

# **RULES ON IMPLEMENTATION OF THE PUBLIC PROCUREMENTS ACT**

*In force from 15.04.2016*

*Adopted by Council of Ministers Decree N 73 of 05.04.2016*

*Prom. SG. 28/8 Apr 2016, amend. and suppl. SG. 91/14 Nov 2017, amend. and suppl. SG. 17/26 Feb 2019, corr. SG. 20/8 Mar 2019, amend. and suppl. SG. 29/27 Mar 2020*

## **Chapter one. GENERAL PROVISIONS**

Art. 1. The Rules shall provide for the conditions and procedure for implementation of the Act on Public Procurement (PPA) on:

1. the application of some exceptions from the applicable field of the PPA;
2. planning and preparation of awarding public procurement;
3. conducting procedures for awarding public procurement and of a competition for a project;
4. the contents of the participation documents in procedures for awarding public procurement, the procedure and ways for their submission and receiving;
5. submission and publication of information about the public procurement;
6. (new – SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) awarding of public procurement through the electronic platform under Art. 39a, Para. 1 of the Public Procurement Act;
7. (prev. item 6, amend. - SG 17/19, in force from 01.03.2019, amend. - SG, 29/20, effective from 01.04.2020) the information, published in the Public Procurement Register and in the [Public Procurement Portal](#);
8. (prev. item 7 - SG, 17/19, in force from 01.03.2019, amend. - SG, 29/20, in force from 01.04.2020) the requirements for publication of information in buyer's profile;
9. (former item 8 – SG, 17/19, in force from 01.03.2019) the minimal contents of the internal rules of public contracting authorities for management of the cycle of public procurements;
10. (former item 9 – SG, 17/19, in force from 01.03.2019) carrying out preliminary control by the Public Procurement Agency (PPA) and exchange of information in relation to the control;
11. (former item 10 – SG, 17/19, in force from 01.03.2019) conducting other powers of the executive director of the PPA under Art. 229, Para. 1 of the APP.

Art. 2. (Repealed, SG, 17/19, in force from 01.11.2019)

## **Chapter two. OBJECT AND ESTIMATED VALUE OF THE PUBLIC PROCUREMENT**

Art. 3. Where in a document, related to awarding public procurement a difference is found between:

1. the description of the public procurement subject and the indicated in the call of proposals code under the Common Procurement Vocabulary (CPV) for correct, the data of the description of the procurement subject shall be accepted;
2. the place of implementation of the public procurement, indicated in words and the filled in the call of proposals code under the Classification of the territorial units for statistical purposes in Bulgaria (NUTS) for correct shall be accepted the indicated in words place of implementation.

Art. 4. Where a contracting authority has used a certain currency while indicated the estimated

value of the public procurement in its opening, he shall be obliged to use the same currency everywhere, where a value is indicated for the relevant procurement.

Art. 5. (Amend., SG,17/19, in force from 01.03.2019) (1) (Amend. – SG, 29/20, in force from 01.04.2020) The options under Art. 21, Para. 1 of the PPA shall be clauses in the contract, that cover the expectations of the contracting authority to award additional activities or quantities, without obliging the contracting authority to award them. When settling the prerequisites and conditions for the realization of the options, Art. 116, Para. 1, item 1 of the Public Procurement Act shall be observed.

(2) Where options are envisaged, they shall be included in the estimated value of the contract, which the contracting authority must indicate in the notice or in the announcement and, where applicable, in the decision to initiate the procedure - respectively in the invitation to certain persons. In the respective document, the contracting authority shall describe the options and, if possible, indicate their volume and value.

Art. 6. (Amend., SG, 17/19, in force from 01.03.2019) (1) The renewals under Art. 21, Para. 1 of the PPA shall include repetitive activities in circumstances, specified in the contract, without the necessity of its amendment.

(2) Where renewals have been foreseen, they shall be included in the estimated value of the contract, which the contracting authority must indicate in the notice or in the announcement and, where applicable, in the decision to initiate the procedure - respectively in the invitation to certain persons. In the relevant document, the contracting authority shall describe the renewals and, where possible, indicate the volume, value and the forecast timetable for their awarding.

Art. 7. (1) Where the contracting authority awards separate positions according to their individual value under the conniptions of Art. 21, Para. 6 of the APP, he shall indicate the estimated value of the separate position, and as additional information – also the remaining value of the procurement in:

1. the call, which announces the opening of the procedure;
2. the call under Art. 187, Para. 1 of the APP, or
3. the decision for opening of the procedure – in applicable cases.

(2) In the cases under Para. 1 in awarding the major part of the procurement as additional information, the contracting authority shall obligatorily indicate the subject, volume and value of each position, awarded independently according to its individual value.

(3) (Amend. – SG, 17/19, in fore from 01.03.2019) In the cases under Para. 1 and 2 the contracting authority shall provide information about the awarding of the other parts of the procurement, by indicating in the call of proposals for public procurement or in the call under Art. 187, Para. 1 of the APP, and in the applicable cases – in the decision, the unique number in the Register for public procurements.

### **Chapter three.**

#### **EXCEPTIONS FROM THE APPLICABLE FIELD OF THE APP**

Art. 8. (1) Where the turnover is used as indicator for defining the percentage under Art. 14, Para. 1, p. 5 and 6 of the APP, the turnover shall be juxtaposed for the last 3 finalized financial years, realized by the controlled legal person while fulfilling activities for the contracting authority or his separate structures or for other legal persons, controlled buy the contracting authority with the total turnover, realized by the legal person for the same period.

(2) The correlation under Para. 1 shall be used while defining the percentage under Art. 14, Para. 1, p. 7 of the APP, by taking in consideration the turnover, formed from fulfillment of activities for the contracting authorities, who control a legal person or for other legal persons, controlled by these contracting authorities.

(3) Where the controlled legal person has been established or has fulfilled activity for a period,

shorter than 3 finalized financial years, the correlation under Para. 1 and 2 shall be defined on the basis of the turnovers, realized by the controlled legal person for the finalized financial years and the envisaged in his business programme for the remaining part of the 3 year period. Where the controlled legal person is newly established or has not realized activity during the last 3 finalized financial years, its business programme shall be taken in consideration.

(4) (Suppl. – SG, 17/19, in force from 01.03.2019) The value of a contract, which is signed under the conditions of Art. 14, Para. 1, p. 5 – 7 and Art. 149, Para. 1, item 13 of the PPA, shall be defined according to the methods in Annex N 1.

(5) (Suppl. – SG, 17/19, in force from 01.03.2019) For contracts, signed under Art. 14, Para. 1, p. 5 - 7 and Art. 149, Para. 1, item 13 of the PPA, the contracting authority shall annually assess the correlation under Para. 1 and 2 within 1 month term from the date of preparation of the annual financial statement of the controlled legal person, but not later than 31 March of the year, following the accounted financial year.

Art. 9. (1) (Amend. – SG, 17/19, in force from 01.03.2019) For defining the percentage under Art. 15, Para. 1, p. 5 of the APP, the correlation shall be calculated between the turnover, which is formed from activities, identical or close to the subject of the procurement, provided by the related undertaking of the contracting authorities, or of other undertakings, with which it is connected during the last 3 finalized financial years with the turnover of the related undertaking of all identical or close activities for the same period.

(2) Where the related undertaking has been established or has carried out activity for a period, shorter than 3 finalized financial year, the correlation under Para. 1 shall be defined on the basis of the turnovers, realized by the related undertaking for the finalized financial years and the envisaged in its business programme for the remaining part of the 3 year period. Where the undertaking is newly established or has not realized activity, its business programme shall be taken in consideration.

(3) (Amend. – SG, 17/19, in force from 01.03.2019) For contracts, signed on the basis of Art. 15, Para. 1, p. 5 of the APP, the contracting authority shall assess the correlation under Para. 1 annually, in one-month term from the date of preparation of the annual financial statement of the controlled legal person, but not later than 31 March of the year, following the accounted financial year.

### **Chapter three "a".**

#### **CENTRALIZED ELECTRONIC PLATFORM (NEW – SG, 17/19, IN FORCE FROM 01.11.2019)**

##### **Section I.**

##### **General provisions (New – SG, 17/19, in force from 01.11.2019)**

Art. 9a. (New, SG,17/19, in force from 01.11.2019) (1) The centralized electronic platform, hereinafter referred to as the "platform", shall be kept and maintained in a way, that guarantees the protection of the information, including through its periodic and operational archiving.

(2) (Amend. – SG, 29/20, in force from 01.04.2020) The platform shall maintain a record of every procurement operation, carried out by users, related to awarding public procurements, including data on the creation and exchange of documents, as well as on the individual actors, involved in the operations. Records shall be a proof of completeness and thoroughness of the information in it, as well as of the authorship and the time of each action.

Art. 9b. (New, SG, 17/19) For the purposes of public procurement, the platform shall provide for the electronic exchange of information with systems and registers with primary information as determined by an order of the Minister of Finance.

Art. 9c. (New, SG, 17/19, in force from 01.11.2019) (1) The platform shall take into account the UTC (Coordinated Universal Time) standard, based on Recommendation 460-4 "Standard Frequency and Time Signal Emissions - Standard Frequency and Broadcast of Time Signal" from the International Telecommunications Union (ITU), 1986.

(2) The astronomical time for the occurrence of facts with legal or technical significance shall be accounted for accurately by year, date, hour, minute, and second, written in accordance with Standard BDS ISO 8601: 2006 in the time zone of the contracting authority and certified by a qualified electronic time stamp.

Art. 9d. (New, SG, 17/19, in force from 01.11.2019) (1) All actions and omissions of actions in the platform of persons, authorized by the contracting authorities and the economic entities, which create rights or obligations, or directly affect the rights or legitimate interests of other persons, shall be deemed to have been committed by the contracting authority, or the economic entity, respectively.

(2) Contracting authorities and economic entities shall be responsible for the credibility, timeliness and completeness of the information they place on the platform, as well as for meeting the deadlines, according to their competence.

Art. 9e. (New, SG, 17/19, in force from 01.11.2019) (1) Amend. and suppl. – SG, 29/20, in force from 01.04.2020) The collection, processing and disclosure of personal data in and through the Platform shall only be carried out in connection with the public procurement and in accordance with the requirements of EU and national law.

(2) The collected data may not be used for purposes, other than those, referred to in Para. 1, except where permitted by the law.

Art. 9f. (New, SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) (1) In case of unplanned interruption of the platform or of its individual functionality, necessary for certain actions by the users for more than 30 minutes during the last two hours of expiry of the limitation period to perform a specific action, this period shall expire at the originally defined time on the day, following the day, on which the platform is restored. When this is a non-working day, Art. 28, Para. 3 shall apply.

(2) In the cases of Para. 1, as well as when the deadlines have expired during the unplanned interruption, the platform under Art. 39a, Para. 1 of the PPA shall automatically change the set deadlines for:

1. receiving offers or requests to participate;
2. opening offers or application for participation;
3. opening of price offers.

(3) In the cases of Para. 2, the platform shall change under Para. 1 the earliest affected term, and the following ones - according to the initially determined difference between them.

(4) When some of the changed terms in accordance with Para. 3 expires on a non-working day, the platform shall determine the first attendance day.

(5) When a deadline for requesting clarification is affected as a result of the unplanned interruption, the contracting authorities shall be obliged to change the deadlines under Para. 2, items 1 and 2, while observing Para. 1.

(6) In the cases of Para. 1, no later, than the day after its recovery, the PPA shall publish a notice about the interruption period, as well as a list of procurements, whose terms have been changed by the platform, on the [Public Procurement Portal](#) or, if this is not possible - on the [website](#) of the Ministry of Finance.

## **Section II.**

### **Registration in the platform (New – SG, 17/19, in force from 01.11.2019)**

Art. 9g. (New, SG, 17/19, in force from 01.11.2019) (1) All actions, related to the awarding

public procurement in the platform shall be carried out by contracting authorities and economic entities, which have been registered in it.

(2) The registration shall be performed by an authorized person with a qualified electronic signature or an electronic identity certificate. The registration shall create an organization profile in the platform, and the person shall acquire the status of an administrator.

(3) (Amend. – SG, 29/20, in force from 01.04.2020) The administrator under Para. 2 may join to the organization's profile other persons, to whom it shall confer rights to perform certain actions, including as an administrator, according to the internal organization or acts of the contracting authority or economic entity. The joint persons shall register with a username and password to create user profiles within the profile of the respective contracting authority or economic entity.

(4) With the registration the persons under Para. 1 and 3 shall agree with the rules under Art. 229, Para. 1, item 12 of the Public Procurement Act.

(5) Termination of administrator's rights shall be done by another administrator, designated by the contracting authority or the economic entity. Where this is not possible, the termination shall be carried out by the PP Agency, upon receipt of a written request from the contracting authority and the economic entity. The termination shall have an effect in the future.

Art. 9h. (New, SG, 17/19, in force from 01.11.2019) (1) In case of transformation of a contracting authority or an economic entity, the right assigners and the successors shall settle their rights in respect of the profile of the transformed contracting authority or economic entity, including the access to it, to the administrators of the entities involved in the transformation, where if needed, inform the PP Agency of the official granting or termination of access of certain persons.

(2) The notification under Para. 1 shall be sent by e-mail, signed with an electronic signature, accompanied by evidence, when the information on succession is not publicly available.

Art. 9i. (New, SG, 17/19, in force from 01.11.2019) (1) For each contracting authority in the platform, an account shall be opened with a name, a BULSTAT code, a unique identification code (UIC) of the legal person, that the contracting authority represents, the postal and e-mail address for the correspondence, the settlement, the postal code, the buyer profile address (URL). All subsequent entries shall be made in the account.

(2) For each of the persons under Art. 175, Para. 2 of the PPA in the platform shall be created a unique number, under which name, BULSTAT code, respectively unified identification code (UIC) shall be entered, as well as the notices for subcontractor for procurements in the areas of "Defense" and "Security" shall be.

(3) In the cases under Art. 8, Para. 1 of the PPA, the documents, relating to the award of the procurement shall be published in the contracting authority's account, specified in the joint awarding agreement.

### **Section III.**

#### **Exchange of documents and communications (New – SG, 17/19, in force from 01.11.2019)**

Art. 9k. (New, SG, 17/19, in force from 01.11.2019) (1) The exchange of documents and communications between contracting authorities, applicants, participants and contractors shall take place through the platform, except in the cases of Art. 39a, Para. 5 - 7 of the Public Procurement Act.

(2) (Amend. and suppl. – SG, 29/20, in force from 01.04.2020) Documents and communications shall be deemed to be served upon receipt of the profile of the person designated to be contact person for the contract, which is certified by the platform by electronic time stamp. Where the contact person is other than the contracting authority, or the person, representing the applicant, participant and contractor, the contracting authority, respectively the applicant, participant and contractor, shall be considered as informed.

(3) Users of the platform shall be required to monitor their accounts within the platform for the

availability of communications and documents.

#### **Section IV.**

##### **Protection in submission of applications for participation, offers and projects (New, SG, 17/19, in force from 01.11.2019, title amend. – SG, 29/20, in force from 01.04.2020)**

Art. 9l. (New, SG, 17/19, in force from 01.11.2019) (1) The platform shall be stored in an encrypted form until their opening:

1. participation applications;
2. (amend. – SG, 29/20, in force from 01.04.2020) the offers, as well as their price proposals;
3. (amend. – SG, 29/20, in force from 01.04.2020) the competition projects.

(2) The documents under Para. 1 shall be encrypted with a unique key, generated in the user's Internet browser.

(3) (New – SG, 29/20, in force from 01.04.2020) Applications for participation in the qualification system and the dynamic purchasing system shall not be encrypted. In the cases under Art. 104, Para. 2 and Art. 181, Para. 2 of the PPA, the price offers shall be encrypted together with the other documents under Art. 39, Para. 2 and Para. 3, item 1.

(4) (Former Para. 3 – SG, 29/20, in force from 01.04.2020) The generated key shall be stored only by the applicants and participants, who should decrypt with it the documents under Para. 1 on the platform in the period of:

1. (amend. - SG, 29/20, in force from 01.04.2020) expiry of the deadline for receipt of applications, offers or projects by the announced date and time for their opening;
2. (amend. - SG, 29/20, in force from 01.04.2020) the receipt of the communication for opening the price proposals to the announced date and time for their opening

(5) (Former Para. 4, amend. SG, 29/20, in force from 01.04.2020) Applicants and participants, who have not decrypted the documents under Para. 1 within the term of Para. 4, shall be removed from participation on the grounds of Art. 107, item 5 of the Public Procurement Act.

#### **Chapter four.**

### **PUBLICITY AND TRANSPARENCY**

#### **Section I.**

##### **Portal for Public Procurements. Register of Public Procurements. Buyer's profile (Title, suppl. – SG, 29/20, in force from 01.04.2020)**

Art. 10. (1) The Public Procurement Agency shall provide access to information, related to public procurement through the [Portal for public procurements](#), called hereinafter: the Portal.

(2) The Portal shall be public and the access to its information shall be free.

(3) Through the Portal, access shall be provided to:

1. (amend, - SG, 17/19, in force from 01.11.2019) the platform, including to the Register of public procurement;
2. the methodical instructions under Art. 229, Para. 1, p. 2, letter "a" of the APP;
3. the document forms, which the contracting authorities use in awarding the public procurements;
4. the lists of the contracting authorities;
5. the lists of the external experts under Art. 229, Para. 1, p. 17 of the APP;
6. the list of the persons under Art. 57, Para. 4 of the APP;
7. results from the conducted monitoring of the public procurement;
8. the monthly journal on the public procurement market;
9. any other information, related to public procurements.

Art. 11. (1) (Repealed – SG, 29/20, in force from 01.04.2020)

Art. 12. (Repealed, - SG, 17/19, in force from 01.11.2019)

Art. 13. (Repealed, - SG, 17/19, in force from 01.11.2019)

Art. 14. (1) Every public procurement at the value of Art. 20, Para. 1 – 3 and 7 of the PPA shall be entered in the [PP Register](#), called hereinafter the “Register” and in the relevant buyer’s profile and shall have a unique number, which shall contain 3 parts, as follows:

1. first part – the lot of the contracting authority;

2. (amend. - SG, 17/19, in force from 01.11.2019) second part – the year of opening the public procurement;

3. (amend., SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) third part - a 4-digit number, which is the official number of the entry of the public procurement of the respective contracting authority for the year and shall be obtained automatically from the platform.

(2) (Amend., SG, 17/19, in force from 01.11.2019, repealed – SG, 29/20, in force from 01.04.2020).

(3) (Amend. and suppl., SG, 17/19, in force from 01.03.2019) Where public procurement contracts have been concluded after an internal competitive choice, based on a framework agreement of a central authority for purchases, the notices for the award of a procurement, modification and termination of the contract shall be published also on the lot of the central authority for purchases.

Art. 15. (1) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) Contracting authorities shall send for publication in the Register the information under Art. 36, Para. 1 and Art. 156, Para. 1 of the PPA, through the platform.

(2) The information under Art. 14, Para. 3 shall be sent by the contracting authority, who is a party to the relevant contract.

(3) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) In the cases under Art. 203, Para. 6 of the Public Procurement Act, termination of the procedure shall be communicated through the functioning of the platform, with which, in the public procurement file, its status shall be changed automatically.

(4) (New, SG, 17/19, in force from 01.11.2019) Contracting authorities shall enter the information under Art. 230, Para. 1, item 7 of the PPA in the platform, according to an approved model.

Art. 16. (1) Apart from the cases under Art. 100 and 179 of APP, correction in the following documents shall be admitted:

1. announcement for awarding a procurement;

2. announcement for results from the project competition;

3. announcement for change of a contract for public procurement;

4. announcement for finalization of the public procurement contracts.

(2) (Amend. – SG, 29/20, in force from 01.04.2020) For expression of changes in the information, which is contained in the documents under Para. 1, the contracting authorities shall submit for publication a communication for changes, or additional information.

Art. 17. (Repealed, - SG, 17/19, in force from 01.11.2019)

Art. 18. (Repealed, - SG, 17/19, in force from 01.11.2019)

Art. 19. (Repealed, - SG, 17/19, in force from 01.11.2019)

Art. 19a. (New – SG, 29/20, in force from 01.04.2020) (1) The documents under Art. 36, Para.

1 of the PPA shall be published simultaneously in the [register](#) and the in buyer's profile.

(2) With the exception of the documents, the terms of which are specified in the Act, the other documents under Art. 36, Para. 1 of the PPA shall be published within the following time limits:

1. the decisions under Art. 22, Para. 1, items 3 - 8 and 10 - 12 of the Public Procurement Act - on the day of their sending to the persons, who have expressed interest, to the applicants or to participants, and when they are not subject to sending - within three days after their issue;

2. the invitations under Art. 34, Para. 1 and Art. 191, Para. 1 of the PPA and Art. 64, Para. 3 - on the day they are sent to the designated persons;

3. the invitations under Art. 34, Para. 2 of the Public Procurement Act - on the day of their sending to the persons, who have declared interest for participation;

4. the protocols and reports of the commissions for carrying out the procedures, respectively of the jury in a competition for a project - on the day of sending the relevant decision under Art. 22, Para. 1, items 4 - 8, 10 and 11 of the Public Procurement Act, depending on the type and stage of the procedure;

5. public procurement contracts and framework agreements, including the annexes thereto - on the day of the publication of the notice for awarding the procurement;

6. contracts for subcontracting - within 30 days of receipt;

7. supplementary agreements, amending public procurement and framework agreements - on the day of publication of the notice of amendment of the public procurement contract or framework agreement;

8. the opinions of the PP Agency under Art. 232, Para. 8, Art. 233, Para. 4 and Art. 235, Para. 3 of the Public Procurement Act - within 5 working days of their receipt by the contracting authority.

(3) The invitations to the contractors under the framework agreement, the decision under Art. 22, Para. 1, item 6 of the Public Procurement Act, as well as the reports and protocols of the commissions shall be published in the register and in the buyer's profile on the day of publication of the notice for awarding the procurement.

(4) The information under Art. 44, Para. 3, item 1 of the PPA shall be published on the buyer's profile within 5 days after the conclusion of the market consultations or of the preparation of the procedure.

## **Section II.**

### **Submitting Information to the EU Official Journal**

Art. 20. (1) (Amend., SG, 17/19, in force from 01.11.2019, suppl. – SG, 29/20, in force from 01.04.2020) Contracting authorities shall send the notices under Art. 35, Para. 1 and Art. 156, Para. 1 of the PPA to the Publications Office of the European Union through the "Electronic Sender" service, provided by the platform, observing the rules under Art. 229, Para. 1, item 12 of the Public Procurement Act.

(2) (Repealed, - SG, 17/19, in force from 01.11.2019)

Art. 21. (Repealed – SG, 29/20, in force from 01.04.2020)

Art. 22. The announcements for change or additional information with which documents under Art. 16, Para. 1, p. 1 – 3 are changed, published in the [EU Official Journal](#) shall be submitted under Art. 20, Para. 1.

## **Section III.**

### **Buyer's Profile**

Art. 23. (Amend., SG, 17/19, in force from 01.03.2019, repealed – SG, 29/20, in force from 01.04.2020)

Art. 24. (Repealed – SG, 29/20, in force from 01.04.2020)



**Chapter five.**  
**PREPARATION AND CONDUCTING PUBLIC PROCUREMENT PROCEDURES**

**Section I.**  
**Forecast and Planning**

Art. 25. The forecast of public procurement shall include establishing the number and type of the public procurements according to the expected needs and financial resource, which the contracting authority intends to provide.

Art. 26. (1) With the planning the contracting authority shall draw up a schedule for awarding the procurements, having in consideration:

1. the defined order for awarding each public procurement, including the type of the selected procedure, where applicable;
2. the preparation time, including of the documentation;
3. the time for conducting the awarding, including for receiving applications for participation or of offers, work of the commission and signing the contract.

(2) (Suppl. – SG, 17/19, in force from 01.03.2019) While planning, the contracting authority must consider all the legally established terms, referable to the subject of the procurement, including the ones for the appealing procedures. Conducting control by the PP Agency, where applicable, as well as the initial moment and the term of implementation of the contract.

Art. 27. (Amend. – SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) With preparing the schedule under Art. 26, Para. 1, as well as on the date of the opening of the awarding of the procurement, the contracting authority shall summarize all the identical or similar needs, which are known to it, with a view to correctly determining the order of their award.

Art. 28. (1) While defining terms, which are in days and are counted after a certain action or event, the day of occurrence of the action or event shall not be counted.

(2) Where the term expires before a certain day, this day will be taken in consideration in defining the date, by which the relevant action is to be conducted.

(3) Where the last day of the term under Para. 1 is a holiday, the term shall expire on the first working day.

(4) (Amend., SG, 17/19, in force from 01.11.2019) The last day of the term shall expire at the moment of termination of the working time of the contracting authority. When exchanging information via the platform, the last day of the deadline shall expire at the end of the twenty-fourth hour.

(5) When the contracting authority extends the time limits in the procedure on the grounds of Art. 100, Para. 11 of the Public Procurement Act, the total duration of each of the deadlines, expired up to the moment of suspension of the procedure, together with the newly determined extended terms, may not be shorter, than the original term, set by the contracting authority.

(6) (New, SG, 17/19, in force from 01.03.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020) The difference between the time limit for the receipt of applications for participation, the offers, or projects and the date and time for their opening may not be less than 12 hours.

**Section II.**  
**Preparation of the Procedure**

Art. 29. (1) Where in the preparation of the documentation for the public procurement, external

persons have participated, the contracting authority shall mention them in the information under Art. 44, Para. 3, p. 1 of the PPA, while observing the requirements of the Protection of Personal Data Act, where for the legal persons shall be entered full name and BULSTAT code or UIC , and for the natural persons – full name and place of work, and if needed – also other information.

(2) The persons, who participate in the preparation of documentation for public procurement shall be obliged by the opening of the procedure to keep in secret all the data and circumstance, which have become known to them in relation to their work.

Art. 30. (1) (Amend. – SG, 29/20, in force from 01.04.2020) In procedures for conclusion of framework agreements and awarding public procurement of medicinal products under the Medicinal Products in Human Medicine Act, or medical products under the Medical Devices Act, through the electronic platform, maintained by the Central purchasing authority in the “Health” sector, offers may be admitted for one, or more of the nomenclatures in the specialized lots, covered by the subject-matter of the public procurement. This possibility is indicated in the notice, announcing the opening of the procedure.

(2) In the cases under Para. 1 in the participation documentation the minimal requirements to the offers shall be indicated, which are part of the nomenclatures in the separate positions and in the methods shall also be defined the way for assessment of the offers, which have been submitted for part of the nomenclatures of the separate positions.

Art. 31. (1) (Repealed, - SG, 17/19, in force from 01.03.2019)

(2) The way of calculation of the compliance between assets and liabilities and minimal admissible values of this correlation, above which it is accepted that the applicant or participant meets the requirements under Art. 61, Para. 1, p. 3 of the PPA, have been defined by the methods in Annex N 2.

Art. 32. Where the contracting authority requires samples, description and/pictures of the goods – subject to the supply, in the public procurement documentation the he shall indicate for what they will be used, which indicators will be studied, in order to establish compliance with the technical specifications, as well as if as a result of the study of the samples their thoroughness will be violated or the commercial appearance.

Art. 33. (1) (Amend. – SG, 17/19, in force from 01.03.2019) Contracting authorities may require the submission of plans, schedules and other documents, in order to assess the organization of performance in accordance with the methodology for assessment. It is not allowed to assess the completeness and the way the information is presented in the documents. In such cases, clear and specific conditions shall be set out in the documentation for participation, which must be in accordance with the plans and timetables and the information they must contain.

(2) Where a competition is conducted for a project in the area of the investment design, the design value of the construction shall obligatorily be included as an assessment indicator of the competition projects.

(3) (New – amend., SG, 17/19, in force from 01.03.2019, repealed – SG, 29/20, in force from 01.04.2020)

Art. 34. During the preliminary selection in the procedures under Art. 18, Para. 1, p. 2- 7 of the PPA, the contracting authority shall not have the right to require and the applicant shall not have the right to produce an offer.

Art. 35. In the draft contract the contracting authorities may set a requirement the resources which will be engaged with the implementation of the procurement to be available in the proposed type and volume in the implementation of the relevant activities under the contract.

Art. 35a. (New – SG, 17/19, in force from 01.03.2019) (1) The term of validity of the offers shall be the time, during which the participants are bound by the terms and conditions of the offers, submitted by them.

(2) (Amend. – SG, 29/20, in force from 01.04.2020) The term under Para. 1 shall be determined

by the contracting authority and shall commence on the date, set for the deadline for receipt of offers.

(3) (Suppl. – SG, 29/20, in force from 01.04.2020) The contracting authority shall invite the participants to extend the validity of the offers, when it has not expired. When the term has expired, the contracting authority shall invite the participants to confirm the validity of their offers for a new term, set by him. A participant, who fails to extend or confirm the validity of his offer shall be removed from participation under Art. 107, item 5 of the PPA.

### **Section III. Requirements to Applicants and Participants**

Art. 36. (1) A branch of a foreign person may be an independent applicant or participant in a procedure for awarding a public procurement, if he may independently submit participation applications or offers, and sign contracts under the legislation of the state where he is established.

(2) In the cases under Para. 1, of for proving compliance with the requirements for economic and financial status, technical and professional abilities, the branch shall rely on the resources of the trader, the branch shall produce evidences, that in fulfillment of the procurement will have these resources at disposal.

Art. 37. (1) The contracting authority may set conditions, which refer to partnership and differ from the conditions for the individual participants or applicants, only where they have been objectively defined in view to the circumstance, that applicants or participant is partnership , which is not a legal person, and is not in an unequal situation to the individual applicants or participants.

(2) The conditions under Para. 1 shall nor refer to:

1. the way of distribution of the work among the members of the partnership;
2. nationality, territorial separateness or belonging of a part or all the members of the partnership ;
3. the way of proving financial and/or economic abilities, as well as technical and professional capabilities by some members of the partnership with the exception of requirements, which complies from a normative or administrative act, depending on the distribution of the participation of the person while implementing the activities, provided by the contract for establishment of the partnership .

(3) The conditions under Para. 1 may refer to:

1. selecting a partner, which shall represent the partnership for the purposes of the public procurement;
2. agreement for joint responsibility, where such is not provided by the applicable legislation.

(4) (Amend. – SG, 17/19, in force from 01.03.2019) The contracting authority may require from an applicant or participant – partnership, which is not a legal person, to produce a copy of a document, for establishment of the partnership, as well as the following information in relation to the relevant public procurement:

1. rights and duties of the participants in the partnership;
2. distribution of responsibility among the partnership members;
3. the activities, which will perform every partnership member.

Art. 38. In selection of a criteria for awarding under Art. 70, Para. 2, p. 2 or 3 of the PPA, the contracting authority shall indicate the periods in relation to which proposals for the costs are produced, where applicable.

### **Section IV. Contents of the Participation Applications and Offers**

Art. 39. (1) (Amend., SG, 17/19, in force from 01.03.2019) By submitting offers it shall be considered, that the participants agree with all the conditions of the contracting authority, incl. with the

term of validity of the offers and the draft contract.

(2) The application for participation shall include at least the following documents:

1. (amend., SG, 17/19, in force from 01.03.2019) a Single European Public Procurement Document (SEPPD) in accordance with the requirements of Art. 67 of the PPA and the conditions of the contracting authority;

2. documents, evidencing the reliable undertaken measures, where applicable;

3. (amend. – SG, 17/19, in force from 01.03.2019) the document under Art. 37, Para. 4, where applicable.

(3) The offer shall include:

1. technical offer, containing:

a) (repealed – SG, 17/19, in force from 01.03.2019, corr. - SG 20/19);

b) proposal for implementation of the procurement in compliance with the technical specifications and requirements of the contracting authority;

c) (repealed – SG, 17/19, in force from 01.03.2019, corr. - SG 20/19);

d) (repealed – SG, 17/19, in force from 01.03.2019, corr. - SG 20/19);

e) declaration, that while drawing up the offer, the obligations, related to taxes and securities, environment protection, employment protection and conditions at labour have been observed, where applicable;

f) (Suppl. - SG, 17/19, in force from 01.03.2019, corr. - SG 20/19) samples, models, description and /or pictures of the goods, which will be supplied, where applicable;

g) any other information and/or documents, required by the contracting authority, where this is needed by the procurement subject;

2. (Amend., SG, 17/19, in force from 01.03.2019, corr. - SG 20/19) a price offer, which includes a price of acquisition and all other proposals on monetary indicators.

(4) Where the subject of the public procurement imposes its implementation at stages, the offer shall indicate the concrete stages and terms for implementation of each stage.

(5) (Repealed, - SG, 17/19, in force from 01.03.2019, corr. - SG 20/19)

Art. 40. (Amend., SG, 17/19, in force from 01.11.2019) (1) The persons under Art. 54, Para. 2 of the PPA shall be as follows:

1. in a general company – the persons under Art. 81, Para. 1 and Art. 89, Para. 1 of the Commerce Act;

2. in a limited partnership – unlimited responsible partners under Art. 105 of the Commercial Act;

3. in a limited liability company – the persons under Art. 141, Para. 2 of the Commercial Act, and in a sole trade company with unlimited liability – the persons under Art. 147, Para. 1 of the Commercial Act;

4. in a shareholding company – the persons under Art. 241, Para. 1, Art. 242, Para. 1 and Art. 244, Para. 1 of the Commercial Act;

5. in a limited partnership with shares – the persons under Art. 256, of the Commercial Act;

6. in a sole trader – natural person – trader;

7. in a branch of a foreign person – the person who manages and represents the branch or has analogical rights under the legislation of the state, where the branch has been registered;

8. the cases under p. 1 -7 – also the procurators, where applicable;

9. in the other cases, including for the foreign persons – the persons, who represent, manage and control the applicant or participant under the legislation of the state, where they are established.

8. in the cooperatives - the persons under Art. 20, Para. 1 and Art. 27, Para. 1 of the Cooperatives Act;

9. in the case of associations - the members of the management board under Art. 30, Para. 1 of the Non-Profit Legal Entities Act or the manager, in the cases under Art. 30, Para. 3 of the Non-Profit

Legal Persons Act;

10. in the foundations - the persons under Art. 35, Para. 1 of the Non-Profit Legal Entities Act;

11. in the cases under items 1 - 7 and the procurators, if any;

12. for foreigners - the persons, who represent, manage and control the applicant or the participant under the laws of the state, in which they are established.

(2) In the cases under Para. 1, p. 11 and 12, where the person has more than one procurator, the declaration shall be submitted only by the procurator, in whose representation power the territory of the Republic of Bulgaria has been included, or the territory of the state, in which the procedure with the contracting authority under Art. 5, Para. 2, p. 15 of the PPA is conducted.

(3) (Amend. – SG, 29/20, in force from 01.04.2020) The contracting authority may require from the applicants or participants, when considering the documents, related to participation in a public procurement, information on the legal-organizational form, in which they perform their activity, as well as a list of all obliged persons within the meaning of Art. 54, Para. 2 and 3 of the PPA.

Art. 41. (Amend. – SG, 17/19, in force from 01.03.2019) (1) Where the persons under Art. 54, Para. 1, p. 2 of the APP are more than one, and for them there is no difference regarding the circumstances under Art. 54, Para. 1, items 1, 2 and 7 and Art. 55, Para. 1, item 5 of the Public Procurement Act, UEDPP may only be signed by one of these persons if the signatory has information on the reliability of the declared circumstances with respect to the other obliged persons.

(2) Where there is a need for protection of personal data in case of difference in the circumstances, related to the personal condition of the persons under Art. 54, Para. 2 and 3 of the Public Procurement Act, the information, regarding the requirements under Art. 54, Para. 1, items 1, 2 and 7 and Art. 55, Para. 1, item 5 of the Public Procurement Act shall be completed in a separate UEDPP, signed by the respective person.

(3) The UEDPP under Para. 1 may also contain the circumstances under Art. 54, Para. 1, items 3 - 6 and Art. 55, Para. 1, items 1- 4 of the Public Procurement Act, as well as those, related to the selection criteria, if the signatory person may independently represent the respective economic entity.

(4) (Amend. – SG, 29/20, in force from 01.04.2020) If it is necessary to declare the circumstances under Art. 54, Para. 1, items 3 - 6 and Art. 55, Para. 1, items 2 - 4 of the PPA, as well as those, related to the selection criteria, relevant to a partnership, which is not a legal person, the person representing the partnership shall submit UEDPP for these circumstances.

(5) (Amend. – SG, 29/20, in force from 01.04.2020) Where public procurement documents are submitted by a person, who represents the applicant or the participant under authorization, in the UEDPP shall be pointed information on the scope of his / her representative authority of the authorized person.

Art. 42. (1) The contracting authorities may admit the possibility the information for compliance with the selection criteria to be provided through filling in UEDPP only of Part IV "Selection Criteria", Section "General Instruction for All the Selection Criteria".

(2) The possibility under Para. 1 shall be indicated in the call, which announces the opening of the procedure, and the procedures under Art. 18, Para. 1, p. 8 - 10 and 13 of the PPA – in the participation invitation in negotiations.

Art. 43. In the UEDPP data shall be provided about the public registers, in which information is contained about the declared circumstances or about the competent body, who under the legislation of the relevant state shall be obliged to provide information about these circumstances officially by the contracting authority.

Art. 44. (1) (Repealed, - SG, 17/19, in force from 01.03.2019)

(2) (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 45. (1) Where for an applicant or participant some of the conditions under Art. 54, Para. 1 of the PPA is present, or the indicated by the contracting authority conditions under Art. 55, Para. 1 of the PPA and before the submission of the participation application or the offer he has undertaken measures for evidencing reliability under Art. 56 of the PPA, these measures shall be described in the UEDPP.

(2) As evidences for the reliability of the applicant or participant, the following documents shall be provided:

1. in relation to the circumstance under Art. 56, Para. 1, p. 1 and 2 of the PPA – a document for made payment or an agreement or other document from which is evident that the obligations have been guaranteed or that the parties have agreed upon their delay or deferred, with the payment plan and/or with indicated dates for final payment of the obligations due or is in a process of payment of a compensation due;

2. in relation to the circumstance under Art. 56, Para. 1, p. 3 of the PPA – a document by the relevant competent authority for confirmation of the described circumstances.

Art. 46. (1) The applicants and participants shall be obliged to notify in writing the contracting authority within 3 day term from occurrence of a circumstance under Art. 54, Para. 1, Art. 101, Para. 11 of the PPA, or a condition under Art. 55, Para. 1 of the PPA, indicated by the contracting authority.

(2) (Amend. – SG, 17/19, in force from 01.03.2019) In the cases under Para. 1, the newly occurred circumstances shall be taken into account by the commission when the documents under Art. 106, Para. 1 of the Public Procurement Act have been prepared.

#### **Section V.**

#### **Submission of a Participation Applications and Offers (Title, amend. – SG, 17/19, in force from 01.03.2019)**

Art. 47. (Amend. – SG, 17/19, in force from 01.11.2019) Documents, related to participation in public procurement shall be submitted through the platform in accordance with the rules for its use under Art. 229, Para. 1, item 12 of the Public Procurement Act and subject to the requirements, laid down by the contracting authority.

(2) (Amend. – SG, 29/20, in force from 01.04.2020) Where the application or the offer, or parts thereof are not submitted through the platform or by other electronic means - in the cases of Art. 39a, Para. 5 and 6 of the PPA, they shall be presented in a sealed opaque package, indicating on it:

1. (amend. – SG, 29/20, in force from 01.04.2020) the name of the applicant or participant;

2. correspondence address, telephone N and if possible – fax N and e-mail address;

3. the name of the procurement, and where applicable – the different positions, for which the documents are submitted.

(3) (Amend. – SG, 29/20, in force from 01.04.2020) Where the procurement is divided into different positions, the applicant or the participant shall submit the documents under Art. 39, Para. 2 and 3 for each position separately. Under the same criteria for selection of two or more distinct positions, the contracting authority may admit the documents under Art. 39, Para. 2 to be presented jointly, this possibility being indicated in the participation documentation.

(4) (Amend. – SG, 29/20, in force from 01.04.2020) In case of an open procedure and public competition, the documents under Art. 39, Para. 2 and 3 shall be presented, as in the cases of Para. 2, the price proposal shall be placed in the package in a separate opaque envelope, with inscription "Offered price parameters".

(5) In the procedures under Art. 18, Para. 1, p. 2-7 of the PPA at the pre-selection stage, the documents under Art. 39, Para. 2 shall be submitted.

(6) (Amend. – SG, 29/20, in force from 01.04.2020) When submitting offers in a restricted

procedure, competitive dialogue and innovation partnership, the documents under Art. 39, Para. 3 shall be presented. In the cases of Para. 2, the documents shall be accompanied by an inventory list and the price proposal shall be presented in a separate opaque envelope, labeled with "Offered price parameters".

(7) (Amend. – SG, 29/20, in force from 01.04.2020) When submitting initial offers in the procedures under Art. 18, Para. 1, items. 3 - 5 of the Public Procurement Act the documents under Art. 39, Para. 3 shall be submitted, where in the cases under Para. 2, they shall be accompanied by an inventory list.

(8) (Amend. – SG, 29/20, in force from 01.04.2020) In the cases of Para. 2, when the contracting authority awards the procurement on the basis of the initially submitted offers, in accordance with Art. 76, Para. 16 of the PPA, the price offer shall be presented in a separate envelope. In these cases, when the offer is submitted for more than one positions, the documents under Art. 39, Para. 3 shall be presented separately packed, if requested by the contracting authority.

(9) (Amend. – SG, 29/20, in force from 01.04.2020) When samples or models are presented after the offer, sent via the platform, on the packaging in addition to the information under Para. 2, the offer number shall also be indicated.

(10) (Amend. – SG, 29/20, in force from 01.04.2020) Where samples or models are submitted before the offer, submitted through the platform, the offer shall indicate the incoming number, by which the samples or models are registered in the office of the contracting authority, and when they are sent by postal or other courier service - the number of the consignment.

Art. 48. (1) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) In the cases under Art. 47, Para. 2, the received offers or applications to participate in a specific procurement shall be entered in a register containing:

1. sender of the offer, or the participation application;
2. N, date and time of receiving

3. (amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) the reasons for the return of the application for participation or the offer, where applicable;

4. (new - SG 17/19, in force from 01.11.2019) the data under p. 1 - 3 for the samples or models received, where applicable.

(2) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) In the cases under Art. 47, Para. 2, upon receipt of the application for participation or the offer, on the packaging, the data under Para. 1, item 2 shall be indicated, for which the bearer shall be issued a document. Applications for participation and offers, submitted after the deadline for receipt or in unsealed or defective packaging shall not be accepted.

(3) (Repealed, SG, 17/19, in force from 01.11.2019).

(4) (Repealed, SG, 17/19, in force from 01.11.2019).

(5) (Repealed, SG, 17/19, in force from 01.11.2019).

(6) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020). In the cases under Art. 47, Para. 2, the received applications for participation or offers shall be submitted to the chairman of the commission, for which a protocol shall be drawn up, with the data under para. 1. The protocol shall be signed by the transmitter and the chairman of the commission.

## **Section VI.**

### **Submission of Participation Applications, Offers and Projects in Electronic Way (Repealed, - SG, 17/19, in force from 01.03.2019)**

Art. 49. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 50. (Repealed, - SG, 17/19, in force from 01.03.2019)

## **Section VII.**

### **Commission for selection of the Applicants and Participants, Consideration and Assessment of the Offers and Conducting Negotiations and Dialogue**

Art. 51. (1) (Amend. – SG, 29/20, in force from 01.04.2020) The contracting authority shall appoint a commission under Art. 103, Para. 1 of the PPA, with an order, stating:

1. the staff names and the persons, selected for chairperson;
2. the terms for performing the work;
3. (suppl. – SG, 17/19, in force from 01.03.2019) place of storage of the documents, related to the public procurement by the finalization of the commission work, where applicable.

(2) The commission members under Para. 1 may also be external persons.

(3) In the cases under Para. 2 the contracting authority shall sign a written contracts with each of the persons, attracted as chairperson or commission members.

(4) The commission chairperson under Para. 1, p. 1 shall:

1. call the commission meetings and shall set a schedule for its operation;
2. inform the contracting authority about all the circumstances, which stop the fulfillment of the set tasks within the set terms;

3. (amend. – SG, 17/19, in force from 01.03.2019) be responsible for the correct storage of the documents, which are not in the platform by the finalization of the commission operation;

4. make proposals for replacement of commission members in case of established impossibility for some of them to fulfill their obligations.

(5) The commission members shall:

1. (amend. – SG, 29/20, in force from 01.04.2020) participate in the commission operation;
2. personally consider the documents, participate in the decision taking and assess the offers;
3. sign all the protocols and reports of the commission operation.

(6) The commission decisions shall be taken by an ordinary majority.

(7) Where a commission members does not agree with the decision and proposals of the commission, he shall sign the documents with reservation. The reservation shall be grounded in writing, where the motives shall be inseparable part of the report under Art. 103, Para. 3 of the PPA.

(8) (Amend. – SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) The members of the Commission shall sign a declaration on lack of circumstances under Art. 103, Para. 2 of the PPA after getting to know the applicants or participants.

(9) Every commission member under Para. 1 shall be obliged to withdraw where he finds that:

1. because of objective reasons he cannot fulfill his tasks;
2. (amend. – SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) during the procedure, there appeared a conflict of interests.

(10) The contracting authority shall be obliged to remove a commission member, about whom it is found that there is a conflict of interests with an applicant or participant.

(11) In the cases under Para. 9 and 10 the contracting authority shall select by an order a new member.

(12) In the cases under Para. 10, the actions of the removed member, related to consideration of the participation applications and/or offers and assessment of the offers of the participants, after occurrence of the found circumstances shall not be taken in consideration and shall be carried out by the new member.

(13) (suppl. – SG, 17/19, in force from 01.03.2019) The commission members shall be obliged to keep the circumstances in secret, which have become known in relation to their work in the commission, including protecting documents from unauthorized access.



Art. 52. (1) The commission and each of its members shall be independent while expressing opinions and taking decisions, where in their actions they shall only be led by the law.

(2) Every commission member shall be obliged immediately to report to the contracting authority the cases, in which he has been pressed to take unregulated decision in favour of an applicant or participant.

### **Section VIII.**

#### **Commission Actions while Considering Participation Applications and Offers (Title, amend. – SG, 17/19, in force from 01.03.2019)**

Art. 53. (Amend. – SG, 29/20, in force from 01.04.2020) Any change in the date and time of the opening of the applications or offers the applicants or participants shall be notified to by means of a communication on the platform. Where the applications to participate or offers have not been received by electronic means, the notification shall be published on the buyer's profile at least 48 hours before the newly determined time.

Art. 54. (1) (Amend., SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020). Applications for participation, offers or parts thereof, which have not been received by electronic means, shall be opened at a public meeting of the commission under Art. 103, Para. 1 of the PPA, which may be attended by the applicants or participants in the procedure, or their authorized representatives, as well as representatives of the mass media. The chairman of the commission shall, in the order, in which they are received, open the participation applications or offers and make known the names of the applicants, or participants, including the participants in the partnerships, where applicable, as well as the contents of the applications and offers.

(2) Amended, SG No. 17/1919, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) Where the participation applications or the offers are received through the platform, upon their decryption by the chairman of the commission, the names, of the applicants or participants, including the participants in the partnership, where applicable, as well as information on the date and time of submission, shall be automatically displayed in the contract public file.

(3) (Amend., SG, 17/19, in force from 01.03.2019, repealed – SG, 29/20, in force from 01.04.2020).

(4) (Amend., SG, 17/19, in force from 01.11.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020). In the cases of Para. 1, at least three of the members of the commission shall sign the proposal for the execution of the order and the envelope with the text "Proposed price parameters". The commission shall propose, that one of the other participants' representatives present, sign the proposal to execute the procurement and an envelope, labeled "Proposed Price Parameters", with which ends the public part of the commission meeting.

(5) (Amend., SG, 17/19, in force from 01.11.2019, repealed – SG, 29/20, in force from 01.04.2020).

(6) (repealed – SG, 29/20, in force from 01.04.2020).

(7) The commission shall consider the documents under Art. 39, Para. 2 for compliance with the requirements to the personal condition and selection criteria, set by the contracting authority and shall draw up a protocol.

(8) (Amend. – SG, 29/20, in force from 01.04.2020) If there are shortcomings, incompleteness or incompliance of the information, including irregularity or factual mistake or incompliance with the requirements of the persons condition or selection criteria, the commission shall indicate them in the protocol under Art. 7 and shall send the protocol to all applicants or participants.

(9) Within the term of up to 5 working days from receiving the protocol under Para. 7, the applicants and participants, in relation to which incompliance or lack of information has been found, may produce to the commission new UEDPP and/or other documents, which contain changed and/or

additional information. Additionally produced information may also cover facts and circumstances, which have occurred after the deadline for receiving offers or participation applications.

(10) The possibility under Para. 9 shall also apply to subcontractors and the third persons, indicated by the applicant or participant. The applicant or participant may replace a subcontractor or third person, where it is found that the subcontractor or the third person fail to meet the conditions of the contracting authority, where this leads to change of the technical offer.

(11) Where the changes refer to circumstances, different from the indicated ones under Art. 54, Para. 1, p. 1, 2 and 7 and Art. 55, Para. 1, p. 5 of the PPA, the new UEDPP may be signed by one of the persons, who may independently represent the applicant or participant

(12) After expiry of the term under Para. 9, the commission shall proceed to consideration of the additionally produced documents about the compliance of the applicants/participants with the requirements of the personal condition and selection criteria.

(13) While doing the preliminary selection and at each stage of the procedure, the commission may – if needed – request explanations about data, declared by the applicants and participants and/or check the declared data, including by requirement of information from other bodies and persons.

Art. 55. (1) In the procedure under Art. 18, Para. 1, p. 2 – 7 of the PPA, the commission shall produce a protocol with the results from the preliminary selection of the contracting authority. Within the term of 5 working days from the date of accepting the protocol, the contracting authority shall announce with a decision the applicants, which will be invited to produce offers – or to participate in the negotiations or in the dialogue. In the decision shall also be included the applicants, who fail to meet the announced by the contracting authority requirements and the grounds for that.

(2) The invitation for production of offers or for participation in negotiations or dialogue in the procedures under Art. 18, Para. 1, p. 2- 7 of the PPA shall be submitted to the selected applicants within 3 day term from:

1. (amend. – SG, 17/19, in force from 01.03.2019) expiry of the term for appeal – where the decision has not been appealed, or it has been appealed, but no request has been made for imposing a temporary measure;

2. the enforcement of the determination, which has rejected the request for temporary measure;

3. the enforcement of the decision, where a temporary measure has been imposed.

(3) (Suppl. – SG, 17/19, in force from 01.03.2019) To the procedures under Art. 18, Para. 1, p. 2-7 of the PPA the contracting authority shall not be able to invite to submit offers or participate in negotiations or dialogue persons, who have not submitted a participation application or applicants, who fail to meet the personal condition requirements and the selection criteria.

Art. 56. (1) (Repealed – SG, 29/20, in force from 01.04.2020).

(2) (Amend. – SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) The commission shall consider the offers of the participants, who meet the requirements for personal status and the selection criteria, and check for the compliance of the proposals with the pre-announced conditions.

(3) (New, SG, 17/19, in force from 01.03.2019) When the methodology for complex assessment includes indicators under Art. 70, Para. 7, item 3, letter “b” of the PPA, the assessments awarded by the commission shall be motivated.

(4) (Former Para. 3 – SG, 17/19, in force from 01.03.2019) Where the contracting authority has admitted production of variants in the offer, the commission shall not reject a variant only under the grounds that the selection of this variant would lead to signing a service contract instead of a supply contract or vice versa.

Art. 57. (1) (Amend. – SG, 29/20, in force from 01.04.2020). The Commission shall open the

price proposals of participants, whose technical proposals meet the requirements of the contracting authority.

(2) (Amend. – SG, 29/20, in force from 01.04.2020). Where a part of the assessment indicators covers parameters of the technical offer, the commission shall open the price proposal after it has assessed the offers under the other indicators.

(3) (New – SG, 29/20, in force from 01.04.2020) At least 24 hours before the date of the opening of the price proposals, the participants shall be informed of the date and time of the opening, by means of automatically generated messages on the platform. Within that period, the commission shall send to the participants the results of the evaluation of the technical indicators through the platform, where applicable. The price offers under Para. 1 shall be automatically displayed in the public file of the procurement, after decryption by the chairman of the commission.

(4) (Amend. – SG, 17/19, in force from 01.03.2019, former Para. 3 – amend. – SG, 29/20, in force from 01.04.2020) Not later than 2 working days before the date of opening the price offers, the commission shall announce through an announcement in the buyer's profile the date, time and place of opening. At the opening, the persons of Art. 54, Para. 1 may be present. The commission shall announce the results of the assessment of the offers under the other indicators, open the price offers and announce them.

Art. 58. (1) The commission shall rate the participants on the rate of compliance of the offers with the preliminary announced conditions by the contracting authority.

(2) Where the complex assessments of 2 or more offers are equal, priority shall have the offer, which contains better offers, estimated in the following order:

1. lower offered price;
2. better offer for the amount of the costs, compared in descending order according to their weight;
3. better offer under indicators, apart from the ones, indicated in p. 1 and 2, compared in descending order according to their weight.

(3) (Amend. – SG, 29/20, in force from 01.01.2021) When the participants cannot be ranked in accordance with Para. 2, or if the award criterion is the lowest price and that price is offered in two or more offers, the contractor shall be selected through the platform on a random basis, and in the cases under Art. 54, Para. 1 - through a lot, held by the commission, which may be attended by representatives of the participants.

Art. 59. In the cases under Art. 46, Para. 5 of the PPA, the commission shall apply the objective and non-discrimination criteria or rules for determining the concrete separate positions, which will be awarded to one contractor after the rating under Art. 58.

Art. 60. (1) (Amend. – SG, 17/19, in force from 01.03.2019) The commission shall draw up a report on the results from its work, which shall contain:

1. composition of the commission;
2. the applicants and the participants in the procedure;
3. rating of the participants and proposal for signing contract with the participant, rated at the first place where applicable;
4. in case of termination of the procedure, indication of the legal ground and relevant motives;
5. where applicable, a proposal to remove candidates or participants together with the relevant motives;

6.(amend. – SG, 29/20, in force from 01.04.2020) description of the presented samples or models – where applicable.

(2) (Repealed, - SG, 17/19, in force from 01.03.2019).

(3) (Amend., SG, 17/19, in force from 01.03.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020) The commission report shall be signed by all members and shall be provided to the contracting authority, together with all the documentation, including all documents, drawn up in the course of the commission work, such as protocols, evaluation tables, peculiar opinions, as well as presented samples, models and / or photographs, etc.

(4) (Repealed, - SG, 17/19, in force from 01.03.2019).

Art. 60a. (New, SG, 17/19, in force from 01.03.2019) The protocol of the commission under Art. 181, Para. 4 of the Public Procurement Act shall indicate the number and date of the protocols during the selection of the participants, the examination, the evaluation and the ranking of the offers and shall describe the proposals of the commission for the decision by the contracting authority.

Art. 61. (Amend. – SG, 29/20, in force from 01.04.2020) In the cases under Art. 104, Para. 2 and Art. 181, Para. 2 of the PPA, the chairman of the commission shall decrypt the offers, submitted through the platform and open the price proposals, together with the documents under Art. 39, Para. 2 and Para. 3, item 1. In case of offers, submitted outside the platform:

1. the commission chairperson shall open the offers in the order of their receiving and shall announce their contents, including the offers of the participants under the relevant indicators for assessment of the offers;

2. the technical and price proposals of each of the participants shall be signed by at least three members of the commission and shall be offered by one of the attending representatives of the other participants to sign them, with which the public part of the meeting shall end;

(2) The commission shall select a contractor of the procurement, where it shall:

1. examine the submitted offers, evaluate according to the selected award criterion those of them, which correspond to the previously announced conditions, and shall classify them;

2. examine the documents, relating to the personal status and selection criteria of the participants in descending order from the evaluations, received;

3. when it finds missing, incomplete or inconsistent information, including irregularity or factual error, or non-compliance with the personal requirements or selection criteria, the commission shall notify the participant in writing.

(3) Within 5 working days of receipt of the notification, the participant may submit new, or other documents, containing changed and / or supplementary information.

(4) The commission shall examine, in the order of rating the offers, the documents, relating to the personal situation and the selection criteria, including the additional ones, submitted in accordance with Para. 3 until compliance with the personal status requirements and the selection criteria for two participants, ranked first and second. Documents, relating to the personal status and selection criteria of the other participants, whose offers are ranked shall not be considered.

## **Section IX.**

### **Actions of the Commission in Consideration Participation Applications or Offers, Submitted in Electronic Way (Repealed, - SG, 17/19, in force from 01.03.2019)**

Art. 62. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 63. (Repealed, - SG, 17/19, in force from 01.03.2019)

## **Section X.**

### **The Conducting Procedures, which contain Negotiations Stage (Title, amend. – SG, 17/19, in force from 01.03.2019)**

Art. 64. (1) In the decision for opening a procedure under Art. 18, Para. 1, p. 8 - 10 and p. 13 of the PPA, the contracting authorities shall also indicate the persons, who will be invited for participation in the negotiations, unless in the cases under Art. 79, Para. 1, p. 7 and 8, Art. 138, Para. 1, p. 2, Art. 164,

Para. 1, p. 9 and 10 of the PPA, as well as in the cases under Art. 182, Para. 1, p. 3 of the PPA.

(2) The decision under Para. 1, the contracting authority shall approve a participation invitation in the procedure, which shall contain:

1. subject of the procurement, including quantity and/or volume and description of certain positions, where applicable;
2. requirements of the contracting authority for fulfillment of the procurement;
3. the awarding criterion for the procurement, and where applicable – also the indicators for a complex assessment with their relevant weight, and where this is impossible to be objective, arranged according to importance in descending order, as well as the methods for a complex assessment of the offers;
4. place and date for conducting the negotiations;
5. other requirements upon estimation of the contracting authority.

(3) The participation information in the procedure shall be submitted to the persons, indicated in the decision under Para. 1.

Art. 65. (1) (Amend., SG, 17/19, in force from 01.03.2019) The contracting authority may not apply Art. 64, Para. 2 and 3 where he signs contracts under:

1. Art. 79, Para. 1, items 3 and 4, Art. 164, Para. 1, items 3 and 4 and Art. 182, Para. 1, item 1 of the Public Procurement Act and there is only one participant invited;

2. Art. 79, Para. 1, items 7 and 8 and Art. 164, Para. 1, items 9 and 10.

(2) (Amend., SG, 17/19, in force from 01.03.2019, suppl. – SG, 29/20, in force from 01.04.2020) In the cases under Para. 1 the contracting authority shall specify the necessary information for conducting the procedure in the decision for its opening and after its entering into force he shall conclude a public procurement contract, apart from the cases under Art. 112, Para. 8 of the PPA. Upon signing the contract, the selected contractor shall submit, in addition to the documents under Art. 112, Para. 1, item 2 of the Public Procurement Act, also a declaration of lack of circumstances under Art. 54, Para. 1, item 7 of the Public Procurement Act.

(3) Where a procedure is held under Art. 79, Para. 1, p. 8 and Art. 164, Para. 1, . 10 of the APP in sale of the property of trade companies, declared in liquidation or insolvency, the contract shall be signed under Part Three of the Commerce Act or under the applicable legislation – in foreign persons.

Art. 66. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 67. (1) In the procedures which contain a stage of negotiations and several participants are invited, the sequence of conducting the negotiations shall be defined by the commission by drawing a lot, where representatives of the invited participants may be present

(2) The commission shall hold negotiations with each of the participants separately, while sticking to the initially defined conditions and requirements for fulfillment of the procurement. The results from the negotiations shall be expressed in a protocol, which shall be signed by the commission and the participant.

(3) The commission shall not announce the achieved agreements with a participant before the other participants, unless he has given explicit consent.

(4) The commission shall conduct the negotiations with each of the participants in the same way, including providing them the same information and the same questions.

(5) (Repealed, - SG, 17/19, in force from 01.03.2019)

(6) After conducting the negotiations, the commission shall draw up a report, which shall contain the information under Art. 60, Para. 1.

## **Chapter six.**

### **CONTRACT FOR PUBLIC PROCUREMENT. CONTRACT FOR SUBCONTRACTING. FRAMEWORK AGREEMENT**

## **Section I.**

### **Contract for Public Procurement. Subcontracting Contract**

Art. 68. (1) (Amend. – SG, 29/20, in force from 01.04.2020) After the enforcement of the selection decision of a contractor, the parties shall agree upon the date and way of signing the contract.

(2) Where the selected participants for contractor refuses to sign a contract, the contracting authority shall terminate the procedure or shall select as contractor the second rated participant. For refusal shall be accepted failure to appear on the agreed data, unless the failure to appear is because of reasonable grounds, about which the contracting authority has been notified in time.

Art. 69. (Amend. – SG, 29/20, in force from 01.04.2020) The public procurement contract shall contain at least the following information:

1. data about the parties, date and place of signing the contract;
2. subject;
3. price, way and terms of payment;
4. term or continuity of the procurement fulfillment, and in a stage fulfillment – interim terms;
5. rights and duties of the parties, including an obligation for the contractor to sign a contract for subcontracting, where he has declared in his offer using subcontractor;
6. where applicable – the envisaged options and renewals, including volume and value, as well as the conditions and procedure for their realization;
7. size and conditions for keeping and releasing the guarantees, related to fulfillment of the contract, including release in stages;
8. procedure for accepting the work;
9. conditions and procedure for termination.

Art. 70. Where the selected contractor is a non-personified partnership of natural and/or legal persons and the contracting authority has not envisaged in the announcement requirement for creation of legal person, the contract for public procurement shall be signed after the contractor produces before the contracting authority a certified copy of a certificate for tax registration and registration under BULSTAT or equivalent documents under the legislation of the state, in which the partnership is established.

Art. 71. The transfer of the agreed result shall be documented by a protocol, which shall be signed by representatives of the contracting authority and the contractor on a public procurement contract.

Art. 72. (Amend., SG, 17/19, in force from 01.03.2019) For the purpose of providing the information under Art. 29, Para. 2 of the Public Procurement Act, the public procurement contract shall be deemed to be fulfilled with the last action, connected with the provision of the agreed result or the last payment due - whichever is the latest. In cases, where there is a warranty period, it shall not be taken into account.

Art. 73. The contracting authority shall have the right to terminate without notification:

1. a public procurement contract or framework agreement in occurrence of the circumstances under Art. 118, Para. 1, p. 2 or 3 of the APP;
2. a contract, signed on the basis of a framework agreement, made void by a judicial procedure in the cases of Art. 119, Para. 2 of the APP.

Art. 74. (Amend., SG, 17/19, in force from 01.03.2019, repealed – SG, 29/20, in force from 01.04.2020)

Art. 75. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 76. (1) The contracting authority shall return all the samples, whose entirety and commercial appearance have not been violated within the term of up to 10 days from signing the contract or from termination of the procedure. The contracting authority may keep the samples of the participant,

with whom the public procurement contract has been signed, by the finalization of the contract.

(2) Not returned samples shall be subject to payment to the persons, who have produced them according to their value, determined in one of the following ways:

1. for objects with offered single value – according to the indicated value in the offer of the relevant participant;

2. for objects, whose value cannot be defined under p. 1, but there is an official catalogue or price list, maintained by the relevant participant, according to the single value, indicated in the relevant catalogue or price list;

3. for objects, whose single value cannot be defined under p. 1 or 2, on the basis of a proved value, taking in consideration the needed costs for labour and materials or the supply price.

## **Section II. Framework Agreement**

Art. 77. (1) (Repealed, - SG, 17/19, in force from 01.03.2019)

(2) (Amend. – SG, 29/20, in force from 01.04.2020) Where the contracting authority has indicated, that they will sign a framework agreement with more contractors and for some of the selected contractors there is a circumstance under Art. 112a, Para. 2 of the PPA, the contracting authority may invite the next participant in the ranking, where applicable.

Art. 78. (Amend., SG, 17/19, in force from 01.03.2019) Where the contracting authority carries out an internal competitive selection, on the basis of a framework agreement, the time limit for receipt of offers under Art. 82 Para. 4, item 2 of the Public Procurement Act may be agreed between the contracting authority and the selected contractors. Where no agreement is reached, the time limit shall be negotiated by the contracting authority and the selected contractors, and may not be shorter than 7 days, and in the cases under Art. 93 of the Public Procurement Act - not shorter than 5 days.

## **Chapter seven. RESERVED PROCUREMENT**

### **Section I. Defining the List under Art. 12, Para. 1, p. 1 of the APP**

Art. 79. (1) The goods and services in the list under Art. 12, Para. 1, p. 1 of the PPA shall be indicated through a code and the relevant name under the Common Procurement Vocabulary.

(2) The Minister of Labour and Social Policy shall introduce to the Council of Ministers a proposal for adoption or change of the list under Para. 1, which shall indicate as follows:

1. conducting national policies, strategies or programmes, including concrete objectives, activities and mechanisms, for whose fulfillment it is needed the procurements to be reserved;

2. the capacity possibilities of the persons under Art. 12, Para. 1, p. 1 of the PPA;

3. the reflection over the competition form reserving the procurements for the relevant goods or services.

### **Section II. Awarding Reserved Procurements**

Art. 80. (1) (Amend., SG, 17/19, in force from 01.03.2019) Where the public procurement contains objectively divisible parts, some of which are included in the list under Art. 12, Para. 1, item 1 of the Public Procurement Act, the contracting authority shall be obliged to separate these parts in one or several procurements, which preserve the participation of specialized enterprises or cooperatives of people with disabilities. In this case, each procurement shall be awarded in the order, applicable to the

total value of all procurements, except for the cases under Art. 21, Para. 6 of the Public Procurement Act.

(2) The contracting authority shall not reserve the public procurement where it contains objectively inseparable parts and the major subject is not included in the list under Art. 12, Para. 1, p. 1 of the APP.

(3) In defining the resource under Art. 12, Para. 6 of the APP in the volume of the own resource the needed costs shall be included for raw materials, energy, fuels, water supply, licenses and etc., notwithstanding of the fact that their suppliers are not specialized undertakings or cooperatives of disabled people.

(4) Where specialized undertakings or cooperatives of disabled people provide to the contracting authority without substantial additional processing goods, supplied by other persons, fulfillment of activities with own production or resource shall not be present.

Art. 81. (1) In a procedure for awarding reserved procurement may also participate other interested persons.

(2) Where in a procedure for awarding reserved procurement, participation applications, or offers by persons, for whom the procurement has been reserved have been submitted, also by other persons, firstly shall be considered the participation applications and/or offers of the persons, for whom the procurement has been reserved. The participation applications and/or offers of the remaining persons shall be considered only if there are not admitted offers of persons, for whom the procurement has been reserved.

## **Chapter eight. COMPETITION FOR A PROJECT**

### **Section I. General Provisions**

Art. 82. (Amend. – SG, 17/19, in force from 01.03.2019) (1) The minimum time limit for the receipt of projects shall be 30 days from the date of sending for publication of the notice of project contest, respectively from sending invitations to approved applicants in a restricted competition.

(2) Where, following a project contest, the contracting authority intends to award a procurement under Art. 79, Para. 1, item 9 of the Public Procurement Act, this shall be stated in the announcement for the project contest.

Art. 83. (Amend., SG, 17/19, in force from 01.03.2019) (1) The minimum time limit for receipt of applications for participation in a restricted competition shall be 30 days from the date of sending for publication of the call of competition for a project.

(2) In case of a restricted competition, the contracting authority may restrict in the call the number of participants, who will be invited to produce projects, but their number shall not be smaller than 5.

Art. 84. (1) (Suppl. – SG, 17/19, in force from 01.03.2019) Every person, who participates in a project competition shall have the right to produce only one project, drawn up in the Bulgarian language.

(2) In a project competition one natural or legal person may participate only in one partnership.

(3) A person, who participates in a partnership or has given consent to be subcontractor of another applicant or participant, shall not be able to submit independent application for participation or a project.

Art. 85. (1) The contracting authority shall organize the storage of the received projects in a way, which guarantees their entirety and the anonymity of the author.

(2) (Repealed – SG, 17/19, in force from 01.03.2019)



## **Section II. Jury**

Art. 86. (1) At least 14 days before the deadline for receiving the competition projects, the contracting authority shall announce the names of the persons, nominated for members of the jury and for reserve members, if they have not been mentioned in the call.

(2) (Suppl. – SG, 29/20, in force from 01.04.2020) every interested person in participation in the project competition may submit a written grounded objection through the platform against a nominated jury member and against a reserve member, with whom he is in relations, which would arouse conflict of interests, within 3 day term from the announcement of the nominated persons.

(3) Where the objections have been submitted within the term under Para. 2 and are reasonable, within 3 day term the contracting authority shall replace the relevant person, nominated for a jury member or for a reserve member. The final name composition of the jury and of the reserve members shall be announced latest by the deadline for receiving the competition projects.

(4) The contracting authority shall announce the actions under Para. 1 and 3 through the buyer's profile.

Art. 87. The contracting authority shall appoint a jury with an order, which shall contain:

1. the names and the person, determined for chairperson;
2. the terms for performing the work;

3. (suppl. – SG, 17/19, in force from 01.03.2019, suppl. – SG, 29/20, in force from 01.04.2020) place of storage of the documents, related to the project competition, submitted outside the platform, by finalization of the jury work, where applicable.

Art. 88. (1) The jury shall consist of odd number of members. Where from the competition participants is required a certain professional qualification or capacity, at least on third of the jury members must have the same or equivalent qualification or capacity. The jury members may also be external persons.

(2) The jury shall not be given instructions in relation to assessment of the projects. Its decisions about the assessments shall be independent and final.

(3) The jury members shall be obliged to keep in secret the circumstances, which they have known in relation to their work, for which they shall produce written declarations, as well as for lack of the circumstances under Art. 80, Para. 7, sentence two of the APP.

(4) (Amend. – SG, 29/20, in force form 01.04.2020) The jury sessions shall be recorded, and after finalization of their work, a report shall be drawn up.

(5) Where needed, the jury shall propose to the contracting authority to assign expertise, drawn up by external persons – experts.

## **Section III. Conducting Open Project Competition**

Art. 89. (1) (Amend., SG, 17/19, in force from 01.11.2019, suppl. – SG, 29/20, in force from 01.04.2020) The competition project and the documents under Art. 39, Para. 2 shall be submitted through the platform, in accordance with the rules under Art. 229, Para. 1, item 12 of the Public Procurement Act and in compliance with the requirements, set by the contracting authority.

(2) (Amend., SG, 17/19, in force from 01.11.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020) When the competition project or parts thereof are not submitted through the platform, they shall be presented in sealed opaque packaging, on which the following shall be indicated:

1. (amend. – SG, 29/20, in force from 01.04.2020) the participant's name;
2. correspondence address, tel. N and if possible – fax N and e-mail address;
3. the name of the competition.

(3) (Amend., SG, 17/19, in force from 01.11.2019) Upon receipt of the documents under Para. 2, on the packaging the data under Art. 48, Para. 1, item 2 shall be placed, for which a document shall be issued to the carrier. Contest projects, which have been presented after the expiry of the deadline for receipt, or are in unsealed package or in a package with impaired integrity shall not be accepted.

Art. 90. (1) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) Before the examination of the competition projects by the jury, their anonymity shall be ensured by officials, determined by the contracting authority.

(2) The persons under Para. 1 shall be obliged to keep in secret the circumstances, become known to them in relation to the actions under Para. 1, for which they shall produce written declarations.

(3) (Amend. – SG, 29/20, in force form 01.04.2020) In the cases under Art. 89, Para. 1, officials shall ensure the anonymity of projects, while respecting the rules of the platform. In the cases under Art. 89, Para. 2, the officials shall open the packages and check for compliance with the requirements of Art. 89, Para. 3, as well as the status of the competition projects.

(4) (New - SG, 29/20, in force form 01.04.2020) When some of the projects are found to be in a way, which may breach of anonymity, the officials shall submit them to the contracting authority, accompanied by a report, describing the non-compliances found, and suggest, that the projects should not be allowed to participate in the procedure.

(5) (Former Para. 4, amend. - SG, 29/20, in force form 01.04.2020) Each competition project shall be assigned with a unique number, which is assigned to all received documents and / or materials.

(6) (Former Para. 5, - amend. - SG, 29/20, in force form 01.04.2020) The officials shall draw up a list of the numbers and of their corresponding participants' names. The list shall be placed in a non-transparent envelope and shall be sealed.

(7) (Former Para. 6, - amend. - SG, 29/20, in force form 01.04.2020) The materials under Para. 5 shall be given to the jury.

Art. 91. (1) The jury shall consider and assess the produced projects at closed sessions on the basis of the criteria, indicated in the call and in the competition documentation and shall rate the projects, which meet the preliminary announced conditions.

(2) During consideration and assessment of the projects, the jury – if needed – shall note issues, which need explanation in relation to different aspects of the projects.

(3) (Amend., SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) The results of the evaluation and ranking of the projects, as well as the issues under Para. 2 shall be reflected in a record, which shall be transmitted to the officials.

(4) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force form 01.04.2020) After submission of the protocol to the jury, access to the documents under Art. 39, Para. 2 shall be provided for the participants, whose projects are ranked.

(5) (Amend., SG, 17/19, in force from 01.03.2019, amend. - SG, 29/20, in force form 01.04.2020) The jury shall consider the documents, by the order of Art. 54, Para. 7 - 9 and 11 – 13, and the exchange of information with participants shall be ensured through officials. If necessary, the issues under Para. 2 may also be clarified. The jury shall draw up a record on the results of the actions.

(6) (amend. - SG, 29/20, in force form 01.04.2020) After finalization of their work, the jury shall draw up a report, which shall contain:

1. the jury composition;
2. the participants in the competition;
3. the ranked projects and participants, proposed for the award;
4. projects, proposed to be excluded from participation, as they do not meet the pre-announced conditions, where applicable;
5. the participants, proposed for suspension, where applicable;
6. the grounds for the proposals under p. 4 and 5.

(7) (Amend., SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from

01.04.2020) The report shall be signed by all members of the jury and shall be provided to the contracting authority, together with all the documentation, including all documents, drawn up in the course of its work, such as protocols, evaluation tables, motives for special opinions, presented models and / or pictures, etc.

#### **Section IV. Conducting Restricted Project Competition**

Art. 92. (1) (Amend., SG, 17/19, in force from 01.11.2019) The application for participation in a restricted project contest shall contain the documents under Art. 39, Para. 2 and shall be produced through the platform.

(2) (Repealed - SG, 17/19, in force from 01.11.2019).

(3) The jury shall carry out preliminary selection under Art. 54, Para. 7 - 9 and Para. 11 - 13 and shall produce a protocol with the results from the selection to the contracting authority.

(4) Within the term of 5 working days from the date of accepting the protocol, the contracting authority shall announce with a decision the applicants, who will be invited to produce competition projects. The decision shall also include the applicants, which do not meet the announced by the contracting authority requirements and the grounds for that.

(5) The contracting authority shall submit invitations of the approved applicants to produce projects under Art. 55, Para. 2.

(6) (Amend. - SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) The project shall be submitted under Art. 89.

Art. 93. (1) (Amend., SG, 17/19, in force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) Before the examination of the competition projects by the jury, their anonymity shall be ensured, while observing the requirements under Art. 90.

Art. 94. (Amend. – SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) The jury shall consider and assess the projects in accordance with Art. 91, Para. 1 - 3. The issues under Art. 91, Para. 2 shall be clarified after ranking the projects.

(2) The jury shall finalize its work under Art. 91. Para. 6 and 7.

#### **Section V. Finalization of the Project Competition Procedure**

Art. 95. (Amend., SG, 17/19, in force from 01.03.2019) Within 10 days from the validation of the report, the contracting authority shall issue a decision for rating the participants in the competition, which shall also indicate the assessed awards and payments, where applicable.

#### **Chapter nine.**

#### **RULES FOR AWARDING PUBLIC PROCUREMENT THROUGH COLLECTING OFFERS WITH A CALL OR AN INVITATION TO CERTAIN PERSONS (TITLE, AMEND. – SG, 17/19, IN FORCE FROM 01.03.2019)**

Art. 96. (Repealed, - SG, 17/19, in force from 01.11.2019).

Art. 96a. (New – SG, 17/19, in force from 01.03.2019) (1) (In force from 01.11.2019, amend. – SG, 29/20, in force from 01.04.2020) When awarding a procurement, the participants submit the documents under Art. 39, Para. 2 and 3, which shall be encrypted together.

(2) (Amend. – SG, 29/20, in force from 01.04.2020) When the platform is not used when submitting parts of the offer, the procedure of Art. 47, Para. 2, 9 and 10 and Art. 48, Para. 1, 2 and 6 shall be applied.

(3) (Suppl. – SG, 29/20, in force from 01.04.2020) By submitting an offer, the participants shall

agree with all the conditions of the contracting authority, incl. with the term of validity of the offers and the draft contract.

Art. 97. (1) (Amend., SG, 17/19, in force from 01.03.2019) The contracting authority shall appoint an odd number of persons in a commission to examine and evaluate the received offers or to conduct negotiations.

(2) (Amend., SG, 17/19, in force from 01.03.2019) For the members of the commission under Para. 1, the requirements under Art. 51, Para. 8 - 10 and 13 shall apply. Where a member of the commission cannot fulfill his obligations for objective reasons, or a conflict of interests has arisen for him, the contracting authority shall appoint with an order a new member. In cases, where there is a conflict of interests, the actions of the expelled member shall not be taken into account and shall be re-performed by the new member.

(3) (Amend. - SG, 29/20, in force from 01.04.2020). Offers, received through the platform shall be opened in accordance with Art. 54, Para. 2.

(4) (Amend., SG, 17/19 (\*), amend. - SG, 29/20, in force from 01.04.2020) Where the offers are not received by electronic means, the commission shall open them by the order of their receipt and announce the price proposals. Representatives of participants may be present when performing these actions. The technical proposal of each of the participants shall be signed by at least three members of the commission and it is proposed, that one of the other representatives of the other participants present to sign it, thus ending the public part of the meeting.

(5) (Amend., SG, 17/19, in force from 01.03.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020) Where it establishes a lack, incompleteness or inconsistency of the information, including an irregularity or factual error or non-compliance with the requirements for the personal status or the selection criteria, the commission shall notify the participant through a communication, sent to the user's profile of the person, determined for contact of the procurement, requesting to remove the incompleteness or inconsistencies within 3 working days.

(6) (Amend., SG, 17/19 (\*)) Prior to the approval of the protocol under Art. 192, Para. 4 of the PPA, the contracting authority shall return it to the commission, when it finds a violation in its work, which can be removed. The protocol shall be sent to the participants via communication on their platform profiles.

## **Chapter ten.**

### **FILE OF THE PUBLIC PROCUREMENT**

Art. 98. (1) The file for each public procurement apart from the documents and information under Art. 121, Para. 2 of the PPA shall also include:

1. (new – SG, 17/20, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) information to determine the estimated value;

2. (former point 1 – SG, 17/20, in force from 01.03.2019) the order for the appointment of the commission for pre-selection of the applicants and the participants, examination and evaluation of the offers or for the negotiation and dialogue, including all orders, amending or supplementing its composition;

3. (Former p. 2, amend. and suppl. – SG, 17/19, in force from 01.03.2019) a reference or except from the register for the received participation applications and/or offers, where applicable;

4. (Former p. 3, – SG, 17/19, in force from 01.03.2019) the protocol under Art. 48, Para. 6;

5. (Former p. 4, – SG, 17/19, in force from 01.03.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020) exchange of information between the contracting authority and other persons or bodies in relation to the preparation and conducting the procedure, collecting offers with an

announcement or invitation to certain persons, as well as with the fulfillment of the contract;

6. (Former p. 5, – SG, 17/19, in force from 01.03.2019) information about the appeal of the procurement, including the appeal, opinions on it, decision and determinations of the bodies, responsible for the appeal;

7. (Former p. 6, – SG, 17/19, in force from 01.03.2019) the documents, produced by the participant, selected for contractor before signing the contract;

8. (Former p. 7, – SG, 17/19, in force from 01.03.2019) a document, which certifies the return of the samples, where applicable;

9. (Former p. 8, – SG, 17/19, in force from 01.03.2019) the unique numbers, under which the documents have been entered in the PPA for control, where applicable;

10. (Former p. 9, – SG, 17/19, in force from 01.03.2019) information about the movement of the documents in the file.

(2) The information in the file of the public procurement shall be organized in a way, which shall give opportunity for chronologic traceability of all the action of the responsible officials in relation to the preparation, conducting, finalization and accounting the fulfillment of the public procurement.

(3) (Amend. - SG, 17/19, in force from 01.03.2019) The contracting authority shall determine one or more officials, who shall be responsible for the contents of the file and shall document the movement of the documents, contained in it.

(4) The contracting authority shall provide conditions and shall be responsible for the storage of the file of the public procurement in the terms under Art. 122 of the PPA.

### **Chapter eleven.**

#### **AWARDING PUBLIC PROCUREMENTS BY SECTOR CONTRACTING AUTHORITIES**

Art. 99. (1). (Amend. – SG, 29/20, in force from 01.04.2020) The average turnover under Art. 124, Para. 2, item 2 of the PPA and the average value of the aggregate production under Art. 125, Para. 2, item 2 and Art. 126, Para. 3, item 2 of the PPA shall be determined on the basis of as the arithmetic value, separately for the previous three years and respectively for the previous months of the current year.

(2) The admissible amount of the deliveries under Art. 124, Para. 2, item 2, Art. 125, Para. 2, item 2 and Art. 126, Para. 3, item 2 of the Public Procurement Act shall be determined on the basis of data for:

1. the previous three financial years ended - from the annual financial statements;

2. the current financial year - from the interim financial statements, and when there is no obligation to prepare the interim financial statements - from the accounting registers.

(3) The average turnover under Art. 124, Para. 2, item 2 of the Public Procurement Act shall be determined by summing up the data for the last three financial years and dividing the obtained result into three, and for the period of the current year - arithmetic average for the past months.

Art. 100. (Repealed – SG, 29/20, in force from 01.04.2020)

Art. 101. (1) (Amend. - SG, 17/19, in force from 01.03.2019, former text of Art. 101 – SG, 29/20, in force from 01.04.2020). For inclusion in a qualification system the interested persons shall submit the documents under Art. 39, Para. 2.

(2) (New - SG, 29/20, in force from 01.04.2020). In the cases of Art. 141, Para. 9 of the PPA in the platform in the account of the contracting authority, who uses a qualification system, created by another person, a separate electronic file shall be set up.

(3) (New - SG, 29/20, in force from 01.04.2020). The agreement under Art. 141, Para. 9 of the

PPA shall be published in the files of the qualification systems of the contracting authorities.

Art. 102. (Repealed - SG, 29/20, in force from 01.04.2020)

## **Chapter twelve.**

### **AWARDING PUBLIC PROCUREMENTS IN THE DEFENSE AND SECURITY AREAS**

Art. 103. (1) Before opening the procedure for awarding public procurement in the Defence and Security areas, the contracting authority shall be obliged to take in consideration the grounded written opinion of the relevant competent body under the Protection of Classified Information Act on presence of qualified information.

(2) With awarding public procurements, which contain or require classified information, the members of the commission for performing selection of the applicants and participants, consideration and assessment of the offers and conducting negotiations and dialogue may be only persons, who have permit for access to classified information under the requirements of the Protection of Classified Information Act.

Art. 104. Where the contracting authority has defined additional term under Art. 158, Para. 4 of the PPA, he shall wait for the result form the investigation for access to classified information, where if needed he shall be obliged to extend the additional term to the finalization of the investigation.

Art. 105. (Amend. – SG, 17/19, in force from 01.03.2019) The persons under Art. 175, Para. 2 of the PPA, shall send for publication the announcements for selection of subcontractor for procurements in the Defence and Security areas.

Art. 106. (1) The participation application in a procedure under Art. 18, Para. 1, p. 2, 5, 6 and 10 of the PPA shall contain:

1. a list of the documents;

2. data about the UIC under Art. 23 of the Act on the Commercial Register, BULSTAT and/or any other identification information in compliance with the legislation of the state, in which the applicant or participant has been established, as well as address, including e-mail address for correspondence while conducting the procedure;

3. declarations for the circumstances under Art. 157, Para. 1 and Para. 2, p. 5 of the PPA;

4. declarations for the circumstances under Art. 157, Para. 2, p. 1-4 of the PPA, where applicable;

5. evidences under Art. 158, Para. 7 of the PPA;

6. declaration for lack of relation with another applicant in the procedure;

7. (amend. – SG, 17/19, in force from 01.03.2019) in participants – partnerships, a copy of the documents under Art. 37, Para. 4 for establishment of the partnership, as well as a document, which shows the person, representing the participants in the partnership.

(2) The offer in the procedure under Art. 18, Para. 1, p. 2, 5, 6 and 10 of the PPA shall contain:

1. the documents and information under Art. 39, Para. 3, and

2. where applicable:

a) (amend. – SG, 17/19, in force from 01.03.2019) the type and share of the works, which will be awarded to subcontractors, or

b) the proposed subcontractors and documents, which prove the observation of the selection requirements for each of them according to the type and share of their participation.

3. (new – SG, 17/20, in force from 01.03.2019) document of authorization, where the person, submitting the offer is not the legal representative of the participant.

(3) Where a participant in the procedure is a partnership, which is not a legal person:

1. (amend. - SG, 17/20, in force from 01.03.2019) the documents under Para. 1, p. 2 shall be produced for each natural or legal person, including the partnership;

2. (amend. - SG, 17/20, in force from 01.03.2019) the documents under Para. 1, p. 5 shall be

produced only for the participants, through which the partnership proves the compliance with the selection criteria.

(4) (Suppl. - SG, 17/20, in force from 01.03.2019) The declarations under Para. 1, p. 3 shall be produced by each of the persons under Art, 40, Para. 1, as well as by the person, who upon authorization represents the applicant or participant, if any.

(5) (Amend. - SG, 17/20, in force from 01.03.2019) Where the applicant is a legal person, the declarations under Para. 1, p. 4 may be produced by a person, who may independently represent the relevant economic subject.

(6) The declarations under Para. 4 and 5 shall include information about the public registers, which contain the indicated circumstances or the competent body, which according to the legislation of the state, in which the applicant is established, shall be obliged to produce information about these circumstances officially to the contracting authority.

(7) (New, SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force form 01.04.2020) By submitting an offer, it shall be considered, that the participants agree with all the conditions of the contracting authority, incl. with the term of validity of the offers and the draft contract, determined by him.

(8) (Former Para. 7 - SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020), The contracting authority may require from the applicants or participants, when considering the documents, related to participation in a public procurement, information about the legal-organizational form, in which they carry out their activity, as well as a list of all obliged persons within the meaning of Art. 157, Para. 4 of the PPA.

Art. 107. (1) The applicants and participants shall be obliged to notify in writing the contracting authority within 3 day term from occurrence of a circumstance under Art. 157, Para. 1, Art. 101, Para. 11 of the PPA or indicated by the contracting authority ground under Art. 157, Para. 2 of the PPA.

(2) (Amend. – SG, 17/19, in force from 01.03.2019) In the cases under Para. 1, the newly received circumstances shall be taken in consideration by the commission, while preparing the documents under Art. 106, Para. 1 of the PPA.

## **Chapter thirteen.**

### **FUNCTION OF THE PUBLIC PROCUREMENT AGENCY**

#### **Section I.**

#### **Conditions and Procedure for Maintaining a List of the Economic Subjects, for which the Circumstances of Art. 54, Para. 1, p. 5, letter "a" and Art. 55, Para. 1, p. 4 of the PPA are Present (Title, amend. – SG, 17/19, in force from 01.03.2019)**

Art. 108. (1) (Amend. – SG, 29/20, in force from 01.04.2020) The Public Procurement Agency (PPA) shall provide through the portal for public procurements complete and an unlimited access to the list under Art. 57, Para. 4 of the PPA, which shall contain:

- 1, name of the economic subject;
2. date of publication of the information;
3. information about the found circumstances;
4. the period, for which the grounds for removal apply.

(2) (Amend. – SG, 17/19, in force form 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) To be included in the list, the contracting authorities shall send information to the PPA in the form, which shall contain at least:

1. in established circumstances under Art. 54, Para. 1, p. 5, letter "a" of the PPA:
  - a) description of the circumstance, the N of the decision, by which it is established and the date of its enforcement;

b) data, about the public procurement, in relation to which the circumstance has occurred, including the date and number of the publication in the register and in the EU [Official Journal](#);

2. in case of found circumstances under Art. 55, Para. 1, p. 4 of the PPA:

a) data about the public procurement contract, including the parties, the subject and the total value, the paid sums and/or compensation, date of signing, and where applicable – the date and legal ground for cancellation of the contract, or its termination;

b) a short description of the failure to fulfill the contract under letter "a", its percentage expression to the value, or the volume of the contract;

c) (amend. – SG, 29/20, in force from 01.04.2020) the date of the enforcement of the judicial decision, or the arbitration decision.

(3) (New, SG, 17/19, in force from 01.03.2019, amend. – SG, 29/20, in force from 01.04.2020) In the cases under Art. 230, Para. 3 of the PPA, the contracting authorities shall enclose a copy of the enforced act, proving the relevant circumstance.

(4) (Former Para. 3 – SG, 17/19, in force from 01.03.2019) The contracting authorities shall send the information under Para. 2 for the indicated circumstances, by e-mail with electronic signature.

(5) (New – SG, 17/19, in force from 01.03.2019, suppl. – SG, 29/20, in force from 01.04.2020) It shall not be included in the list under Art. 57, Para. 4 of the Public Procurement Act a person, for whom the conditions for entry are not fulfilled and the information is not submitted under the conditions of Para. 2 - 4.

(6) (New, SG, 29/20, in force from 01.04.2020) The information for each economic operator, for which entry is required shall be sent in a separate form.

## **Section II.**

### **Approval of Standard Requirements and Document under Art. 229, Para. 1, of the PPA (Title, amend. – SG, 17/19, in force from 01.03.2019)**

Art. 109. (Amend., SG, 17/19, in force from 01.03.2019) (1) The persons under Art. 231, Para. 1 of the PPA shall send to the executive director of PP Agency drafts of standardized requirements and documents, together with motives for the need of their approval. The motives shall include information on the type and content of the documents, the objects and subjects of the procurements, proposed for approval, as well as the contracting authorities, who will apply them.

(2) The Public Procurement Agency shall send for coordination the draft documents under Para. 1 to the bodies and organizations under Art. 231, Para. 2 of the Public Procurement Act and shall publish them on the Public Procurement Portal, setting a deadline for expressing opinions, which may not be less than 30 days.

(3) The received opinions under Para. 2 shall be expressed by the introducer.

(4) The drafts shall be proposed for approval by the Minister of Finance and the Minister, responsible for the respective portfolio, after obtaining the consent of the introducer and the persons under Art. 231, Para. 2 of the PPA on the final proposals.

(5) Where necessary, the standardized requirements and documents under Art. 231, Para. 3 of the Public Procurement Act shall be updated or revoked in the order of their approval.

## **Section III.**

### **Conditions and Procedure for Drawing up and Maintaining the List under Art. 229, Para. 1, p. 17 of the PPA**

Art. 110. (1) The list under Art. 229, Para. 1, p. 17 of the PPA shall include persons, who have professional competence, related to the objects and subjects of the public procurements and:

1. have been proposed by professional associations and organization in the relevant sector, or by bodies under Art. 19, Para. 2- 4 of the Administration Act, with indication of their professional



competence;

2. have independently submitted an application for entry, in which the documents have been described, through which the declared professional competence is proved

(2) For each of the persons in the list under Para. 1, the scope of the professional competence shall be indicated, and the availability of access permit to classified information under the requirements of the Protection of Classified Information Act.

(3) The list under Para. 1 shall contain at least the following information:

1. names of the expert according to the identity document;

2. unified civil number UCN/personal N of a foreigner (PNF) or another identity number;

3. postal and email addresses for correspondence, telephone, fax N, etc.;

4. acquired educational degree and subject;

5. area of professional competence, determined in compliance with the categories of the Common Procurement Vocabulary (CPV);

6. data about the professional qualification, additional qualification – if any and practical experience with the declared professional competence;

7. indication of the documents, through which the declared professional competence is proved;

8. data for available permit for access to classified information;

9. region/s of action of the expert in the country;

10. data about the person/body, proposed entry of the expert.

(4) The data under p. 2 shall be used only for official purposes and shall not expressed in the public part of the list.

(5) The PPA executive director shall have the right to require and include in the list under Para. 1 also additional data and information about the experts.

Art. 111. (1) In the list under Art. 229, Para. 1, p. 17 of the PPA, a person may be included, who shall meet the following requirements:

1. to have reached the age of 18 and has not been put under guardianship;

2. not to have been convicted for premeditated crime of general nature and not deprived of the right to exercise profession or an activity, which refers to the entry;

3. to have evidence that he has professional competence in the declared area in compliance with the categories of the Common Procurement Vocabulary (CPV).

(2) The bodies and persons under Art. 110, Para. 1, p. 1 shall certify with the application for entry in the list under Para. 1 that the proposed by them persons have been checked according to the circumstances under Para. 1.

(3) The persons under Art. 110, Para. 1, p. 2 shall declare the circumstances under Para. 1 in the application for entry in the list under Para. 1.

Art. 112. (1) Including an expert in the list under Art. 229, Para. 1, p. 17 of the PPA shall be carried out by the bodies and persons under Art. 100, Para. 1 on the basis of a standard form approved by the PPA executive director.

(2) The application under Para. 1 shall be filled in by an electronic form through the portal.

(3) The application under Para. 1 shall be submitted to the PPA in one of the following ways:

1. for the persons under Art. 110, Para. 1, p. 1 – through direct introduction of the data in the online for, using electronic signature; the data of the signature shall obligatorily contain UIC of the person/body;

2. for the persons under Art. 110, Para. 1, p. 2 – through direct introduction of the data in the online form using an electronic signature or through filling in online form without using electronic signature, where in this case the application shall be submitted on paper media with an individual signature; an application, filled in online without using electronic signature, which within 1 month term has not been received in the PPA on paper, shall be deleted officially.

(4) The bodies and persons under Art. 110, Para. 1 shall bear responsibility for the correctness

of the declared data.

(5) The contracting authorities shall have the right to require from the persons, included in the list under Art. 229, Para. 1, p. 17 of the PPA evidence about the correctness of the indicated data.

Art. 113. (1) The entry in the list under Art. 229, Para. 1, p. 17 of the PPA shall be valid for the term of 12 months, starting from the date of submission of the application. After expiry of the term, the entered data shall be deleted officially.

(2) The deleted data shall be stored for the period of 3 years after which they shall be archived.

(3) The bodies and persons under Art. 110, Para. 1 may confirm the declared data by requiring a standard form, approved by the PPA executive director, before expiry of the term under Para. 1, where the validity of the application shall be extended for a new period.

(4) The bodies and persons under Art. 110, Para. 1 may be withdraw at any time their applications for inclusion in the list under Para. 1 by a request according to a form, approved by the PPA executive director.

#### **Section IV.**

#### **Conditions and Procedure for Performing Monitoring under Art. 229, Para. 1, p. 14 of the PPA**

Art. 114. (Amend. – SG, 29/20, in force from 01.04.2020) (1) In order to ensure the correct and effective implementation of the public procurement rules, the PPA Executive Director shall carry out monitoring under Art. 229, Para. 1, item 14 of the Public Procurement Act, collecting and summarizing information on the award and execution of public procurement contracts.

(2) For the purposes of monitoring under Para. 1, the contracting authorities and the competent authorities shall send to the PPA annually, by 1 March, information for the previous calendar year in accordance with Annex No 3.

(3) The PPA Executive Director shall have the right to request from the contracting authorities and the competent authorities additional information, related to the monitoring.

(4) The information under Para. 2 and 3 shall be sent on paper and magnetic media.

(5) Every three years, the PPA shall prepare a report, that includes the results of the monitoring. The report shall be sent to the European Commission and published on the portal.

(6) In connection with the results of the monitoring under Art. 229, Para. 1, item 14 of the PPA the Executive Director of the PPA may:

1. issue general methodical instructions;
2. inform the Minister of Finance, when establishing the need for legislative changes;
3. refer to the competent authorities for control over compliance with public procurement law;
4. take other actions within the powers under Art. 229, Para. 1 of the PPA.

Art. 114a. (New - SG 91/17, in force from 01.01.2018, repealed, - SG, 17/19, in force from 01.03.2019)

#### **Chapter fourteen.**

#### **EXTERNAL PRELIMINARY CONTROL, PERFORMED BY THE PUBLIC PROCUREMENT AGENCY**

#### **Section I.**

#### **General Rules**

Art. 115. (Amend. – SG, 17/19, in force from 01.03.2019) Each stage of the control under Art. 229, Para. 1, 2, letters “d” to “f” of the PPA, performed by the PP Agency shall be performed once.

Art. 116. (Amend. – SG, 29/20, in force from 01.04.2020) The issued opinions about the control results under Art. 229, Para. 1, item 2, letters “d” – “f” of the PPA shall not be subject to change, unless in the cases of technical mistake, made by the PP Agency.

Art. 117. (1) The contracting authority shall submit the documents under Art. 236 of the PPA to the PPA via e-mail with a letter according to a standard form, signed by electronic signature.

(2) The documents under Para. 1 shall be produced in the Bulgarian language. Where a document in a foreign language has been produced, it shall be accompanied by a translation in the Bulgarian language.

Art. 118. The technical requirements for submission of documents in relation to the control under Art. 115, rules shall be defined, confirmed by the PPA executive director.

Art. 119. Documents, sent to the PPA in relation the control under Art. 115, for which not requirements have been observed under Art. 117 and 118, shall not be considered.

Art. 120. (Amend. – SG, 17/19, in force from 01.03.2019) The standard forms of documents in relation to realization of the control under Art. 229, Para. 1, p. 2, letters “d” – “f” of the PPA shall be confirmed by an order of the PP Agency executive director and shall be published on the [portal](#).

## **Section II.**

### **Conditions and Procedure for Performing Control by Random Selection**

Art. 121. (1) (Amend. – SG, 29/20, in force form 01.04.2020) The contracting authority shall be obliged before opening a procedure, which is subject to control under Art. 232, of the PPA, to introduce data in the system for random selection (RSS), accessible through the portal. The data shall be signed by an electronic signature.

(2) Every working day through the system under Para. 1 shall be selected at least one procedure for control, which shall be announced on the [portal](#).

(3) The selection of the procedure shall be carried out under methods, which accounts for risk factors with a certain weight. The methods shall be confirmed by the PPA executive director.

(4) Where after expiry of 3 working days from introduction of the data under Para. 1, the procedure has not been selected for control, the contracting authority may announce its opening.

(5) (Amend. – SG, 17/19, in force from 01.03.2019) The contracting authority may announce opening of a procedure, notwithstanding that it has been selected for control in the cases under Art. 232, Para. 9 of the PPA.

Art. 122. (1) Within 3 day term from the selection of the procedure for control, the contracting authority shall submit the projects at the same time of:

1. the decision for opening of the procedure;
2. the announcement for opening the procedure;
3. the technical specifications with the exception of the cases, where they are approved with the decision for approval of the invitation for confirmation of interest;
4. the assessment methods, where applicable.

(2) The documents under Para. 1 shall be submitted under Art. 117, Para. 1.

(3) Receiving the documents shall be confirmed by electronic announcement to the sender.

(4) (Revoked - SG 91/17, in force from 01.01.2018)

Art. 122a. (New - SG 91/17, in force from 01.01.2018, repealed, - SG, 17/19, in force from 01.03.2019)

Art. 122b. (New - SG 91/17, in force from 01.01.2018, repealed, - SG, 17/19, in force from 01.03.2019).

Art. 122c. (New - SG 91/17, in force from 01.01.2018, amend. - SG, 17/19, in force from 01.03.2019) (1) Within 14 days from the receipt of the documents under Art. 122, para. 1, the Public Procurement Agency shall prepare a preliminary opinion which to contain the inconsistencies established therein with the requirements of the Public Procurement Act, and recommendations for their removal. In the cases under Art. 232, Para. 9 of the Public Procurement Act, the opinion shall be final.

(2) (Amend. - SG, 17/19, in force from 01.03.2019) The opinion of the external expert under Art. 232a, Para. 4 of the PPA shall be enclosed with the opinion of the Public Procurement Agency on the preliminary control under Art. 232 of the Public Procurement Act as an independent and integral part thereof.

(3) (New - SG, 17/19, in force from 01.03.2019) The contracting authority shall note the number of the preliminary opinion under Para. 1 in the decision for opening the procedure.

Art. 123. (1) (Repealed, - SG, 17/19, in force from 01.03.2019).

(2) (Amend. – SG, 29/20, in force form 01.04.2020) The second stage of the preliminary control shall cover the documents under Art. 232, Para. 3, item 2 of the PPA, published in the register.

(3) Within 10-day term from the publication of the documents in the register, which announce the opening of the procedure, the PPA shall draw up a final opinion about legality.

(4) (New, SG, 17/1919, in force from 01.03.2019) Where the procedure is terminated before the issuance of the opinion under Para. 3, the control shall be suspended and this shall be noted in the opinion.

Art. 124. (1) Where the opening of the procedure, selected for preliminary control has been announced by preliminary announcement under Art. 23, Para. 3, 4 or 6 of the PPA, the contracting authority shall submit to PPA under Art. 117, Para. 1 the draft invitation for confirming interest. To it shall be attached the draft of the technical specification, where they have not been approved with the decision for opening a procedure, and where applicable – the assessment methods of offers. In the accompanying letter, the number of the procedure in the register shall be indicated.

(2) Receiving the documents shall be confirmed by e mail to the sender.

(3) Within 14 day term from receiving the draft documents under Para. 1, the PPA shall draw up a preliminary opinion.

Art. 125. (1) (Amend. – SG, 29/20, in force from 01.04.2020) On the day of publication of the invitation for confirmation of interest, the contracting authority shall submit an attached letter via e-mail to the PPA, which shall indicate the N of the procedure, the N of the preliminary opining and shall attach grounds under Art. 232, Para. 7 of the PPA.

(2) (Amend. – SG, 29/20, in force from 01.04.2020) The control shall cover the invitation under Para. 1, as well as the technical specifications and methods of the documentation, published in the register.

(3) (Amend. – SG, 29/20, in force from 01.04.2020) Within 10-day term from receiving the letter under Para. 1, the PP Agency shall draw up a final opinion for legality.

Art. 126. (Suppl. - SG, 29/20, in force from 01.04.2020) The opinions under Art. 232, Para. 8 of the PPA, of the preliminary control shall be submitted to the contracting authority via e-mail, signed by electronic signature, with the final opinions – also to the bodies under Art. 238, Para. 1 of the PPA.

Art. 127. Preliminary control shall not be performed of procedures, for which in the term under Art. 122, Para. 1 the contracting authority fails to send the draft documents.

Art. 128. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 129. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 130. (Repealed, - SG, 17/19, in force from 01.03.2019)

### **Section III.**

#### **Conditions and Procedure for Performing Control over Negotiation Procedures**

Art. 131. (1) The control under Art. 233 of the PPA shall be performed over the decision for opening the procedure, published in the register.

(2) The control under Para. 1 shall cover the grounds, expressed in the decision for opening the procedure and the evidences, produced by the contracting authority for the described in the grounds circumstances. Grounds which are not contained in the decision, as well as evidences, for which no grounds have been indicated shall not be considered.

Art. 132. (Amend., - SG, 17/19, in force from 01.03.2019, amend. and suppl. – SG, 29/20, in force from 01.04.2020) On the day of sending for publication in the register the decision to initiate the procedure under Art. 233, Para. 1 of the PPA, the contracting authority shall send under Art. 117 the evidence of the circumstances, described in the statement of reasons. The letter under Art. 117, Para. 1 shall indicate the contracting authority's account, the number for opening the decision and the submitted evidences.

Art. 133. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 134. (amend. - SG, 17/19, in force from 01.03.2019, suppl. -SG, 29/20, in force from 01.04.2020). In the cases under Art. 132, the submission of evidences shall not be needed, if they are accessible by electronic, public, free register and in the opening decision of the procedure, or in the letter under Art. 117, Para. 1, the exact internet address, at which they are to be found, is indicated.

Art. 135. (1) (Amend. - SG, 17/19, in force from 01.03.2019). For the results of the control, the PP Agency shall issue an opinion on the legality within 30-day term from expiry of the term for submission of the evidences under Art. 132.

(2) Where the procedure is terminated before issuance of the opinion under Para. 1, the control shall be terminated and this shall be mentioned in the opinion.

(3) (Amend. - SG, 17/19, in force from 01.03.2019, suppl. – SG, 29/20, in force from 01.04.2020). The opinions under Para. 1 shall be sent simultaneously to the contracting authority and to the bodies under Art. 238, Para. 1 of the Public Procurement Act via e-mail, signed with an electronic signature.

### **Section IV.**

#### **Conditions and Procedure for Performing Control over Some exceptions from the Applicable Field of the PPA (Repealed, - SG, 17/19, in force from 01.03.2019)**

Art. 136. (Repealed, - SG, 17/19, in force from 01.03.2019)

Art. 137. (Repealed, - SG, 17/19, in force from 01.03.2019)

### **Section V.**

#### **Conditions and Procedure for performing Control over Amendment of Public Procurement Contracts under Art. 116, Para. 1, p. 2 of the APP**

Art. 138. (1) (New – SG, 17/19, in force from 01.03.2019) The control under Art. 235 of the Public Procurement Act shall be carried out before the conclusion of an additional agreement for amendment of a public procurement contract on the grounds of Art. 116, Para. 1, item 2 of the Public Procurement Act, where the contract has an amount, equal to or higher than the value thresholds under Art. 229, Para. 2 of the Public Procurement Act and the value of the amendment corresponds to the requirements of Art. 229, Para. 3 of the Public Procurement Act.

(2) (Former Para. 1, amend., SG, 17/19, in force from 01.03.2019) For carrying out the control under Para. 1, the contracting authority shall be obliged to send to the PP Agency:

1. (repealed – SG, 29/20, in force from 01.04.2020)
2. grounds for application of the selected ground;
3. evidences for fulfillment of the requirements of the APP.

(3) (Former Para. 2, amend. - SG, 17/19, in force from 01.03.2019) The documents under Para. 2 shall be sent at the same time under Art. 117, Para. 1. Upon exception, where because of the nature or their volume the documents cannot be sent via e-mail, they shall be produced on electronic media.

Art. 139. (amend. - SG, 17/19, in force from 01.03.2019) (1) The Public Procurement Agency shall issue an opinion on the lawful application of the grounds within 30 days of receipt of the documents under Art. 138, Para. 2, which shall be sent to the contracting authority and to the bodies under Art. 238, Para. 1 of the Public Procurement Act.

(2) The Public Procurement Agency shall notify the bodies under Art. 238, Para. 1 of the Public Procurement Act, when it finds that a notice of amendment has been published, which is subject to control under Art. 229, Para. 1, item 2, letter "f" of the Public Procurement Act, but this has not been implemented, due to non-compliance with Art. 235, Para. 2 of the Public Procurement Act.

### **Chapter fifteen.**

## **INTERNAL RULES OF PUBLIC CONTRACTING AUTHORITIES FOR MANAGEMENT OF THE PUBLIC PROCUREMENT CYCLE (TITLE, AMEND. – SG, 17/19, IN FORCE FROM 01.03.2019)**

Art. 140. (1) The internal rules under Art. 244, Para. 1 of the PPA shall provide at least for the procedure for:

1. forecasting the needs of awarding, including for establishing the dates on which public procurement contracts in force must be present;
2. planning conducting the procedures, by accounting the time for preparation, conducting of the procedures and signing the contracts;
3. assigning the officials, responsible for the preparation of the procedures and the procedure for performing control over their work;
4. receiving and storage of participation applications, offers and project and the procedure for assigning the staff and way of operation of the commission for performing selection of the applicants and participants ,for consideration and assessment of the offers and or conducting negotiations and dialogue, as well as of the jury;
5. signing the contracts;
6. tracing the fulfillment of the signed contracts and for accepting the results form them;
7. the actions in appealing the procedures;
8. conducting of introductory and maintaining training of the persons, engaged with management of the public procurement cycle;
9. documentation of each stage of the public procurement cycle;
10. archiving the documents, related to management of the public procurement cycle;
11. (amend. – SG, 29/20, in force from 01.04.2020) publication of documents in the register and on the buyer’s profile.

(2) The contracting authorities shall have the right to award certain activities of the management of the public procurement cycle to external contractors.

### **Chapter sixteen.**

## **ADMINISTRATIVE – PENAL PROVISIONS**

Art. 141. (1) For violation of the provision of these Rules, the guilty persons and the persons

who have admitted committing a violation shall be punished under Art. 32 of the Administrative Violations and Penalties Act.

(2) Every commission member shall bear responsibility for committing violations of these Rules.

Art. 142. (1) The acts for finding violation under the Rules shall be drawn up by officials of the Agency for State Financial Inspection (ASFI) within the term of 6 months from the day in which the violator has been found by bodies of ASFI during a financial inspection or checkup, but not later than 3 years from the violation.

(2) The penal decrees shall be issued by the Minister of Finance or by officials authorized by him.

(3) Finding violations, issuance, appeal and fulfillment of penal decrees shall be performed under the Administrative Violations and Penalties Act.

### **Transitional and concluding provisions**

§ 1. Persons, who have been entered in the list under Art. 19, Para. 2 , p. 8 of the repealed Public Procurement Act and whose registration is valid on the date of the enforcement of these Rules, shall be entered officially in the list under Art. 229, Para. 1, p. 17 of the APP.

§ 1a. (New – SG, 17/19, in force from 01.11.2019) (1) Submission, entry or refusal to enter, maintain and update the information on the procedures, published in the Public Procurement Register, which was in force before introduction of the platform under Art. 39a, Para. 1 of the Public Procurement Act shall be executed according to the previous procedure.

(2) The information under Para. 1 shall be kept and maintained in a way, that guarantees its protection and shall be archived after 10 years have elapsed from the opening of the procedures, but no earlier than one year after the completion of the contracts.

(3) The information under Para. 1 for a created qualification system shall be archived after expiring 10 year from:

1. the date of its termination, or
2. expiry of the term of its force.

(4) The information under Para. 1, related to a framework agreement or a dynamic purchasing system shall be archived after 10 years from:

1. the deadline of the force of the framework agreement or the dynamic purchasing system, or
2. their termination.

(5) For the procedures, published in the Public Procurement Register under Para. 1, the contracting authority shall send a model for information in the course of an appeal on the day of receipt of the notice of initiation or - at the latest - on the next working day.

§ 1b. (New, SG, 17/19, in force from 01.11.2019) The Public Procurement Portal shall be publicly available for a period of 3 years from the date of publication of the information about the procurements, awarded through the collection of offers with announcement before the platform was introduced. After the expiration of this period, the information for the respective procurement shall be archived.

§ 2. The Rules shall be adopted under § 26, Para. 1 of the Transitional and Final Provision of the Public Procurement Act.

### **Concluding provisions**

## **TO DECREE № 251 OF NOVEMBER 8, 2017, ON THE ADOPTION OF ORDINANCE ON THE TERMS AND RULES OF DETERMINING EXTERNAL EXPERTS FOR THE INSPECTION OF TECHNICAL SPECIFICATIONS FOR PUBLIC PROCUREMENT**

§ 2. Paragraph 1 shall enter into force on January 1, 2018.

**Transitional and concluding provisions**  
**TO DECREE N 30 OF 20 FEBRUARY 2019, ON ADOPTING AN ORDINANCE ON**  
**EXTERNAL EXPERTS IN PRELIMINARY CONTROL OF PUBLIC PROCUREMENTS**

(PUBL. – SG, 17/19, IN FORCE FROM 01.03.2019)

§ 4. (corr. - SG 20/19) The Decree shall enter into force on 1 March 2019 with the exception of § 2, item 1, letter “a”, item 2, item 8, item 9, item 10, item 11, 12, item 13, letter "b", item 14, item 15, item 16, item 17, item 19, letter "a", subpoint bb and b and b, item 22, letter "a", item 27, letter "d", item 29 with respect to Art. 44, Para. 2, item 32, item 33, item 37 in relation to Art. 54, Para. 2, 4 and 5, item 43, letter "b", item 60, item 61, item 62, letter "b", item 63, item 64, item 68, item 69 regarding Art. 96a, Para. 1, item 70, letter "b" regarding the reference to Art. 39a, Para. 6 and 7 of the Public Procurement Act in Art. 97, Para. 4 and with respect to the second sentence of Art. 97, Para. 6, item 94, letter “b”) and item 99 (§ 1a and 1b), which shall enter into force on 1 November 2019.

**Transitional and concluding provisions**  
**TO DECREE N 49 OF 23 MARCH, 2020, AMENDING AND SUPPLEMENTING RULES ON**  
**IMPLEMENTATION OF THE PUBLIC PROCUREMENT ACT, ADOPTED BY COUNCIL OF**  
**MINISTERS DECREE N 73 OF 2016**

(PUBL. – SG, 29/20, IN FORCE FORM 01.04.2020)

§ 71. This Decree shall also apply to the completion of procurements, opened on the Platform during the period from 1 January to 1 April 2020.

§ 72. This Decree shall enter into force on 1 April 2020, with the exception of § 33, which shall enter into force on 1 January 2021.

**Annex N1 to Art. 8, Para. 4**

(Amend. – SG, 17/19, in force from 01.03.2019)

**METHODS**

**For Defining the Price of a Contract, Signed under Art. 14, Para. 1, p. 5 – 7 and Art. 149, Para. 1, p. 13 of the PPA**

1. The price of the contract shall be defined on the basis of the needed costs for fulfillment of the awarded activities, increased by the envisaged profit and by all other costs under p. 5.

2. The cost price (the needed costs) of the supply, service or construction – subject of such a contract must be calculated by the undertaking –contractor according to the applicable standards (accounting, technological and/or specific for the relevant activity) and include only the costs, needed for the fulfillment.

2.1. Notwithstanding of the applied methods (“on procurement”, “on technological processes” or other, according to the specifics of the activity), the calculation of the cost price shall be coordinated with the requirements of the applicable national and international accounting standards (CC N 2 and MCC 2). Incases, where the applicable accounting base are the International accounting standards (IAS), their consideration wholly and without changes shall refer to the elements of the Methods, to which they are applicable.

2.2. The cost price as a basis of defining the price of the contracts under Art. 14, Para. 1, 5 - 7 and Art. 149, Para. 1, p. 13 of the PPA shall be submitted to the following rules and restrictions:



2.2.1. The cost price of the produced production, apart from those under p. 2.2.2 shall include: all the cost on purchasing and processing, as well as other costs, made in relation to their delivery to their current location and state.

2.2.2 The cost price of the produced production shall include the value of the input materials, costs for processing etc.:

2.2.2.1. the value of the input material shall include:

2.2.2.1.1. costs for purchasing, including purchase price; customs fees and other taxes and excises (other than those, which as a result the undertaking may recover from the tax authorities);

2.2.2.1.2. delivery costs, such as costs associated with transport, handling, assembly and trial operation; the cost of delivery included in the cost of the contracts under Art. 14, Para. 1, items 5 - 7 and Art. 149, Para. 1, item 13 of the PPA, should not exceed 7 per cent of the value of the inputs;

2.2.2.1.3. other costs necessary to bring the materials into ready-to-use form and which can be directly related to the acquisition of the finished goods and materials (eg. commission for the intermediary of the delivery, the cost of the quality analysis, determined.

Trade discounts, rebates and similar components are deducted when purchasing costs are determined.

When inventories are produced from biological assets, their cost is determined on the basis of the fair value, less the costs to sell at the time of disposal.

2.2.2.2. The processing costs shall include:

2.2.2.2.1. direct costs of production and costs - directly linked to the units produced (eg. direct labor - remuneration and social security contributions of staff, employed in manufacturing);

2.2.2.2.2. indirect costs of production - systematically charged fixed and variable overheads, which in turn may be permanent and variable:

2.2.2.2.2.1. fixed costs - indirect production costs that remain relatively stable and which are not directly influenced by the volume of production and are allocated on the basis of the normal capacity of production capacities; normal capacity is the expected average production over several periods or seasons under normal conditions, taking into account capacity losses due to planned maintenance; eg. depreciation costs, external service costs - rent and maintenance of buildings and equipment for production purposes, asset insurance, interest on credits for production equipment, interest may be part of the cost only if international accounting standards, etc.);

2.2.2.2.2.2. variable costs - dependent on production costs that change directly or almost directly depending on the volume of production and are allocated on the basis of actual use of production capacity;

(e.g., depending of the specific nature of the activity, such costs may include costs of electricity, indirect auxiliary materials, external services, remuneration and insurance contributions of auxiliary staff, etc.);

2.2.2.3. other costs, related the production of the production;

(ex. costs of non-production nature as costs for external services – projecting individual project of the client, etc.)

2.2.3. the cost price of the services shall include:

2.2.3.1. remuneration and securities, due by the employer.

2.2.3.2. the relevant part of the total production (indirect) costs;

2.2.3.3. other costs, directly related to the service (ex. the value of directly input materials – if any; costs for external services, etc.).

2.2.4. The cost price of materials under p. 2.2.1., the produced production under p. 2.2.2. and services under p. 2.2.3 shall not include

2.2.4.1. administrative costs;

2.2.4.2. financial costs (with the exception of the related to production and services) as eg. Rate differences from change of currency rates);

2.2.4.3. sales costs;

- 2.2.4.4. exceptional costs;
- 2.2.4.5. interests, fines, defaults, etc. of sanction nature;
- 2.2.4.6. overpriced quantities of scrapped materials, labor input or other production costs;
- 2.2.4.7. tangible, labor and other production costs that are outside the normal range (such as overtime, upgrading costs, etc.);
- 2.2.4.8. the cost of the external services included in items 2.2.2.3 and 2.2.3.3 above the maximum allowable amount; the maximum allowable cost of these costs should be 20 per cent of the total cost.

3. The envisaged percentage of the profit by the contracting authority shall not exceed 10% of the costs, defined in compliance with p. 2. Where an activity – subject to a contract under Art. 14, Para. 1, p. 5 - 7 of the APP is funded by means of European funds and programmes, the percentage profit shall be calculated only if this is admissible for the relevant form of funding and the rules of the concrete operation allow this.

3.1. The percentage profit under p. 3 may be calculated over the whole sum of the costs of the contract, as well as over some elements of the calculation. Where this percentage is calculated over some elements (materials, labor, etc.), the maximum admissible percent profit over the value of each element is 10%.

3. The anticipated rate of profit by the contracting authority may not exceed 10 per cent of the cost (cost) determined in accordance with paragraph 2. Where an activity subject to a contract under Art. 14, Para. 1, items 5 - 7 and Art. 149, para. 1, item 13 of the Public Procurement Act is financed with funds from European funds and programs, the percentage of profit is calculated only if this is permissible for the respective form of financing and the rules of the particular operation allow it.

4. Before concluding a contract under Art. 14, para. 1, items 5 - 7 and Art. 149, para. 1, item 13 of the PPA, the contractor shall provide the contracting authority with the relevant calculation documents (accounts / schemes) containing the necessary data for actual cost, according to the specificity of the particular contract and a copy of its accounting policy.

4.1. Over this value must be defined (according to the restrictions of p. 3) the admissible amount profit as an element of the end price. This must be done after the contracting authority is convinced that:

4.1.1. the cost price (the needed costs) is defined in compliance with the requirements of p. 2 and it includes only costs, needed for fulfillment of the awarded activity, considered with its volume and time; the contracting authority may require from the contractor to produce additional calculations for the way, in which the cost price of each element is defined;

4.1.2. the levels of the costs in relation to the elements of calculation shall be objectively defined; as objective shall be accepted such levels of costs, which are calculated in compliance with the acting rules and standards (under p. 2) and/or usually are accounted in fulfillment of the same or similar activity by independent economic subjects and/or by the contractor on contracts with third independent persons.

5. In the end price after the calculations under p. 4 shall be included VAT, excise duties, customs duties, taxes, etc. are due. under a statutory instrument.

Including interest on overdue payments, fines, penalties, etc. shall be unacceptable.

## **Annex N 2 to Art. 31, Para. 2**

### **METHODS**

#### **To Art. 61, Para. 1, p. 3 of the APP for Establishing Minimal Admissible Correlations between the Defined Assets and Liabilities**

With establishing the economic and financial condition of the applicants and participants in procedures for awarding public procurements, financial-accounting indicators shall be used through which are given the minimal admissible correlations\* between the defended assets and liabilities. These indicators are calculated on the basis of the annual financial statement (AFS) of the applicants or participants undertaking on 31 December of the relevant year, represented in thousands BGN. The obtained values shall be rounded to the second sign after the decimal point. Depending on the subject, complexity and value of the procurement and schemes of payment to the contractor, the contracting authority shall define one or two of the following indicators:

### **1. Liquidity coefficient:**

The liquidity indicators shall be quantity characteristics of the cost price of the undertaking to pay the current obligations with the available current assets. Indicators are for the possibility of the applicant/participant to take occurred financial difficulties. They are indicators, showing the liquidity in statics (at a certain moment).

#### **1.1. Coefficient of total liquidity(Ctl)**

General indicator, which without accounting the different level of liquidity of the components of the current assets, shows the possibilities of the undertaking of the applicant /participant to cover the current obligations with them. It is calculated on the basis of data (in thousand BGN) by the accounting balance on 31 December of the relevant year in the following formula:

$$\text{Ctl} = \frac{\text{Current assets (CA)}}{\text{Current obligations (CO)}}$$

where:

**Ctl** is the coefficient of the total liquidity at the value 1,5;

**CA** – the sum of the current assets (short term and long term); all the assets, acquired in view to be used or realized in the term of one or above one year according to the operative cycle of the undertaking<sup>1</sup>.

**CO** – the sum of the current obligations (current liabilities); all the obligations, which are to be paid within 1 year.

#### **1.1.1. Sum of the current assets(CA)**

It is defined as a sum of the summarized data (in thousand BGN) indicated in the relevant entries of the asset of the accounting balance on 31 December of the relevant year, numerated as follows:

**1.1.1.1. Material inventories- total** (including the ones, which according to the operative cycle will be used above one year) including:

1.1.1.1.1. raw materials and materials;

1.1.1.1.2. unfinished production;

1.1.1.1.3. production and goods;

1.1.1.1.4. provided advances.

#### **1.1.1.2. Receivables -total, including:**

1.1.1.2.1. receivables from clients and suppliers to one year;

1.1.1.2.2. receivables from undertakings of a group to one year;

1.1.1.2.3. receivables, related to associated and mixed undertakings to one year;

1.1.1.2.4. other receivables (notwithstanding of the source) to one year;

#### **1.1.1.3. Short term investments- total, included:**

1.1.1.3.1. assets and shares in a group undertakings;

1.1.1.3.2. bought own assets (nominal value);

1.1.1.3.3. other investments (assets, bonds, investment properties, etc.);

#### **1.1.1.4. Money means- total, included:**

1.1.1.4.1. money (without the blocked ones) in cashes and bank accounts (in the country and

abroad);

1.1.1.4.2. money equivalents (short term, high interest deposits, easily convertible money, checks, policies, state securities, etc.).

**1.1.2. Sum of the current(short term) obligations(CO):**

It is defined as a sum of the summarized data (in thousand BGN) indicated in the relevant entries of the liability of the accounting balance on 31 December of the relevant year, as follows:

1.1.2.1. obligations to financial undertakings with term of payment to one year (notwithstanding whether the term of the obligation is above one year);

1.1.2.2. bond loans with term of payment to one year (including convertible);

1.1.2.3. received advances with term of up to 1 year;

1.1.2.4. obligations to suppliers with term of payment to 1 year;

1.1.2.5. obligations on policies with term of payment to one year;

1.1.2.6. obligations to undertakings of a group with term of payment to one year;

1.1.2.7. obligations, related to associated and mixed undertakings with term of payment to 1 year;

1.1.2.8. other obligations with term of payment to one year – total included:

1.1.2.8.1. obligations to the staff with term of payment to 1 year;

1.1.2.8.2. securities and tax obligations with term of payment to 1 year;

1.1.2.8.3. obligations for interests, fines, defaults and other economic sanctions with term of payment to 1 year.

**1.2. Coefficient of quick liquidity(Cql)**

This indicator expresses the direct ability of the undertaking of the applicant/participant to service his current obligations with more quick liquidity short term assets. It is calculated on the basis of data (in thousand BGN) of the accounting balance on 31 December of the relevant year under the following formula:

$$Cql = \frac{\text{Receivables} + \text{Short term investments} + \text{money}}{\text{Current obligations (CO)}}$$

where:

**Cql** is the coefficient of quick liquidity at the value of: 1.

**1.2.1. Receivables** with term of receiving to 1 year - total, included:

1.2.1.1. receivables from clients and supplies to one year;

1.2.1.2. receivables from undertakings of a group to one year;

1.2.1.3. receivables, related to associated and mixed undertakings to one year;

1.2.1.4. other receivables (notwithstanding of the source) to one year.

**1.2.2. Short term investments- total, included:**

1.2.2.1. assets and shares in a group undertakings;

1.2.2.2. bought own assets (nominal value);

1.2.2.3. other investments (assets, bonds, investment properties, etc.).

**1.2.3. Money means- total, included:**

1.2.3.1. money (without the blocked ones) in cashes and bank accounts (in the country and abroad);

1.2.3.2. money equivalents (short term, high interest deposits, easily convertible money, checks, policies, state securities, etc.).

**1.2.4. Current obligations (CO)** – the sum of the indicated in p. 1.1.2.

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\* Minimal admissible correlation- the value of the liquidity coefficients, indicated in p. 1.1 and 1. 2 above which is considered that for the applicant or participant there is compliance with the requirements of Art. 61, Para. 1, p. 3 of the APP.

<sup>1</sup> Operative cycle of the undertaking – the time of acquiring the assets (raw materials, etc.) which enter in a processing to the realization of the created product in money or in money equivalent.

*Remark.* These methods have been drawn up in compliance with the Accountancy Act and the applicable accounting standards.

**Annex N 3 to Art. 114, Para. 2**

(New – SG, 29/20, in force from 01.04.2020)

PART A

INFORMATION, PROVIDED BY THE NATIONAL AUDIT OFFICE AND THE STATE FINANCIAL INSPECTION AGENCY

1. Number of inspections, carried out under the Public Procurement Act and number of inspected contracting authorities, under the Public Procurement Act, incl. number of:

- a) checked public contracting authorities;
- b) checked sector contracting authorities.

2. Number and total value of the audited procedures under the Public Procurement Act, incl. number and total value of procedures checked:

a) for awarding public procurement (outside the fields of defense and security), which are fully or partially financed by ESIF funds and announced in the EU Official Journal (OJ);

b) for awarding public procurement (outside the areas of defense and security) that are fully or partially funded by the ESIF and not announced in the EU OJ;

c) for procurement (outside the fields of defense and security) without ESIF funding, which are announced in the EU OJ;

d) for awarding public procurement (outside the fields of defense and security) without ESIF funding not announced in the EU OJ;

e) for awarding public procurement in the fields of defense and security.

3. Number and total value of the checked awardings by collecting offers by call or invitation to specific persons, incl. number and total value of checked awarded procurement, funded by the ESIF.

4. Number and total value of the checked procurement contracts, incl. number and total value of contracts for:

a) public procurement (outside the areas of defense and security), which are fully or partially financed by ESIF funds and announced in the EU OJ;

b) public procurement (outside the areas of defense and security), that are fully or partially funded by the ESIF and not announced in the EU OJ;

c) public procurement (outside the fields of defense and security) without ESIF funding, announced in the EU OJ;

d) public procurement (outside the fields of defense and security) without ESIF funding, not announced in the EU OJ;

e) public procurement in the fields of defense and security.

5. Number of found violations of:

a) Public Procurement Act, incl. the number of violations, related to non-implementation of the awarding procedure, provided for by the Act and the number of other violations of the Act;

b) The Rules on the implementation of the PPA.

6. Number of administrative violations, for which acts have been imposed for finding administrative violations (AFAV), incl. The number of:

a) violations, related to non-implementation of the procurement procedure for awarding, provided for in the Public Procurement Act;

b) violations, related to the conditions of the public procurement;

- c) violations, related to the choice of contractor;
- d) procedural violations, that do not affect the choice of contractor;
- e) violations, related to compliance with publicity requirements;
- f) other violations.

7. N of established AFAN:

- a) for violations of the PPA;
- b) for violations of the Rules on the implementation of the PPA.

8. Number of issued penal decrees and total amount of administrative penalties imposed with them.

9. The number of penal provisions, appealed and the total amount of administrative penalties, imposed on them.

10. Number of repealed penal provisions.

11. Number of enforceable criminal decrees and total amount of administrative penalties, imposed with them.

12. The most common causes of misapplication of legal provisions in the area of public procurement and / or legal uncertainty, possible structural or recurrent problems, as well as specific normative regulations, that create significant enforcement problems.

#### PART B

#### INFORMATION TO BE PROVIDED BY THE COMPETITION PROTECTION COMMISSION (CPC)

1. Number of complaints, related to public procurement, lodged with the CPC.

2. Number of proceedings, initiated in connection with public procurement complaints, lodged with the CPC, incl. distribution by type of contested act, actions or omissions of action by contracting authorities.

3. Number of complaints, refused to initiate proceedings before the CPC.

4. Number of orders for termination of proceedings before the CPC, incl. number of proceedings, terminated due to the withdrawal of the complaint.

5. Number of public procurement complaints, filed against the CPC, incl. number of complaints, regarding procedures for:

a) public procurement (outside the areas of defense and security), that are fully or partially financed by the ESIF and announced in the EU OJ;

b) public procurement (outside the areas of defense and security), that are fully or partially funded by the ESIF and not announced in the EU OJ;

c) public procurement (outside the areas of defense and security), without ESIF funding, announced in the EU OJ;

d) public procurement (outside the areas of defense and security), without ESIF funding, not announced in the EU OJ;

e) public procurement in the areas of defense and security.

6. Number of CPC decisions on public procurement complaints.

7. Number of CPC decisions, that have disregarded the complaints, incl. distribution by type of contested act, actions or omissions of actions by the contracting authorities.

8. Number of CPC decisions, revoking unlawful acts of the contracting authorities, incl. distribution by type of the contested act.

9. Number of requests for interim measure "suspension of procedure".

10. Number of imposed temporary measures.

11. Number of requests for preliminary execution, allowed.

12. Number of determinations, by which preliminary implementation is admitted.

13. Number of decisions, imposing pecuniary sanctions:

a) pursuant to Art. 215, Para. 5 of the Public Procurement Act;

b) pursuant to Art. 215, Para. 6 of the Public Procurement Act.

14. Total amount of property sanctions, imposed (in BGN).

15. Average length of proceedings before the CPC.

16. Number of appeals before the Supreme Administrative Court of the CPC, related to public procurement, incl. distribution by type of the contested act.

17. Actions and / or mechanisms undertaken in connection with the prevention, identification and counteraction of the tender manipulations, number of proceedings, initiated to establish a possible infringement, related to agreements, decisions or concerted practices in connection with public procurement, and the number of acts, issued by the CPC in this regard (including their distribution by type of act).

18. Frequently recurring problems in the implementation of public procurement regulations, as well as specific normative regulations, that create significant implementation problems.

#### PART C

##### INFORMATION, PROVIDED BY THE SUPREME ADMINISTRATIVE COURT (SAC)

1. Number of complaints, received at SAC, against CPC acts in connection with public procurement (including distribution by type of contested act, and depending on whether the contested act of CPC is in favor of the contracting authority, or in favor of the complainant).

2. Number of proceedings, initiated before the SAC, under Chapter Twenty-Seven of the Public Procurement Act.

3. Number of public procurement procedures, in connection with which proceedings have been initiated under Chapter Twenty-Seven of the Public Procurement Act, before the SAC.

4. Number of SAC acts, issued, in connection with which proceedings were initiated under Chapter Twenty-Seven of the Public Procurement Act, incl. distribution by type of acts.

5. Average length of proceedings under Chapter Twenty-Seven of the Public Procurement Act before the SAC.

6. Common causes of misapplication of public procurement and / or legal uncertainty, possible structural or recurrent problems, as well as specific normative regulations, that create significant enforcement problems.

#### PART D

##### INFORMATION, PROVIDED BY THE BODIES UNDER ART. 9, PARA. 1 OF THE ACT ON MANAGEMENT OF FUNDS FROM THE EUROPEAN STRUCTURAL AND INVESTMENT FUNDS

1. Number of public procurement contracts checked, incl. number of:

a) public procurements, announced in the EU OJ;

b) public procurements, not announced in the EU OJ.

2. Number of procurement contracts with irregularities, related to awarding and / or execution of public procurement contracts.

3. Number of irregularities, related to awarding and / or execution of public procurement, incl. number of irregularities, related to fraud suspected and distribution by types of irregularities:

3.1. lack of publication of a public procurement notice or unjustified direct award;

3.2. artificial division of public procurement for construction / services / parts supply;

3.3. lack of justification for not dividing the subject of the procurement into separate positions;

3.4. unlawful deadlines for the receipt of offers, or for the receipt of applications to participate or absence of extension of the announced deadlines for the receipt of offers, with substantial changes in the conditions of the public procurement;

3.5. insufficient time to access the procurement documents for potential participants / applicants, or unlawful restrictions on access to the procurement documents;

3.6. lack of publication of extended deadlines for receipt of offers / applications to participate or absence of extensions of deadlines for receipt of offers / applications to participate;

- 3.7. unlawful selection of a negotiated competitive procedure or competitive dialogue;
  - 3.8. breach of rules, when using specific awarding procurement techniques and tools (framework agreements, dynamic purchasing systems, electronic auctions, electronic catalogs, centralized awarding);
  - 3.9. lack of publication in the procurement notice of the selection and / or award criteria (and / or their weight) or of the conditions for fulfilling the contract, or the technical specifications / lack of sufficient description of the award criteria or their weight / non-award / publication of explanations / additional information;
  - 3.10. use of exclusion grounds, selection criteria, award criteria or conditions for the performance of the procurement, or technical specifications, that are discriminatory on the basis of unjustified national, regional or local requirements;
  - 3.11. use of exclusion grounds, selection criteria, award criteria or conditions for the performance of the procurement, or technical specifications, that are not discriminatory within the meaning of item 3.10, but restrict the access of applicants or participants;
  - 3.12. insufficient or inaccurate determination of the subject of the procurement;
  - 3.13. unreasonable restriction on the possibility of subcontracting;
  - 3.14. the selection criteria or technical specifications have changed since opening of offers or have been attached incorrectly;
  - 3.15. evaluation of offers by improper use of criteria or use of additional unpublished selection or award criteria;
  - 3.16. insufficient audit trail to award the public procurement;
  - 3.17. negotiations during the awarding procurement procedure, including modification of the offer of the selected contractor;
  - 3.18. unlawful participation of an applicant or participant in the preliminary actions of the contracting authority in the preparation of the procedure (market consultations and external participation in the preparation of the documentation), which has been assigned for contractor;
  - 3.19. a substantial modification of the conditions in the public procurement notice and / or documentation in the competitive negotiation procedure;
  - 3.20. unlawfully removing abnormally favorable offers;
  - 3.21. a conflict of interest, affecting the outcome of the procurement procedure;
  - 3.22. participation in a procurement procedure under the terms of an agreement with other persons in order to prevent, restrict or distort competition;
  - 3.23. unlawful changes to the public procurement contract.
4. Number and total amount of financial corrections, related to public procurement irregularities:
    - a) with estimated value above EU thresholds;
    - b) with estimated value under EU thresholds;
  5. Objectives, set for the award of innovative public procurement and capacity building activities in this field (training, guidance, etc.) – the information is to be provided by managing authorities, where applicable.
  6. Main challenges, related to the award of innovative public procurement, measures to overcome them and the results achieved – the information is to be provided by managing authorities, where applicable.
  7. Frequently recurring problems in the implementation of public procurement regulations, as well as specific normative regulations, that create significant implementation problems.

#### PART E

### INFORMATION TO BE PROVIDED BY THE COMMISSION FOR COUNTERACTING CORRUPTION AND FOR SEIZURE OF ILLEGAL ACQUISITION OF PROPERTY



1. Legal framework, related to the prevention, detection and adequate reporting of irregularities, including fraud, corruption and conflict of interest in public procurement.

2. Definition of conflict of interest in national legislation and its compliance with the definition, contained in Art. 24 of Directive 2014/24 / EU and Art. 42 of Directive 2014/25 / EU.

3. Actions and / or mechanisms, taken regarding the prevention, detection and proper reporting of fraud, corruption and conflict of interest in public procurement, including how these actions and / or mechanisms are implemented and their objectives, as well as existing institutional arrangements.

4. Number of signals, received for fraud, corruption or conflict of interest in the award and / or execution of public procurement.

5. Number of proceedings, initiated for alleged conflicts of interest in connection with public procurement.

6. Number of identified cases of conflict of interest in relation to public procurement.

#### PART F

INFORMATION, PROVIDED BY DIRECTORATE “PROTECTION OF FINANCIAL INTERESTS OF THE EUROPEAN UNION” (AFCOS) IN THE MINISTRY OF INTERNAL AFFAIRS

1. Number of reports of irregularities, related to awarding and / or execution of public procurement, received by the AFCOS Directorate, incl. the number of reports of fraud, corruption or conflict of interest.

2. Number of completed inspections to identify irregularities, related to the award and / or execution of public procurement and number of identified irregularities, incl. the number of identified irregularities, concerning fraud, corruption or conflict of interest.

3. Actions and / or mechanisms taken in relation to the prevention, identification and proper reporting of fraud, corruption and conflict of interest in public procurement.

3. Actions and / or mechanisms, taken in relation to prevention, identification and proper reporting of fraud, corruption and conflict of interest in public procurement.

4. Common causes of misapplication of public procurement and / or legal uncertainty, possible structural or recurrent problems, as well as specific normative provisions, that create significant enforcement problems.

#### PART G

INFORMATION, PROVIDED BY CENTRAL PURCHASING AUTHORITIES UNDER ART. 96, PARA. 2 AND 3 OF THE PUBLIC PROCUREMENT ACT

1. Measures, targeting the participation of small and medium-sized enterprises (SMEs), start-ups and businesses seeking to expand their activities in awarding public procurement procedures.

2. Data, relating to the participation of SMEs in awarding procurement procedures, incl. total number of offers, submitted and number of offers, submitted by SMEs, number and total value of public procurement contracts, awarded to SMEs.

3. Measures to ensure timely payment in public procurement, especially for SMEs, and those for subcontracting.

4. Potential structural or recurring problems, as well as specific normative provisions, that create significant implementation problems.