63122100-4, 63512000-1 and from 63520000-0 to 63700000-6
11	Telecommunication services	From 64200000-8 to 64228200-2, 72318000-9 and from 72700000-7 to 72720000-3
12	Financial services: Insurance services	From 66500000-5 to 66720000-3
13	Computer and related services	From 50310000-1 to 50324200-4, 72000000-5 to 72920000-5 (except 72318000-7)

		from 72700000-7 to 72720000-3), 79342410-4
14	Research and development services (1) and evaluation tests	From 73000000-2 to 73436000-7
15	Accounting, auditing and bookkeeping services	From 79210000-9 to 79212500-8
16	Management consulting services (2) and related services	From 73200000-4 to 73220000-0, 79400000-8 to 79421200-3 and 79342000-4, 79342100-4, 79342300-6, 79342320-2, 79342320-6, 79910000-6, 79991000-7 and 98362000-8
17	Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services	From 71000000-8 to 71900000-7 (except 71550000-8) and 79994000-8
18	Building-cleaning services and property management services	From 70300000-4 to 70340000-6 and 90900000-6 to 90924000-0
19	Sewage and refuse disposal services; sanitation and similar services	From 90400000-1 to 90743200-9 (except 90712200-3), from 90910000-9 to 90920000-2, 90920000-3, 50229000-6, 50243000-0
20	Training and simulation services in the fields of defence and security	80330000-6, 80600000-0, 80610000-0, 80620000-6, 80630000-9, 80640000-2, 80650000-0, 80660000-8

(1)Except research and development services referred to in Item 11 of Article 144 (1) herein.

(2)Except arbitration and conciliation services.

Annex 15
to Article 151

Category No	Subject	CPV Reference No	
21	Hotel and restaurant services	From 55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6	
22	Supporting and auxiliary transport services	From 63000000-9 to 63734000-3 (except 63711200-8, 63712700-0, 63712710-3), from 63727000-1 to 63727200-3 and 98361000-1	
23	Legal services	From 79100000-5 to 79140000-7	
24	Personnel placement and supply services (1)	From 79600000-0 to 79635000-4 (except 79611000-0, 79632000-3, 79633000-0) and from 98500000-8 to 98514000-9	
25	Health and social services	79611000-0 and from 85000000-9 to	

		85323000-9 (except 85321000-5, 85322000-2)
26	Other services	

(1) Except employment contracts.

Annex 16
to Article 156 (2)

NOTICES CONCERNING PROCUREMENTS IN THE FIELDS OF DEFENCE AND SECURITY

PART A PRIOR INFORMATION NOTICE

Minimum information to be included in prior information notices:

1. The name, address, fax number and e-mail address of the contracting entity and, if different, of the service from which additional information may be obtained and in the case of service and works procurements, of the departments from which information can be obtained concerning taxes, environmental protection, employment protection and working conditions applicable in the place where the procurement is to be performed.

2. Where applicable, indication whether the procurement is restricted to specialised undertakings or cooperatives of persons with disabilities or restricted to sheltered workshops, or whether it will be executed under protected job programmes.

3. In the case of works procurements: the nature and extent of the works and the place of execution; if the work is to be subdivided into several lots, the essential characteristics of those lots by reference to the work; if available, an estimate of the range of the cost of the proposed works; CPV nomenclature reference no(s).

4. In the case of supply procurements: the nature and quantity or value of the products to be supplied, CPV nomenclature reference no(s).

5. In the case of service procurements: the total value of the proposed purchases in each of the service categories, CPV nomenclature reference no(s).

6. In the case of service procurements by category: estimated date for commencing the procurement or procurements award procedures.

7. Where appropriate, indicate whether a framework agreement is involved.

8. Where applicable, other information.

9. Date of dispatch of the notice.

PART B CONTRACT NOTICES

Minimum information to be included in contract notices:

Restricted procedures, negotiated procedures with publication of a contract notice and competitive dialogues:

1. Name, address, telephone and fax number, e-mail address of the contracting entity.

2. Where applicable, indication that the procurement is restricted to specialised undertakings or cooperatives of persons with disabilities or is restricted to sheltered workshops, or will be executed under protected job programmes.

3. The award procedure chosen.

4. Where applicable, the reasons for use of the accelerated procedure (in restricted and negotiated procedures).

5. Where appropriate, indicate whether a framework agreement is involved.

6. Where appropriate, the holding of an electronic auction.

7. Form of the procurement.

8. Place of execution/performance of the works, for delivery of products or of the provision of services.

9. Depending on the public procurement object:

(a) Works procurements:

(aa) nature and extent of the works and general nature of the work; indication in particular of options concerning supplementary works, and, if known, the provisional timetable for recourse to these options as well as the number of possible renewals, if any; if the work or the contract is subdivided into several lots, the size of the different lots; CPV nomenclature reference no(s),

(bb) information concerning the purpose of the work or the procurement where the latter also involves the drawing up of projects,

(cc) in the case of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the works for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the procurements to be awarded;

(b) supply procurements:

(aa) nature of the products to be supplied, indicating in particular whether tenders are requested with a view to purchase, lease rental, hire or hire purchase or a combination of these, CPV nomenclature reference no(s), quantity of products to be supplied, indicating in particular options concerning supplementary purchases and, if known, the provisional timetable for recourse to these options as well as the number of renewals, if any; CPV nomenclature reference no(s),

(bb) in the case of regular or renewable procurements during the course of a given period, indication also, if known, of the timetable for subsequent procurements for intended purchases of supplies,

(cc) in the case of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the supplies for the entire duration of the framework agreement and, as far as possible, the value

and the frequency of the procurements to be awarded;

(c) service procurements:

(aa) category and description of the service; CPV nomenclature reference no(s); quantity of services to be provided; indication in particular of options concerning supplementary purchases and, if known, the provisional timetable for recourse to these options as well as the number of renewals, if any; in the case of regular or renewable procurements over a given period, an estimate of the time frame, if known, for subsequent procurements for intended purchases of services;

In the case of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the services for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the procurements to be awarded,

(bb) indication of whether the performance of the service is reserved by law, regulation or administrative provision to a particular profession;

Reference of the law, regulation or administrative provision;

(cc) indication of whether legal persons shall indicate the names and professional qualifications of the staff to be responsible for the performance of the service.

10. If the procurements are subdivided into lots, indication of the possibility for participants of tendering for one, for several and/or for all the lots.

11. Admission or prohibition of variants.

12. Where applicable, selection criteria regarding the personal situation of subcontractors that may lead to their exclusion, and required information proving that they do not fall within the cases justifying exclusion. Information and any necessary formalities for assessment of the minimum economic and technical capacities required of the subcontractors. Minimum level(s) of capacities possibly required.

13. Time-limit for completion of works/supplies/services or duration of the works/supply/service procurement. Where possible, time-limit by which works will begin or time-limit by which delivery of supplies or services will begin.

14. Where applicable, particular conditions to which the performance of the procurement is subject.

15. Information on the requests to participate:

(a) the final date for the receipt of requests to participate;

(b) address to which they must be sent;

(c) the language or languages in which they must be drawn up.

16. Main terms concerning financing and payment and/or references to the texts in which these are contained.

17. Where applicable, a requirement to establish a legal person where the participant designated as contractor, supplier or service provider is a combination of natural and/or legal persons.

18. Selection criteria regarding the personal situation of participants/candidates that may lead to their exclusion, and information required proving that they do not fall within the cases justifying exclusion. Selection criteria, information and

any necessary formalities for assessment of the minimum economic and technical standards required of the participant/candidates. Minimum level(s) of standards possibly required.

19. In the case of framework agreements: the number and, where applicable, proposed maximum number of participants which will be members of it and the duration of the framework agreement.

20. In the case of a competitive dialogue or a negotiated procedure with the publication of a contract notice, indication, if applicable, of recourse to a staged procedure in order gradually to reduce the number of solutions to be discussed or tenders to be negotiated.

21. In the case of a restricted procedure, a negotiated procedure or a competitive dialogue, when recourse is had to the option of reducing the number of candidates to be invited to submit tenders, to engage in dialogue or to negotiate: minimum and, if applicable, proposed maximum number of candidates and objective criteria to be used to choose that number of candidates.

22. The criterion to be used for award of the procurement: indicators representing the most economically advantageous tender as well as their weighting or the indicators in descending order of importance shall be mentioned where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document.

23. Where applicable, date(s) of publication of the prior information notice, or statement that no such publication was made.

24. Date of dispatch of the notice.

PART C CONTRACT AWARD NOTICE

Minimum information to be included in the contract award notice:

1. Name and address of the contracting entity.

Procurement award procedure chosen. In the case of a negotiated procedure without publication of a contract notice: justification.

2. Depending on the public procurement object:

(a) in the case of works procurements: nature and extent of the services;

(b) in the case of supply procurements: nature and quantity of products supplied, where applicable, by the supplier; CPV nomenclature reference no(s);

(c) in the case of service procurements: category and description of the service; CPV nomenclature reference no(s); quantity of services purchased.

3. Date of procurement award.

4. Procurement award criteria.

5. Number of tenders received.

6. Name and address of the successful economic operators.

7. Price paid or the highest or lowest price proposed.

8. Value of the tender (tenders) retained or the highest tender and lowest tender taken into consideration for the procurement award.

9. Where applicable, proportion of procurement to be subcontracted to third parties and its value.

10. If appropriate, the reasons for the framework agreement lasting more than seven years.

11. Information on termination of the procedure, where applicable.

12. Date of publication of the contract notice.

13. Date of dispatch of this notice.

PART D

The notices for voluntary transparency shall contain at least the following information:

1. Name and particulars of the contracting entity.

2. Description of the subject-matter of the contract which the contracting entity intends to conclude.

3. Ground on which the contract is concluded and reasons for applying this ground.

4. Name and particulars of the selected contractor, supplier or service provider.

Annex 17

to Article 167 (2)

INVITATIONS TO TENDER, TO NEGOTIATE OR TO CONDUCT A DIALOGUE

Minimum contents of the invitations:

1. Email or internet address at which the procurement documents or the descriptive document and all supporting documents will be available for unrestricted and full direct access, free of charge, or name or address of the service from which these documents can be obtained.

Where unrestricted and full direct access, free of charge, is not available, an indication of how the procurement documents can be accessed.

2. Details of the service from which additional information may be obtained.

3. A reference to the contract notice published.

4. The deadline for the receipt of tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up. In the case of a competitive dialogue procedure, this information shall be contained in the invitation to submit a tender.

5. In the case of competitive dialogue: the date and the

address set for the start of consultation, language or languages used.

6. A reference to the documents, including certificates to be submitted either in support of or to supplement the circumstances and information indicated in the ESPD.

7. The criterion for the award of the procurement and, where appropriate, also the assessment indicators and their relative weighting or, where appropriate, the descending order of importance of such indicators, where they are not given in the contract notice, the procurement documents or the descriptive document.

Annex 18
to Article 175 (2)

MINIMUM INFORMATION TO BE INCLUDED IN THE SUBCONTRACT NOTICES

1. The name, address, fax number and e-mail address of the successful participant and, if different, of the service from which additional information may be obtained.

2. Place of execution/performance of the works, for delivery of products or of the provision of services.

3. Nature, quantity and extent of the works and general nature of the work; CPV nomenclature reference no(s).

4. Nature of the products to be supplied, indicating whether tenders are requested with a view to purchase, lease rental, hire or hire purchase or a combination of these, CPV nomenclature reference no(s).

5. Category and description of service; CPV nomenclature reference no(s).

6. Any time-limit for completion imposed.

7. Name and address of the body from which the specifications and the additional documents may be requested:

(a) time-limit for the receipt of applications to participate and/or the receipt of tenders;

(b) address to which they must be sent;

(c) language(s) in which they must be written.

8. Any deposits or guarantees required.

9. Objective criteria which will be applied for selection of the subcontractors related to their personal situation or the assessment of their bid.

10. Any other information.

11. Date of dispatch of the notice.

Annex 19
to Article 178 (1)

MINIMUM INFORMATION TO BE INCLUDED IN THE PUBLIC CONTEST NOTICE

1. Name and address of the contracting entity.

2. Procurement object, estimated value and source of funding.

3. Brief description of the subject-matter of the procurement and, where applicable, also quantity or extent.

4. Details of the lots, where applicable.

5. Requirements relating to the personal situation of participants.

6. Selection criteria regarding suitability to pursue the professional activity, economic and financial standing, and technical and professional ability.

7. The award criterion and, where applicable, also the tender assessment indicators.

8. Additional information and other requirements relating to the performance of the procurement, where applicable.

9. Time limit for the submission and place for the submission of tenders.

10. Date, time and place for the opening of tenders.

11. Lots.

12. Body responsible for the review procedures.

Annex 20
to Article 187 (1)
(Amended, SG No. 86/2018, effective 1.11.2019)

MINIMUM INFORMATION TO BE INCLUDED IN THE ADVERTISEMENT

1. Name of the contracting entity.

2. Object, subject-matter and brief description of the procurement.

3. (Amended, SG No. 86/2018, effective 1.11.2019)
Selection criteria, where applicable.

4. Deadline for the submission of tenders.

5. Period of validity of the tenders.

6. The award criterion, including the assessment indicators and their weighting.

7. Date and place for the opening of tenders.

8. Lots, where applicable.

9. Other information, where applicable.