

# PUBLIC PROCUREMENT ACT

In force from 15.04.2016

*Prom. SG. 13/16 Feb 2016, suppl. SG. 34/3 May 2016, amend. and suppl. SG. 63/4 Aug 2017, amend. SG. 85/24 Oct 2017, suppl. SG. 96/1 Dec 2017, amend. and suppl. SG. 102/22 Dec 2017, amend. SG. 7/19 Jan 2018, amend. and suppl. SG. 15/16 Feb 2018, suppl. SG. 17/23 Feb 2018, suppl. SG. 24/16 Mar 2018, suppl. SG. 30/3 Apr 2018, amend. and suppl. SG. 49/12 Jun 2018, amend. SG. 77/18 Sep 2018, suppl. SG. 80/28 Sep 2018, amend. and suppl. SG. 86/18 Oct 2018, amend. SG. 102/11 Dec 2018, amend. SG. 105/18 Dec 2018, amend. and suppl. SG. 17/26 Feb 2019, amend. and suppl. SG. 83/22 Oct 2019, amend. and suppl. SG. 102/31 Dec 2019, suppl. SG. 23/14 Mar 2020, amend. and suppl. SG. 107/18 Dec 2020, suppl. SG. 62/5 Aug 2022*

## **Part one. GENERAL PROVISIONS**

### **Chapter one. SUBJECT PURPOSE AND PRINCIPLES**

#### **Subject and Purpose**

Art. 1. (1) This act shall define the conditions and procedure for awarding public procurements for public works, supply or services and for conducting competition for project by contracting authorities in view to provision of effectiveness in spending of:

1. public funds;
2. funds, provided by the EU funds and programmes;
3. funds, related to performing activities in the sectors of water supply, energy, transport and post services;
4. the funds of companies and undertakings, which are contracting authorities in the meaning of the act.

(2) Public procurement is acquiring by one, or several awarding authorities through a public procurement contract of public works, supply or services by selected by them contractors, and in sector awarding authorities – for fulfillment of sector activities.

#### **Principles**

Art. 2. (1) The public procurements are awarded in compliance with the principles of the **Treaty on the Functioning of the European Union** (TFEU) and more specially the ones for free movement of goods, freedom of establishment and freedom to provide services and mutual recognition, as well as the principles, comprising from them:

1. equality and non-admittance of discrimination;
2. free competition;
3. proportionality;
4. publicity and transparency.

(2) With awarding public procurement, the awarding authorities shall not have the right to restrict competition by including conditions or requirements, which give undue advantage or unduly restrict participation of economic subjects in public procurement and which are not coordinated with the subject, value, complexity, quantity or volume of the public procurement.

## **Chapter two.** **APPLICABLE FIELD**

### **Subjects to Public Procurement**

Art. 3. (1) Subjects to public procurement shall be:

1. public works, including:

a) fulfillment or design and fulfillment of public works, related to one of the activities under **Annex**

**No 1;**

b) fulfillment or design and fulfillment of public works;

2. supply of goods, realized through a purchase, leasing, rent or financial leasing with or without the right to buying, as well as all the needed preliminary activities on the sue of the goods, as installation or mounting works, test of machines and facilities, etc.;

3. provision of services.

(2) As public works under Para. 1, p. 1, letter "b" shall also be accepted fulfillment of a public works, for which the contracting authority has decisive influence over the type or its design regardless of the form of cooperation and origin of the used resources.

### **Nomenclatures**

Art. 4. (1) With awarding public procurement the codes of the nomenclatures in the Common Procurement Vocabulary shall be used, adopted by Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV)

(2) Where the awarding authorities use other nomenclatures in their activity, while awarding public procurements, their compliance with the Common Procurement Vocabulary shall be indicated mandatory.

### **Contracting Authorities of Public Procurement**

Art. 5. (1) The contracting authorities shall be liable for the correct forecasting, planning, conducting, finalization and accounting the results of the public procurement. The Contracting authorities shall be public and sector.

(2) Public contracting authorities shall be:

1. the President of the Republic of Bulgaria;

2. the President of the National Assembly;

3. the Prime Minister;

4. the Ministers;

5. the Ombudsman of the republic of Bulgaria;

6. The Governor of the Bulgarian National Bank;

7. the President of the Constitutional Court of the Republic of Bulgaria, the administrative heads of the judiciary bodies, which govern independent budgets, as well as the administrative heads of Prosecutions in the Country;

8. the Regional Governors;

9. Municipality Mayors, of regions, of City Halls, as well as Deputy Mayors, where they are budgetary spending units;

10. the Chairpersons of state agencies;

11. the Chairpersons of the state commissions;
12. the Executive Directors of executive agencies;
13. heads of state institutions, established by an act or a Council of Ministers Decree, including separate structures of the executive, where they are legal persons and budgetary spending units;
14. representatives of public-legal organizations;
15. heads of diplomatic and counselor representations of the Republic of Bulgaria abroad, as well as the permanent representations of the Republic of Bulgaria at the international organizations;
16. the representing medical establishments – trade companies under **Art. 36 – 37** of the Medical Establishments Act, owned by the state and/or municipalities, of which more than 50% of the revenues are from the state and/or the municipal budget, and of the budget of the National Health- insurance Fund;
17. heads of central bodies for purchases, established for satisfaction of the needs of the public contracting authorities.

(3) The public contracting authorities shall also be unifications of contracting authorities under Para. 2, p. 1 – 16.

(4) Sector contracting authorities shall be:

1. representing public undertakings and their unifications, where they perform one or several sector activities;
2. representing the traders or other persons, which are not public undertakings, where on the basis of special or exclusive rights perform one or several sector activities;
3. the heads of central bodies for purchase, established for satisfaction needs of sector contracting authorities.

(5) Where a public contracting authority, who carries our sector activity, awards a procurement for the purposes of a sector activity, he shall apply the rules, applicable to the sector contracting authorities.

### **Contracting Authority for a Concrete Case**

Art. 6. (1) The rules of this act shall also apply where public funds finance directly by more than 50% some of the following activities:

1. (amend. - SG 86/18, in force from 01.03.2019) public works with estimated value, larger, or equal to BGN 10 000 000;
2. (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) services, related to public works under p. 1, where their estimated value is larger or equal to BGN 18 000.

(2) In the cases under Para. 1, the person, who awards the procurement, regardless whether it is the financing body or the financed person, acts as contracting authority for the concrete case.

### **Delegation of Powers**

Art. 7. (1) The contracting authority may select an official, who shall organize and/or award public procurement.

(2) With the exception of the cases under Para. 1, in absence of the contracting authority, his powers, related to awarding public procurement shall be fulfilled by the person, who replaces him under legislative, administrative or other act, which defines the representation of the contracting authority.

(3) (amend. - SG 86/18, in force from 01.03.2019) The possibility under para. 1 shall not be used for division of the public procurement in view to circumvention of the law and applying an order for lower values.

(4) (new - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) Contracting authority, which is the budget spender of a higher level, may award public procurement for the needs of its lesser budget spenders, even though they are independent contracting authorities.

## **Joint Awarding of Public Procurement**

Art. 8. (1) Two or more contracting authorities may sign an agreement for joint awarding of public procurement, in which all organizational, technical and financial issues shall be settled, related to conducting of the procedure, signing of the contracts, distribution of public works, supply or services, which are subject to the procurement, etc.

(2) In the cases under Para. 1, every one of the contracting authority shall be responsible for fulfillment of their obligations under the act, regardless whether the procedure for awarding a public procurement is conducted jointly on behalf and at the expense of all the contracting authorities or one of the contracting authorities fulfills the technical activities on conducting the procedure, by representing at the same time itself and the other contracting authorities.

(3) In the cases under Apra. 1, where parts of the procedure for awarding a public procurement is not conducted jointly on behalf and at the expense of all the contracting authorities, every one of them shall be responsible for those parts, which are conducted jointly. Every contracting authority shall be responsible for the fulfillment of their obligations under the act in relation to the parts, which he conducts on its behalf and at its expense.

## **Joint Awarding Public Procurement with Contracting Authorities from other Member States**

Art. 9. (1) Contracting authorities shall have the right to award public procurements, to sign framework agreements or to manage a dynamic system for purchases jointly with contracting authorities from other Member States. In the cases of joint framework agreements and dynamic systems for purchases, the contracting authorities may independently award contracts for public procurements on them.

(2) Where the issues, related to joint awarding have not been settled by an agreement, signed between the Republic of Bulgaria and another Member State, the relevant contracting authorities shall sign an agreement, by which the following is regulated:

1. the obligations of the parties and the applicable national provisions, which are indicated in the documentation for the public procurement;
2. organizational, technical and financial issues, related to conducting the procedure, signing the contracts, distribution of the public works, supply or services, which are subject of the procurement, etc.

(3) Where a contract for public procurement has been signed on behalf and at the expense of one of the participating in a joint awarding contracting authorities and another of the participating contracting authorities acquired public works, supply or services by it, it shall be accepted that the latter has fulfilled its obligations under the law.

(4) Where a contracting authority established a partnership with a contracting authority/s from other Member States, including European group for territorial cooperation in the meaning of Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC), or other partnerships, established under the EU law, the applicable rules for awarding public procurement shall be provided by an act of the competent body of the joint partnership. These rules may be national provision of the Member State in which the partnership central office is located, or in which the partnership carries out its activity.

(5) The act under Para. 4 shall provide for:

1. the term for application of the rules, unless where the establishing act of the partnership provides unlimited term;
2. the types or concrete procurement, to which the rules are applied.

(6) The contracting authorities shall not use joint awarding with contracting authorities from other Member States in view to circumvention of the law.

## **Applicants, Participants and Contractors**

Art. 10. (1) Any applicant or participant in a procedure for awarding public procurement may be any Bulgarian or foreign natural or legal person or their partnerships, as well as any other formation, which has the right to fulfill public works, supply or services under the legislation of the state in which it is established.

(2) The contracting authorities shall not have the right to require the partnerships to have a certain legal form in order to participate in awarding a procurement, but may set a condition for establishment of a legal person, where the participant, selected for contractor is a partnership of natural and/or legal persons, if this is needed for fulfillment of the procurement. The need of establishment of a legal person shall be explicitly grounded in the decision for opening the procedure.

(3) Any applicant or participant shall not be removed from the procedure for awarding a public procurement on the basis of its status or its legal form, where it or the participants in the partnership have the right to provide the relevant service, supply or public works in the Member State of their establishment.

## **Joint Public Procurements**

Art. 11. (1) Where the public procurement includes activities with more than one subjects under **Art. 3**, it shall be awarded in the order, applicable to the site, which characterizes the activities – basic subject of the procurement.

(2) Where the public procurement includes services and supplies, the major subject is defined depending on the service or supply, whose forecast value is the highest.

(3) Where the public procurement includes services under Annex No 2 and other services, the major subject shall be determined depending on the service, whose forecast value is the highest.

(4) Where the subject of the public procurement contains several activities, to a part of which the rules for public contracting authorities are applied, and to others – the rules for sector contracting authorities or some of the activities fall outside the scope of the act, the contracting authority may award separate procurements for certain activities. In case of independent awarding of the separate activities, the rules, applicable to the relevant activity shall be observed. In case that the contracting authority decides to award the activities in a common procurement, the rules, applicable to public contracting authorities shall apply.

(5) Decision taking for awarding a common procurement view to application of more relieved rules, or exclusion of the procurement from the applicable field of the act shall not be admitted.

(6) Where the subject of a public procurement contains objective inseparable parts, it shall be awarded under the procedure, applicable to the part, which determined the major subject of the procurement.

(7) Contract, which include subject of public procurement and concession, the contract shall be awarded:

1. under the rules of this act, where the contracting authority takes decision to award a common procurement;

2. under the rules of this act, where the subject is objectively insuperable;

3. under the rules, applicable to every of the activities – in all remaining cases.

(8) A public procurement, which includes activities for which are applicable the rules for sector contracting authorities and activities, for which the rules of the act are not applicable and which are not subject to concession and if it is objectively impossible to determine which of the activities is the basic subject of the procurement, or the contracting authority decides to award a common procurement, it shall be awarded under the rules for sector contracting authorities.

## **Reserved Public Procurement**

Art. 12. (1) The Council of Ministers, upon proposal of the Minister of Labour and Social Policy

shall determine by decisions:

1. a list of the goods and services according to the CPV, which are intended for awarding to specialized undertakings or cooperation of disabled people or to economic subjects, which basic purpose is social and professional integration of disabled people or people in unfavorable situation;

2. programmes for creating protected jobs within the frames of which the contracting authorities have the right to keep procurements.

(2) While drawing up the list and the determination of the programmes under Para. 1, the conducted national policies, the fulfilled strategies and programmes, as well as the capacity possibilities and nomenclature of goods and services, provided by the undertakings or persons under Para. 1 shall be taken in consideration, where in case of need the list and the programmes shall be updated.

(3) In the call of proposals, which announces opening of the procedure for awarding public procurement under Para. 1, the contracting authority shall indicate that the procurement is reserved.

(4) The central bodies for purchases shall not be obliged to reserve procurements, which fall in the scope of the list under Para. 1, p. 1.

(5) With awarding public procurements under Para. 1 may participate persons, under the conditions that at least 30% of their staff are disabled persons or in unfavorable position. In the cases under Para. 1, p. 1 the persons must be registered as specialized undertakings or cooperation of disabled people at least 3 years before the date of opening the concrete procedure for awarding public procurement.

(6) Specialized undertakings or cooperation of disabled people may participate in a public procurement under Para. 1, p. 1 under the conditions that they can fulfill at least 80% of its subject with own machines, facilities and human resource. For fulfillment of the conditions, they may use subcontractor or the capacity of third persons, if the subcontractors or the third persons are specialized undertakings or cooperation of disabled people.

(7) In the procedure for awarding a reserved procurement may participate also other interested persons, but their offers shall be considered only if there are not admitted offers of the persons under Para. 1.

(8) The conditions and procedure for participation, consideration of offers, ranking and signing a contract for a reserved procurement shall be provided by the Rules on application of the act.

(9) (amend. - SG 105/18, in force from 01.01.2019, amend. – SG, 102/19, in force from 01.01.2020) The Public Procurement Agency shall make public the list and the programmes under Para. 1 through the [Public Procurement Portal](#), within 7-day term from publication of the decision under Para. 1 in the State Gazette and shall provide connection to the register under Art. 83 of the People with Disabilities Act.

### **Chapter three. EXCEPTIONS**

#### **General Exceptions**

Art. 13. (1) The act shall not apply:

1. (suppl. – SG, 102/19, in force from 01.01.2020) to public procurement and competitions for a project, which must be awarded on rules, established in an international agreement, signed while observing the provisions of the EU Treaty and TFEU, between the Republic of Bulgaria and one or more third countries or their autonomic areas for supply, services or public works of sites, intended for joint realization or exploitation by the parties, signed it;

2. to public procurement and competition for project, which are awarded under the rules of an international organization or international financing institution, where they are wholly financed by the relevant organization or institution; in public procurement and competition for a project, co-financed by more than 50% by an international organization or international financing institution, the parties negotiate the applicable procedure for awarding the procurements;

3. to public procurement and competition for a project, which are awarded in absence of procedures for awarding a public procurement, established by an international organization in its rules;

4. with acquiring or renting – notwithstanding what financial funds – of land, existing buildings or other immovable properties or right over them;

5. with procurements for buying programme time or provision of programmes, which are awarded to providers of media services;

6. in arbitration and conciliation services;

7. to legal services, related to:

a) representation of a client of a lawyer's company or by a lawyer in arbitration or conciliation procedure in a Member State, third state or before an international arbitration or conciliating institution or in a procedure before the court, jurisdiction or public body of a Member State or third country or before international court, jurisdiction or institution;

b) provision of legal advice by a lawyer's company or by a lawyer in the preparation of a procedure under letter "a", as well as provision of legal advice on issued, which may become subject to the procedures under letter "a";

c) establishment and certification of documents, which are performed mandatory by a notary;

d) provision by persons, determined by a court or competent body or under the law, where the fulfillment of the services is under the supervision of the court or the competent body;

e) exercising function of state power, including services on judicial enforcement, provided by a bailiff;

8. (amend. - SG 86/18, in force from 01.03.2019) with financial services, related to emitting, sale, purchase or transfer of securities or other financial instruments, services, provided in relation to undertaking and management of the state debt, services, provided in relation to management of the system of a single account and fiscal reserve, services, provided by the Bulgarian National Bank, operations, carried out with the European Financial Stability Facility (EFSF) and the European Stability Mechanism;

8a. (new - SG 96/17, in force from 02.01.2018, amend. – SG 15/18, in force from 16.02.2018) for services provided to:

a) (suppl. – SG 15/18, in force from 16.02.2018) the Bulgarian National Bank related to financial messaging, communication and support for financial messaging systems;

b) (suppl. – SG 15/18, in force from 16.02.2018) the Bulgarian National Bank and the Financial Supervision Commission related to providing real time uninterrupted access to financial and economic information, including means of extracting and analyzing asset prices and other economic and financial data as well as platforms for trading and registering financial and other assets on international markets;

c) (suppl. – SG 15/18, in force from 16.02.2018) The Bulgarian National Bank related to production of Bulgarian exchange and commemorative coins;

9. (amend. - SG 86/18, in force from 01.03.2019) for loans, including bank credits, notwithstanding if they are related to emitting, sale, purchase or transfer of securities or other financial instruments;

10. in labour legal relations in the meaning of § 1, p. 26 of the Additional Provisions of the Income Taxes on Natural Persons Act;

11. in services, related to the civil defence, civil protection and prevention of dangers, which are provided by non-profitable legal persons and which fall in the scope of codes of the CPV 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8; 98113100-9 and 85143000-3 with exception of the services of ambulances for carriage of patients;

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

13. in public procurements and competition for a project, related to the defence and security areas, for which the provision of Part Four shall not apply:

a) awarding of which is related to provision of information, whose disclosure contradicts to the basic interests of the country security, under Art. 345, Para. 1, letter "a" of the TFEU, or

b) (suppl. – SG, 102/19, in force from 01.01.2020) where the contracting authority is obliged to award and/or organize the procurement in specific procedure rules under international agreements or contracts, signed while observing the provisions of EU Treaty and TFEU between the Republic of Bulgaria on one part and one or more third parties, or their autonomous areas - on the other for supply, services or public works, intended for joint realization or exploitation by the signed parties, or

c) awarded to undertakings of a Member State or of a third country in fulfillment of international agreement or contracts, related to deployment of troops, or

d) where the contracting authority is obliged to award them or organize in compliance with rules, established by an international organization, or

e) awarded under rules of an international organization or international financing institution, where they are thoroughly financed by the relevant organization or institution; in public procurement and competitions for a project, co-financed by more than 50% from an international organization or international financing institution, the parties shall negotiate the applicable procedure for awarding the procurement, or

f) where the protection of basic interests, related to security of the country cannot be guaranteed through setting requirements, directed to protection of the information, which the contracting authority must produce in a procedure of awarding a public procurement under this act or through other measures with smaller level of intervention, or

g) the fulfillment of which is accompanied by special security measures in compliance with the legislation in force in view to protection of basic interests of the country security;

14. in public procurement for services, awarded by contracting authority to a public contracting authority or of partnership of such contracting authorities which have exclusive rights for provision of the relevant service under a compatible act, an act of secondary legislation or published administrative act with the provisions of the TFEU;

15. for procurement for services for scientific research and development activity, where some of the following conditions is not fulfilled:

a) the benefits occur wholly for the contracting authority in order to use them while performing its activity;

b) the provided service is paid thoroughly by the contracting authority;

16. for the services under obligatory social security;

17. for insurance contracts, covering liability for nuclear damage in implementing the Vienna Convention on Civil Liability for Nuclear Damage, drawn up in Vienna on 21 September 1988 (ratified by an act – SG, 64/1994) (publ. – SG, 76/1994; corr. 91/1994) and of the **Safe Use of Nuclear Power Act**;

18. (new - SG 34/16, suppl. - SG 30/18) contracts for services, supplies or construction works, concluded by a contracting authority under **Art. 5, para. 2, items 1 - 13, and para. 4, item 1** related to construction and maintenance of engineering facilities hindering border crossings in order to protect state borders;

19. (new - SG 96/17, in force from 02.01.2018) to contracts on maintaining the security of objects and to contracts for carrying out fire-fighting and rescue work and state fire control by officials of the Ministry of Interior concluded under the **Ministry of Interior Act**.

20. (new - SG 17/18, in force from 23.02.2018) when medical establishments for hospital care are buying medicinal products included in the list under **Art. 266a, para. 2 of the Medicinal Products in Human Medicine Act**.

21. (new - SG 23/20, in force from 14.03.2020) upon the purchase by the contracting authorities of medical devices and personal protective equipment necessary for providing the anti-epidemic measures introduced by an act of the Minister of Health or director of a regional health inspection, in the cases of declared emergency under **Art. 84, item 12 of the Constitution of the Republic of Bulgaria**.

(2) The Council of Ministers, upon proposal of the Minister of Defence and the Minister of Interior



shall adopt an Ordinance, which shall provide for the criteria and procedure for defining availability of basic interest, related to security of the country in the cases under Para. 1, p. 13, letters "a", "f" and "g", which must be protected in signing a contract for public procurement or in conducting a competition for a project.

### **Exceptions, Applicable to Public Contracting Authority**

Art. 14. (1) The public contracting authorities shall not apply the act:

1. where a public contracting authority, which performs activities, related to postal services, awards procurement or holds a competition for a project in relation to fulfillment of some of the following activities:

a) services, awarded in view to realization of profit, related to electronic means and provided wholly through such means (including protected submission of coded documents by electronic means, address distribution services and transmission of registered e-mail);

b) postal cash transmission and operations of transferring, carried out in relation to the financial services, covered by codes of 66100000-1 to 66720000-3 under the CPV and the services under **Art. 13, para. 1, p. 8;**

c) philatelic services;

d) logistics services, which combine physical supply and/or storage with other non-postal activities;

2. for procurement and competitions for a project, which assist the activity of a public contracting authority, related to provision or exploitation of public electronic communication networks in the meaning of § 1, p. 39 of the Additional Provision of the Electronic Communications Act, or providing one or more public electronic communications in the meaning of § 1, p. 40 of the Additional Provision of the Electronic Communications Act ;

3. with acquiring, development, production or joint production of material for emissions, intended to audio-visual media services or radio-services, which are awarded by providers of radio- services or audio-visual media services;

4. for services, falling in the scope of codes 79341400-0, 92111230-3 and 92111240-6 under the CPV and related to political campaigns, where they are awarded by a political party within the frames of a pre-election campaign;

5. in public procurement, which are awarded by a public contracting authority, including where it performs sector activity, to a legal person, if the following conditions have been fulfilled at the same time:

a) the contracting authority exercises control on the legal person, similar to the one, which he exercises over its own structure units;

b) more than 80% of the legal person's activity has been formed by fulfillment of activities, awarded by the contracting authority or its separate structures or by other legal persons, controlled by the contracting authority;

c) (amend. – SG, 102/19, in force from 01.01.2020) in the legal person – contractor, should have no direct private capital participation; by way of exception, direct private capital participation is permitted, where this is required by provisions of national law, in accordance with the EUT and the TFEU, and is not linked to control or blocking powers and does not have a decisive influence on the activities of the legal person;

6. (amend. - SG 86/18, in force from 01.03.2019) where a legal person, which is subject to control in the meaning of p. 5, letter "a", awards a procurement to the contracting authority, which controls it or to another legal person, controlled by the same contracting authority and for the contractor conditions under p. 5, letters "b" and "c" have been completed;

7. in public procurements, which are awarded by a public contracting authority, including where carries out sector activity, to a legal person, if the following conditions have been fulfilled at the same time:

a) a contracting authority exercises jointly with other contracting authorities control over a legal person, similar to the one, which exercises over its own structure units;

b) more than 80% of the activity of the legal person has been formed by fulfillment of activities, awarded by the contracting authorities, which control it, or by other legal persons, controlled by the same

contracting authorities;

c) (amend. – SG, 102/19, in force from 01.01.2020) in the legal person- contractor should not have private capital participation; by way of exception, direct private capital participation is permitted, where this is required by provisions of the national law, in accordance with the EUT and the TFEU, and is not linked to control or blocking powers and does not have a decisive influence on the activities of the legal person;

8. in contracts, signed between two or more public contracting authorities, including where they perform sector activity, where the following conditions have been fulfilled at the same time:

a) it has been established or carried out cooperation between them in order to guaranty that their obligations for provision of public services are fulfilled in view to achievement of common objectives for them;

b) realization of the cooperation is directed only by considerations, related to public interest;

c) during the last 3 years the participating contracting authorities have fulfilled on the free market less than 20% of the activity, related to the cooperation.

(2) In the cases under Para. 1, p. 5, letter "a", the contracting authority shall exercise control over a legal person, similar to the one, which it exercises over its own structure units, where it has decisive influence over the strategic purposes and important decision of this legal person. Such a control may be exercised also by another legal person, which is controlled in the same way by the contracting authority.

(3) In cases under Para. 1, p. 7 the contracting authorities exercise over a certain legal person joint control, where the following conditions have been fulfilled at the same time:

1. the management and control bodies of the legal person consist of representatives of all participating in the control contracting authorities, where the representatives may represent several or all participating contracting authorities;

2. these contracting authorities may jointly exercise decisive influence over the strategic objectives and significant decision of the legal person;

3. the legal person has not interests, which are contradicting the interests of the controlling contracting authorities.

(4) In the cases under Para. 1, p. 5 – 8 in defining the percentage of the activity, the average total turnover is taken in consideration or another suitable indicator, which measures fulfillment of the activity for the last 3 years.

(5) In the cases under Para. 1, p. 5 – 8, where because of the date of establishment or of beginning of the activity of the legal person or of the contracting authority or because of re-organization of its activity, there is not data about the turnover or where this data are not comprehensive any more, it is sufficient to prove that the mode of measuring the activity is reliable, more especially through its business programme.

(6) The method for defining the price of the contracts under Para. 1, p. 5 – 7 shall be determined by the Rules on implementation of the act.

(7) Where some of the conditions fall out, needed for signing a contract under Para. 1, p. 5 – 8, the contract shall be terminated with the signing under the act of a new contract with the same subject. In this case the contracting authority shall open awarding of a new procurement within 1 month term from failure of the relevant condition.

(8) (amend. - SG 102/18, in force from 01.01.2019) The act shall not apply to:

1. contracts, signed by the National Health-insurance Fund with contractors of medical help in the meaning of **Art. 58 of the Health Insurance Act**;

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

a) medical products, medical devices, highly specialized appliances / mechanisms for individual use;

b) (In force from 01.01.2020) aids, devices and equipment for people with disabilities.

(9) (new - SG 80, in force from 28.09.2018) The Act does not apply to the contracts concluded by the Road Infrastructure Agency under **Art. 10, para. 14 and 15** of the Roads Act.

## **Exception, Applicable to Sector Contracting Authorities**

Art. 15. (1) A sector contracting authority shall not apply the act where it awards:

1. procurement for supplies in view to re-sale or leasing to third persons in case that it does not benefit from special or exclusive rights to sell or let or in leasing the subject of such procurement and other subject may free carry out such an activity under the same conditions;

2. procurement or competition for a project for purposes, which are not related to carrying out sector activities or for carrying out some of these activities in a third country under the conditions that it does not use a network or geographic region within the frames of the EU;

3. procurements for supply of water, if this contracting authority carries out activities under **Art. 126, para. 1, p. 1 and 2;**

4. (amend. - SG 86/18, in force from 01.03.2019) procurements for supply of energy or fuels for production of energy if this contracting authority carries out activities under **Art. 124, Para. 1, p. 1 and 2, Art. 125, Para. 1, p. 1 and 2 and Art. 128, items 2 and 3;**

5. procurements of a related undertaking:

a) for services – under conditions that at least 80% of the average total turnover of the related undertaking for the previous 3 years has been realized from provision of services of the contracting authority or other undertakings, with which it is related, by taking into account all identical or similar services, provided by this undertaking;

b) for supplies – under the conditions that at least 80% of the average total turnover of the related undertaking for the previous 3 years has been realized from provision of supplies to the contracting authority or to other undertakings, with which it is related, by accounting all identical or similar supplies, provided by this undertaking;

c) for public works – under the condition that at least 80% of the average total turnover of the related undertaking for the previous 3 years has been realized from provision of public works of the contracting authority or of other undertakings, with which it is related, by accounting all the public works, provided by this undertaking;

6. procurement of joint undertaking, in which it participates under the condition that the joint undertaking has been established for performing sector activity for the term of at least 3 years and that the and that the establishing act of the joint undertaking envisages that the establishing contracting authorities to keep their participation in it at least for the same term.

(2) The act shall not apply where joint undertaking under Para. 1, p. 6 awards procurement to an undertaking, which is related to one of the contracting authorities, participating in the joint undertaking, and if the relevant condition has been fulfilled under Para. 1, p. 5, letters "a" and "c".

(3) The act shall not apply, where a joint undertaking awards procurements to a contracting authority, who participates in it, if the conditions of Para. 1, p. 6 are fulfilled.

(4) In the cases under Para. 1, p. 5 and Para. 2, where because of the date, on which the related undertaking is established or has started to carry out activity there is no data about its turnover for the last 3 years, it shall be sufficient this undertaking to prove through the envisaged in its business programme, that at least 80% of its average annual turnover will be realized from the supplies, services or public works, which will be provided to the contracting authority and the related undertakings.

(5) Where 2 or more undertakings, related to the contracting authority provide identical or similar supplies, services or public works, in calculating the size of the turnover under Para. 1, p. 5, the total turnover of these undertakings from provision of the relevant supplies, services or public works shall be taken in consideration.

(6) Where some of the conditions under Para. 1, p. 5 or 6, needed for signing contract under Para. 1, p. 5 or 6, Para. 2 or 3 falls out, the contract shall be terminated with signing under the procedure of the act a new contract with the same subject. In this case the contracting authority shall be obliged to open the awarding to the new procurement within 1 month term from falling out the relevant condition.

## **Application of the Exceptions**

Art. 16. (amend. and suppl. - SG 86/18, in force from 01.03.2019) The contracting authorities shall not refer to the exception under **Art. 13 – 15** when the grounds provided for by the law are not available.

## **Part two. RULES FOR AWARDING**

### **Chapter four. PROCEDURES FOR AWARDING, VALUE THRESHOLDS. FORECAST VALUE OF THE PUBLIC PROCUREMENT**

#### **Obligation for Application**

Art. 17. (1) The contracting authorities shall be obliged to apply the envisaged in the act procedure for awarding of public procurement, where there are reasons for that.

(2) Awarding activities in forest territories for growing forests, production of wood and non-wood forest products shall be carried out under the **Forestry Act**.

#### **Types of Procedures**

Art. 18. (1) The procedures under this act shall be:

1. open procedure;
2. restricted procedure;
3. competition procedure with agreement;
4. agreement with preliminary calls for participation;
5. negotiation with publication of call for procurement;
6. competition dialogue;
7. partnership for innovations;
8. agreement without preliminary call of proposals;
9. agreements without preliminary call for participation;
10. agreement without publication of call for procurement;
11. competition for a project;
12. public competition;
13. direct agreement.

(2) Open procedure and public competition shall be procedures, in which all interested persons may submit an offer.

(3) restricted procedure is the one, in which offers may submit only applicants, who have received invitation by the contracting authority after preliminary selection.

(4) In procedures under Para. 1, p. 3 – 5, the contracting authority shall conduct negotiations with applicants, received invitation after conducted preliminary selection. As a basis for conducting the negotiations, the applicants shall submit initial offers.

(5) Competition dialogue shall be a procedure, in which the contracting authority conducts a dialogue with the admitted applicants after preliminary selection in view to determine one or more proposed decisions, meeting its requirements, after which he shall invite the proposed applicants to submit final offers.

(6) Partnership for innovations shall be a procedure, in which the contracting authority conducts negotiations with the admitted applicants after preliminary selection in view to establishment of partnership

with one or more partners, which will carry out a certain scientific-research and development activity.

(7) In the procedures of agreement under Para. 1, p. 8 – 10 and 13 the contracting authority shall conduct negotiations for defining the clauses of the contract with one or more exactly determined persons.

(8) (amend. and suppl. - SG 86/18, in force from 01.03.2019) A competition for a project shall be a procedure, in which the contracting authority shall acquire basically in the areas of city and village public planning, architecture, engineering activity or data, processing a plan or conceptual design, selected by independent board on the basis of a conducted competition with or without awarding prices. The competition for a project may be open or restricted.

### **Applicable Procedures**

Art. 19. (1) With awarding public procurements, the public contracting authorities shall apply the procedures under **Art. 18, Para. 1, p. 1 - 3, 6 - 8 and 11 - 13.**

(2) With awarding public procurements the sector contracting authorities shall apply the procedures under **Art. 18, Para. 1, p. 1, 2, 4, 6, 7, 9 and 11 - 13.**

(3) With awarding public procurements in the areas of defence and security, the contracting authorities shall apply the procedures under **Art. 18, Para. 1, p. 2, 5, 6 and 10.**

### **Value Thresholds**

Art. 20. (1) The procedures under **Art. 18, Para. 1, p. 1 - 11** shall apply where:

1. public contracting authorities, as well as their partnerships award public procurements with prognosis value, larger or equal to:

a) (amend. - SG 86/18, in force from 01.03.2019) BGN 10 000 000 - for public works;

b) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 271 000 - for supply and services;

c) (amend. - SG 86/18, in force from 01.03.2019) BGN 1 000 000 – for services under **Annex No 2**

;

2. public contracting authorities, working in the area of defence, shall award public procurements with prognosis value, larger or equal to:

a) (amend. - SG 86/18, in force from 01.03.2019) BGN 10 000 000 – for public works;

b) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 271 000 - for services and supplies, which include products under **Annex No 3**;

c) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 418 000 – for supplies, which include products outside the scope of **Annex No 3**;

d) (amend. - SG 86/18, in force from 01.03.2019) BGN 1 000 000 - for services under **Annex No 2**;

3. sector contracting authorities shall award public procurements with prognosis value larger or equal to:

a) (amend. - SG 86/18, in force from 01.03.2019) BGN 10 000 000 - for public works;

b) (amend. - SG 86/18, in force from 01.03.2019) BGN 860 000 – for supplies and services;

c) (amend. - SG 86/18, in force from 01.03.2019) BGN -1 500 000 – for services under Annex No

2;

4. public and sector contracting authorities shall award procurements in the areas of defence and security with prognosis value, larger or equal to:

a) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 837 000 – for supplies of military equipment, including parts, components and/or mounting elements

for it, including equipment, included in the list of the products, related to defence, adopted under **Art. 2, Para. 1** of the Act on the Export Control of Defence - Related Products and Dual Use Items and

Technologies;

b) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 837 000 - for supply of sensitive equipment, including parts, components and/or mounting elements for it;

c) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 837 000 – for supplies, directly related to equipment under letters "a" and "b" for each and every element of its life cycle;

d) (amend. - SG 86/18, in force from 01.03.2019) BGN 10 000 000 – for public works, directly connected to the equipment under letters "a" and "b" for each every of the elements of its life cycle;

e) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) BGN 837 000 – for services of specific military purposes or for sensitive services;

f) (amend. - SG 86/18, in force from 01.03.2019) BGN 10 000 000 - for public works for specific military purposes or for sensitive public works;

5. the contracting authorities shall conduct a competition for a project in the value, larger or equal to BGN 70000.

(2) The contracting authorities shall apply the procedures under **Art. 18, Para. 1, p. 12 or 13**, where the public procurements have prognosis value:

1. (amend. - SG 86/18, in force from 01.03.2019) in public works – from BGN 270 000 to BGN 10 000 000;

2. in supplies and services, including and the services under Annex No 2 – from BGN 70 000 to the relevant threshold under Para. 1, depending on the type of the contracting authority and the subject of the procurement.

(3) The contracting authorities shall apply the order for awarding through collecting offers with a call or invitation to certain persons, where the public procurements have prognosis value:

1. in public works – from BGN 50 000 to BGN 270 000;

2. in supplies and services, with the exception of the services under Annex No 2 – from BGN 30 000 to BGN 70 000.

(4) The contracting authorities may award directly public procurement with prognosis value, smaller than:

1. BGN 50 000 – in public works;

2. BGN 70 000 – in services under Annex No 2;

3. BGN 30 000 - in supplies and services apart from the ones under p. 2.

(5) In the cases under Para. 4, p. 2 and 3, the contracting authorities may prove the origin only by initial payment documents, without the need of signing a written contract.

(6) The public procurement under PArA. 1, p. 4 at the value smaller than the relevant threshold, may be awarded directly but the contracting authorities shall be obliged to sign a written contract.

(7) The contracting authorities under **Art. 5, Para. 2, p. 15** shall apply the procedure for awarding through collecting offers with a call or invitation to certain persons, where the public procurements have prognosis value:

1. (amend. - SG 86/18, in force from 01.03.2019) in public works - from BGN 270 000 to BGN 10 000 000;

2. in supplies and services – from BGN 70 000 to the relevant threshold under Para. 1, depending on the procurement subject.

(8) The contracting authorities under **Art.5, Para. 2, p. 15** may award directly public procurements with prognosis value under the thresholds of Para. 7, where in supplies and services may be proved the cost only with initial payment documents, without the need of signing a written contract.

(9) The contracting authorities shall have the right to award a concrete public procurement under a procedure, applicable to higher values, where in this case they shall be obliged to apply all the rules, valid to the selected by them order.

## **Methods for Calculation of the Prognosis Value of Public Procurements**

Art. 21. (1) (Amend. – SG, 102/19, in force from 01.01.2020) The prognosis value of the public procurement shall be defined by the contracting authority and shall include all payments without VAT, including the envisaged option and renewal of the contracts, explicitly indicated in the conditions of the public procurement. Where the contracting authority envisages awards or payments for the applicants or participants, they shall be included in defining the prognosis value of the procurement.

(2) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) The estimated value shall be up to date at the time of the opening of the public procurement. The contracting authority may calculate the estimated value as a result of conducted market studies or consultations.

(3) Where the structure of the contracting authority there are separate units on territorial functional or other principle, which are not independent contracting authorities, the prognosis value of a certain public procurement shall be defined on the basis of the need of all the separate units.

(4) Where the public procurement includes several separate positions, each of which is a subject to contract, the value of the procurement shall be equal to the sum of the values of all the positions.

(5) Where a separate position is awarded independently, the procedure, applicable to the total value of the whole procurement shall be observed.

(6) (Suppl. – SG, 102/19, in force from 01.01.2020) The contracting authorities may award separate positions under the procedure, valid to the individual prognosis value of every one of them, under the conditions that the value of the relevant separate position does not exceed BGN 156 464 for supplies and services and BGN 1 000 000 for public works and the total prognosis value of the separate positions, awarded in this way does not exceed 20% of the total prognosis value of the procurement. In this case, notwithstanding the remaining value of the procurement, it shall be awarded in a procedure, applicable to the total prognosis value of the whole procurement.

(7) In defining the prognosis value of a public procurement for public works, it shall include also the value of all supplies and services, provided by the contracting authority to the contractor under the condition, that such are needed for fulfillment of the public works.

(8) In public procurements for supplies and services, which are regular or are subject to renewal within the frames of a certain period, their prognosis value shall be defined on the basis of :

1. the real total value of the procurements of the same type, which have been awarded during the last 12 months, corrected by eventual changes in the quantity or value, which would occur for the period of 12 months after the awarding of the procurement, of

2. the total prognosis of procurements, awarded during the 12 months after the first supply or service.

(9) In public procurement for supply through leasing, rent, financial leasing or hire –purchase, the prognosis value of the public procurement shall be defined as follows:

1. in public procurements with a defined term, where this term is shorter, or equal to 12 months – the total prognosis value for the term of the force of the contract for public procurement or if the term of the force of the contract is longer than 12 months – the total value, including the prognosis remaining value;

2. in public procurements without a defined term or whose term cannot be defined – the monthly value, multiplied by 48.

(10) In public procurement for services, the basis for calculation of their prognosis value shall be as follows:

1. in insurance services – payable insurance premium and other remunerations;

2. in bank or other financial services – the charges, due commissions, interests and other payments;

3. in procurements for design – the charges, due commissions and other payments.

(11) In public procurement for services without indicated total price, the basis for calculation of the prognosis value shall be as follows:

1. in procurements with a certain term, if this term is shorter or equal to 48 months – the total value

for the whole term;

2. in procurements without defined term, or with a term, longer than 48 months – the monthly value, multiplied by 48.

(12) In framework agreements and dynamic systems for purchases, the maximum prognosis value without VAT of all contracts for public procurements, envisaged for the whole term of action of the framework agreement or the dynamic system for purchases shall be taken in consideration.

(13) In partnership for innovations, the maximum prognosis value without VAT of the scientific research and development activities, which will be carried out at all stages of the envisaged partnership shall be taken in consideration, as well as the supplies, services or public works, which will be developed and supplies at the end of the envisaged partnership.

(14) (amend. - SG 86/18, in force from 01.03.2019) Selection of a method for calculation of the prognosis value of the public procurement shall not be used for application of a procedure for awarding for smaller values.

(15) (amend. - SG 86/18, in force from 01.03.2019) Division of a public procurement in parts with which it applies procedure for awarding for lower values shall not be admitted, except in the cases under para. 6.

(16) As division of awarding within the frames of 12 months of 2 or more procurements shall not be considered:

1. with subject of fulfillment of a public works or design and fulfillment of public works;
2. with identical or similar subject, which have not been known to the awarding authority at the moment, in which awarding actions of a previous public procurement with such subject have started.

(17) In defining the value of a contract for public works, inclusion of supplies or services, which are not needed for its fulfillment, shall not be admitted.

## **Chapter five. PUBLICITY AND TRANSPARENCY**

### **Section I. Decision and Notices**

#### **Decisions**

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

1. for opening the procedure;
2. for approval of notice for amendment and supplementation of information;
3. for approval of the call for confirmation of interest;
4. for preliminary selection;
5. for finalization of the dialogue;
6. for determination of contractor;
7. for grading the participants in a competition for a project and/or for awarding and/or other payments in a competition for a project;
8. for termination of the procedure;
9. (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) for creation of a qualification system, or for amending its term of validity;
10. (new - SG 86/18, in force from 01.03.2019) for inclusion or for refusal of inclusion of interested persons in the dynamic system for purchases or in a qualification system;
11. (prev. para. 10 - SG 86/18, in force from 01.03.2019) for termination of participation in a



dynamic system for purchases or in qualification system of persons, who have been included in it;

12. (New – SG, 102/19, in force from 01.01.2020) for opening the award of a public procurement by using a qualification system or a dynamic purchasing system.

(2) (Amend. and suppl. – SG, 102/19, in force from 01.01.2020) With the decision under Para. 1, p. 1 the contracting authority shall approve the notice with which the procedure is opened, and in the procedures under **Art. 18, Para. 1, p. 8 – 10 and 13** - the call for participation, as well as the documentation to the notice to the invitation, where applicable. With the decision under Para. 1, item 9, the contracting authority shall approve the notice, announcing the establishment of a qualification system.

(3) (Suppl. – SG, 102/19, in force from 01.01.2020) With the decision under Para. 1, item 3, the contracting authority shall also approve the documentation, when it is not approved by the decision initiating the procedure. With the decision under Para. 1, item 12, the contracting authority shall approve the documents and the invitation for provision of offers or for participation in negotiations.

(4) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) The decision under Para. 1, p. 1, 2. 9 and 12 shall be drawn up under a form.

(5) The decision under Para. 1 shall contain:

1. name of the contracting authority;
2. number, date and legal ground for issuance of the act;
3. indication of the procedure type and the procurement subject;
4. prognosis value of the procurement – where applicable;
5. grounds – in the cases where they are required;
6. regulatory part, whose contents shall depend on the type and stage of the procedure, and shall include:

- a) approval of the relevant documents, related to conducting the procedure;
  - b) approval of the notice for amendment and supplementation of the information;
  - c) the results of the preliminary selection, including decreasing of the number of applicants, the results of the dialogue or grading of participants;
  - d) the removed applicants or participants and grounds for their removal, including the related to non-acceptation of offers under **Art. 72** – where applicable;
  - e) name of the participant, selected for contractor, and where applicable – the name of sub-contractor and the part of the contract for procurement or framework agreement, which he will fulfill;
  - f) found conflicts of interests in relation to the applicants or participants and the measures taken – where applicable;
7. before which body and in what term it may be appealed;
  8. (amend. – SG, 102/19, in force from 01.01.2020) full name, position and signature of the person, issued the act.

(6) Decision for determining a contractor shall not be issued in the cases of procurements, awarded after signing a framework agreement with one contractor, where in it all conditions have been determined.

(7) Contracting authorities shall not have the right to admit preliminary fulfillment of the decision under Para. 1.

(8) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020, amend. - SG 107/20, in force from 01.01.2021) The contracting authority may amend or reject any of the decisions under Para. 1, p. 4 – 12 before its coming into force.

(9) (Amend. - SG 107/20, in force from 01.01.2021) The decisions under Para. 1 and 8 shall be individual administrative acts, which are created through the platform under **Art. 39a, para. 1** as electronic documents in compliance with the requirements of this Act. The number of the decision is considered to be the number generated by the platform, and the date of issue - the date of the electronic signature of the contracting authority, and for more contracting authorities - the date of the last electronic signature. The number and date of the decisions are visible as data in a separate electronic form, which is an integral part of the decision.

(10) (new - SG 86/18, in force from 01.11.2019, suppl. - SG 107/20, in force from 01.01.2021)  
Applicants and participants shall be notified of the decisions under para. 1, items 3 - 8, 10 and 11 and para. 8 within three days from their issuance by message on their buyer profiles in the platform under **Art. 39a, para. 1**, to which the relevant decision is attached. The decision is deemed to have been served since receiving of the message on buyer`s profile, which is certified by the platform by electronic time stamp.

### **Preliminary Notices**

Art. 23. (1) The contracting authorities may announce their intentions for awarding public procurements or for signing framework agreements during the following 12 months by publishing preliminary notices, which depending on the type of the contracting authority shall be:

1. notice for preliminary information – for public contracting authorities;
2. periodic indicative notice – for sector contracting authorities.

(2) Where the contracting authorities announce their intentions for awarding public procurements for services under Annex No 2, the term under Para. 1 may be by 18 months. Where the contracting authorities announce their intentions for awarding public procurements for services under Annex N2, the term under Para. 1 may be up to 18 months.

(3) For restricted procedures and competition procedure with agreement, the public contracting authorities under **Art. 5, Para. 2, p. 8, 9, 14 and 16** may use the notice for preliminary information for call of opening the procedure.

(4) For restricted procedure and for procedures of negotiation with preliminary call for participation, the sector contracting authorities may use periodic indicative notice for call of opening a procedure.

(5) In the cases under Para. 3 and 4, the notice must:

1. (amend. – SG, 102/19, in force from 01.01.2020) have been sent for publication between 35 days and 12 months before the date of sending the call for confirmation of interest and
2. contain the whole information:
  - a) under part A of Annex No 4 – for public contracting authorities;
  - b) under part A of Annex No 5 – for sector contracting authorities.

(6) With announcing procedures under Para. 3 or 4 for awarding public procurements for services under Annex No 2, the contracting authorities may use an notice under Para. 1, p. 1 or 2 for call of opening the procedure.

(7) In the cases under Para. 6, the notice must:

1. (amend. – SG, 102/19, in force from 01.01.2020) be sent for publication between 35 days and 18 months before the data of sending the call for confirmation of interest and
2. contain the whole information:
  - a) under part B of Annex No 6 – for public contracting authorities;
  - b) under part B of Annex No 7 – for sector contracting authorities.

(8) In the cases under Para. 3, 4 and 6 in the relevant preliminary notice, term for declaring interest by the interested persons shall be indicated, which shall not be shorter than 30 days from sending the notice for publishing. In these cases an notice for public procurement shall not be published.

(9) In open procedures the contracting authorities may use the notice under Para. 1 only for shortening the terms for receiving offers.

### **Notice for Public Procurement**

Art. 24. With an notice for a public procurement the contracting authorities shall announce the opening of a procedure for awarding a public procurement in cases, provided by the act.

## Notice for Amendment or Additional Information

Art. 25. (Amend. - SG 107/20, in force from 01.01.2021) With notice for amendment or additional information, the contracting authorities shall announce changes in the notices, invitations to confirm interest and documentation for public procurement and in the described document.

## Notice for Warding a Procurement

Art. 26. (1) The contracting authorities shall submit for publication of an notice for awarding a procurement within the term by:

1. 30 days after signing a contract for public procurement or framework agreement;
2. (amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) 7 days form the enforcement of the decision for termination of the procedure under **Art. 18, para. 1, items 1 - 4, 6, 7 and 12** or of the decision of the Commission for Protection of Competition under **Art. 215, para. 2, item 2 or 5**;
3. (new - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) thirty days after the conclusion of a contract on the grounds of **Art. 13, para. 1, item 1 and item 13, letter "b", Art. 14, para. 1, items 5 - 8 and Art. 15, para. 1, items 1, 2, 5 and 6**.

(2) (amend. - SG 86/18, in force from 01.03.2019, amend. and suppl. - SG 107/20, in force from 01.01.2021) The contracting authorities may publish the notice for awarding a procurement also where they sign contracts in applying the exceptions under **Art. 13, para. 1, art. 14, para. 1 and Art. 15, para. 1**, outside the ones indicated under par. 1, item 3.

(3) Where the notice of opening a procedure for awarding a public procurement the relevant preliminary notice is used and the contracting authority has decided not to award other procurements during the period of its force, this shall be indicated explicitly in the notice for awarding a procurement.

(4) (amend. - SG 86/18, in force from 01.03.2019) In case of procurements, awarded on the bases of framework agreement or dynamic system for purchases, the contracting authorities can submit for publication an notice for awarding a procurement, which shall contain information about all signed contracts during the relevant quarterly. The notice shall be submitted within the term of up to 30 days after the end of every quarterly.

(5) Where a sector contracting authority fills in an notice for awarding a procurement, related to scientific research and development activity (SRDA), the information about the subject and quantity of the services may be restricted to:

1. the sign "services for SRDA" – where the procurement has been awarded after a negotiation procedure without preliminary call of participation under **Art. 138, Para. 1, p.1**;
2. information, which is as much detailed as the one, contained in the notice, which is used as a call of participation in the procedure.

(6) Information of the notices under Para. 1, whose publication contradicts an act, as well as such, in relation to which the participants have legally benefitted form confidentiality in relation to a commercial secret, shall not be published.

(7) In formation, provided by a sector contracting authority in the award notice of procurement, which is not subject to publication, shall be taken in consideration in summarizing the information for strategic purposes.

(8) Where a contractor of a public procurement is a partnership, which is not a legal person, the contracting authority shall indicate in the notice for awarding a procurement the name of the participants, included in it.

## **Notice for Amendment of a Contract for Public Procurement or Framework Agreement within the Term of its Force**

Art. 27. (amend. - SG 86/18, in force from 01.11.2019) The contracting authorities sent for publication an notice for amendment of a public procurement contract or framework agreement under **Art. 116, Para. 1** within 30 days from the signing of the additional agreement.

### **Notice of Voluntary Transparency**

Art. 28. (1) Contracting authorities may publish an notice for voluntary transparency where they apply the exceptions under **Art. 13 – 15** and **Art. 149**.

(2) (Suppl. - SG 107/20, in force from 01.01.2021) The notice for voluntary transparency shall be individual administrative act, which is issued under **Art. 22, para. 9**.

(3) In the cases under Para. 1, the contracting authorities shall not sign contract before expiry of 10 days from the publication of the notice for voluntary transparency or where against it a complaint has been filed by the time the decision comes in to force.

### **Notice for Finalization of a Public Procurement Contract or framework agreement (Title amend. - SG 107/20, in force from 01.01.2021)**

Art. 29. (1) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020, amend. - SG 107/20, in force from 01.01.2021) The contracting authorities sent for publication a notice for finalization of a public procurement contract or framework agreement, which contains information about:

1. the performance, termination, cancellation or invalidity of the public procurement contract
2. termination or invalidity of a framework agreement.

(2) (New – SG, 102/19, effective from 01.01.2020, revoked - SG 107/20, in force from 01.01.2021)

(3) (Former Para. 3, amend. - SG, 102/19, effective from 01.01.2020, amend. - SG 107/20, in force from 01.01.2021) The notice under Para. 1 shall be drawn up according to a form and shall be sent within the term of up to 30 days from occurrence of the relevant circumstance under Para. 1.

### **Notice in a Competition for a Project**

Art. 30. (1) A contracting authority, who conducts a competition for a project shall announce its intention through an notice for a competition for a project.

(2) A contracting authority which has conducted a competition for a project shall send an notice about the results from the competition within the term of up to 30 days from its finalization.

(3) Information, which contains in the notice under Para. 2 and whose notice contradicts an act or public interest, as well as the one, in whose relation the participants have legally benefited from confidentiality in relation to availability of technical or trade secrets, shall not be published.

## **Section II.**

### **Documents for Public Procurement**

#### **Contents of the Documentation**

Art. 31. (1) The public procurement documentation shall contain:

1. technical specifications;
2. investment and other projects, where they are required for preparation of the offer;
3. methods for defining the complex assessment of the offer, where applicable;

4. document forms, as well as instruction for their preparation;
5. (suppl. – SG 15/18, in force from 16.02.2018) draft contract unless the contract is concluded under general conditions, or a normative act defines its obligatory content.

(2) In the competition for a project, the documentation shall contain:

1. the project task and instructions for its fulfillment;
2. all technical data, needed for the project fulfillment;
3. assessment criteria of the project, their reference weight and the way for defining the complex assessment of the project.

(3) The documentation may also contain other documents, which the contracting authority provides or which he refers to in order to define the characteristics of the procurement and pro project and the way for conducting the procedure, or which are needed for the preparation of the participation application, offers or projects.

### **Access to Documentation (title amend. - SG 86/18, in force from 01.11.2019)**

Art. 32. (1) (amend. - SG 86/18, in force from 01.11.2019) Contracting authorities shall provide unlimited, complete, free and direct access through the platform under **Art. 39a, para. 1** to the documentation for the public procurement from the date of:

1. publishing the notice in the **Official Journal of the EU**;
2. publication of the notice in the Register of public procurements, where it is not subject to publication under p. 1; or
3. sending the call for confirmation of interest.

(2) In the notice or call for confirmation of interest the internet address shall be indicated, at which the public procurement documentation is accessible.

(3) (amend. - SG 86/18, in force from 18.10.2018) Where it is not possible to provide unlimited, full, free and direct access to procurement documentation or parts thereof under para. 1 the contracting authorities indicate in the notice or the call for confirmation of interest the conditions and the way of its receipt. In these cases, the term for receiving offers shall be extended by 5 days.

(4) In the cases under **Art. 102, Para. 3** in the notice or the call for confirmation of interest, the contracting authorities shall indicate measures, which must ne undertaken in view to protection of the confidential nature of the information, as well as the conditions and way of access to the documentation. In these cases the term for receiving offers shall be extended by 5 days.

(5) In the cases under Para. 3 and 4 the contracting authorities shall not be obliged to extend the term for receiving offers, where it is shortened because of a need of urgent awarding. The sector contracting authorities shall not be obliged to extend the term also where it is defined upon mutual consent between the contracting authority and the selected applicants.

### **Explanations of the Procedure Conditions**

Art. 33. (1) (suppl. - SG 86/18, in force from 01.03.2019) Persons may request in writing from the contracting authority clarifications on the conditions contained in the decision, notice, call for confirmation of interest, the public procurement documentation and the description document by 10 days before expiry of the term for receiving the applications for participation and/or offers, and where the term is shortened under **Art. 74, Para. 2** or **Art. 133, Para. 2** or in case of a need of urgent awarding – up to 7 days.

(2) The contracting authority shall provide the explanations within 4 day term from receiving the request, but not later than 6 days before the term for receiving the participation applications and/or offers, and where the term is shortened under **Art. 74, Para. 2** or **Art. 133, Para. 2** or because of a need of urgent awarding – up to 4 days before this term. In the explanations, the person, expressed the request shall not be mentioned.

(3) The contracting authority shall not provide explanations, if the request ahs been received after

the term under Para. 1.

(4) (amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021)

The clarifications shall be provided through the Public Procurement Register.

(5) (new - SG 86/18, in force from 01.03.2019) The clarifications can not bring changes in the conditions of the procedure.

### **Calls to the Applicants**

Art. 34. (1) In the cases of restricted procedure, competition dialogue, partnership for innovations, competition procedure with agreement or procedure of agreement with preliminary invitation for participation, the contracting authorities shall send written invitations to the selected applicants at the same time for submitting offers or for participation in negotiations or dialogue. The invitation shall be approved by the decision of preliminary selection or the decision for finalization of a dialogue and must contain at least the information under:

1. Section I of Annex No 8 – for public contracting authorities;
2. Section I of Annex No 9 – for sector contracting authorities.

(2) Where the procedure is open with notice for preliminary information or periodic indicative notice, the contracting authority shall send at the same time an invitation for confirmation of interest to the persons, who have already shown interest for participation. The invitation must contain at least the information under:

1. Section II of Annex N8 – for public contracting authorities;
2. Section II of Annex No 9 – for sector contracting authorities.

(3) (new - SG 86/18, in force from 01.11.2019) Where unlimited, direct, complete, free access has not been provided through the platform under Art. 39a, para. 1 and the documentation has not been produced in another way, it shall be attached to the invitation.

### **Section III. Publication of Information**

#### **Publication in the EU Official Journal**

Art. 35. (1) (Amend. – SG, 102/19, in force from 01.01.2020) In the [EU Official Journal](#) information shall be published, related to awarding and fulfillment of procurements in the value of Art. 20, Para. 1, and for establishment of qualification systems through:

1. the notices under **Art. 23, Para. 1**, including where they are used for notice opening a procedure;
2. notices for public procurement;
3. notice for amendment or additional information;
4. notice for awarding procurements;
5. notice in a competition for a project;
6. (suppl. – SG, 102/19, in force from 01.01.2020) notice for amendment of contracts for public procurements and framework agreements in the cases under **Art. 116, Para. 1 item 2 and 3**;
7. notices for voluntary transparency;
8. notice for qualification systems.

(2) (Amend. – SG, 102/19, in force from 01.01.2020) The notices under Para. 1 shall be drawn up under forms, confirmed by an act of the European Commission and shall contain at least the information on:

1. Annexes No 4 – 7, depending on the type of the contracting authority, type and stage of the procedure, and where applicable – also the subject of the procurement – for announcements under Para. 1,

item 1 – 7;

2. Annex N 13 – for announcements under Para. 1, item 8.

(3) (amend. - SG 86/18, in force from 01.11.2019) The notices under para. 1 shall be sent to the Publications Office of the European Union through the platform under **Art. 39a, para. 1**, maintained by the Public Procurement Agency. The date of dispatch of the notices shall be the date certified by the platform by electronic time stamp.

(4) In the **EU Official Journal** notices may be published for public procurements, for which the requirements for publication shall not apply in case that these notices have been sent by the EU Publications Office in compliance with Para. 2.

(5) (revoked - SG 86/18, in force from 01.11.2019)

### **Publication in the Public Procurements Register**

Art. 36. (1) (Amend. – SG, 102/19, in force from 01.01.2020) The Public Procurement Register (PPR) is an electronic data base - part of the platform under **Art. 39a, Para. 1**, with information on public procurements, awarded by the contracting authorities under this Act. The Register shall publish:

1. (amend. – SG, 102/19, in force from 01.01.2020, suppl. - SG 107/20, in force from 01.01.2021) the decision under **Art. 22, Para. 1 and 8**;

2. the notices under Art. 35, Para. 1;

3. (new – SG, 102/19, in force from 01.01.2020) notices of amendment of public procurement contracts and framework agreements under **Art. 116, Para. 1, item 1 and 4 - 7**;

4. (former p. 3 – SG, 102/19, in force from 01.01.2020) the notices, related to conducting the procedures under **Art. 18, Para. 1, p. 12 and 13** – for notice of opening, amendments, awarding of procurement and amendments of contracts;

5. (new – SG, 102/19, in force from 01.01.2020) The invitations to participate in the procedures under **Art. 18, Para. 1, items 8-10 and 13**;

6. (former p. 4 – SG, 102/19, in force from 01.01.2020, suppl. - SG 107/20, in force from 01.01.2021) the notice for finalization of public procurement contracts and framework agreements.

7. (new – SG, 86/18, in force from 01.11.2019, previous item 5, amend. - SG 102/19, in force from 01.01.2020) calls for collecting offers, invitations to certain persons under **Art. 191, Para. 1**, as well as notices of award of public procurements of value under **Art. 20, Para. 3 or 7**;

8. (new – SG, 86/18, in force from 01.11.2019, previous item 6, amend. - SG 102/19, in force from 01.01.2020) Procurement documents, except in the case of **Art. 32, Para. 3 and 4**;

9. (new – SG, 102/19, in force from 01.01.2020) the invitations under **Art. 34, Para. 1** and 2;

10. (new – SG, 102/19, in force from 01.01.2020) explanations, provided by the contracting authorities in connection with public procurement;

11. (new – SG, 102/19, in force from 01.01.2020) The protocols and reports of commissions in the award of public procurements, respectively, of the jury in a design contest;

12. (new – SG, 102/19, in force from 01.01.2020) public procurement contracts and framework agreements and their annexes, except those, published as part of the documentation;

13. (new – SG, 102/19, in force from 01.01.2020) subcontracting contracts;

14. (new – SG, 102/19, in force from 01.01.2020) Additional agreements for amendments to public procurement contracts and framework agreements;

15. (new – SG, 102/19, in force from 01.01.2020) The rules and criteria under **Art. 141, Para. 5**;

16. (new – SG, 102/19, in force from 01.01.2020) The opinions of the Public Procurement Agency under **Art. 232, Para. 8** and **Art. 233, Para. 4**, as well as those, under **Art. 235, Para. 3**, where an additional agreement has been concluded;

17. (new - SG 107/20, in force from 01.01.2021) the information related to market consultations.

(2) (Amend. – SG, 102/19, in force from 01.01.2020) Notices under Para. 1, item 2 and the decisions, with which they are approved shall not be published in the PPR before the publication of the relevant notices in the Official Journal of the European Union.

(3) (revoked - SG 86/18, in force from 01.11.2019)

(4) (amend. - SG 86/18, in force from 01.11.2019) The published in PPR notices under Para. 1, p. 2 shall not contain information, different from the one, which is sent for publication to the EU Publications Office.

(5) (New – SG, 102/19, in force from 01.01.2020) The PPR shall be deemed to be such, that the persons concerned, applicant and/or participants are informed of the circumstances, reflected in them, unless otherwise provided for in this Act.

(6) (New – SG, 102/19, in force from 01.01.2020) The documents under Para. 1, which relate to a particular public procurement, framework agreement or qualification system shall be differentiated in a separate electronic file.

(7) (New – SG, 102/19, in force from 01.01.2020) The register shall be public and access to information in it shall be free.

### **Buyer profile**

Art. 36a. (new - SG 86/18, in force from 01.03.2019) (1) Contracting authorities maintain buyer

Art. 36a. (new - SG 86/18, in force from 01.03.2019) (1) (amend. – SG, 102/19, in force from 01.01.2020) Contracting authorities shall provide through the Profile of the buyer, which is maintained on the platform under **Art. 39, Para. 1**, publicity of:

1. the information under **Art. 36**;

2. (revoked - SG 107/20, in force from 01.01.2021)

3. other relevant information, relating to the award of public procurement contracts at the discretion of the contracting authority.

(2) (Amend. – SG, 102/19, in force from 01.01.2020) The documents for each public procurement shall be established on the buyer profile in a separate electronic file.

(3) (Amend. – SG, 17/19, in force from 01.03.2019, repealed – SG, 102/19, in force from 01.01.2020)

(4) (Repealed – SG, 102/19, in force from 01.01.2020)

(5) (In force from 01.01.2020, repealed – SG, 102/19, in force from 01.01.2020)

### **Protection of information in publication of documents**

Art. 37. (Revoked - SG 86/18, in force from 01.11.2019, new – SG, 102/19, in force from 01.01.2020) When the public procurement documents are published, the protected by law information shall be deleted, stating the reason therefor.

### **Conditions and Procedure for Submitting and Publication of Information**

Art. 38. (revoked - SG 86/18, in force from 01.11.2019)

## **Section IV.**

### **Electronic Awarding of Procurements (title amend. - SG 86/18, in force from 01.11.2019)**

#### **Rules for Exchange of Information**

Art. 39. ((\*), amendment on entry into force - SG 63/17, in force from 30.06.2017, revoked - SG



86/18, in force from 18.10.2018)

### **Awarding via an electronic platform**

Art. 39a. (new- SG 86/18) (1) (in force from 01.11.2019, amend. and suppl. - SG 107/20, in force from 01.01.2021) Awarding of public procurements, including through a dynamic purchasing system, a framework agreement and a qualification system, as well as when conducting competitions for a project, a centralized electronic platform is used.

(2) (Revoked - SG 107/20, in force from 01.01.2021)

(3) (in force from 01.01.2021, revoked - SG 107/20, in force from 01.01.2021)

(4) (New - SG 107/20, in force from 01.01.2021) Contracting authorities and business entities use the platform for:

1. preparation of decisions, notices, announcements for collection of offers and invitations to certain persons;
2. publication of the documents under **Art. 36, para. 1**;
3. sending invitations;
4. requesting and providing clarifications;
5. submission of applications for participation, offers and competitive projects;
6. service of the decisions of the contracting authorities in the cases specified in the Act;
7. exchange of information and documents in connection with the consideration of applications for participation, offers and competitive projects.

(5) (New - SG 107/20, in force from 01.01.2021) The contracting authorities and business entities may use the platform under para. 1 also in planning, selection of candidates or participants, evaluation of the offers, conclusion of the contract, preparation and submission of applications under contracts, submission and acceptance of electronic invoices, preparation and sending of electronic complaints and in other cases according to the possibilities it provides.

(6) (New - SG 107/20, in force from 01.01.2021) The central purchasing bodies may use platforms for electronic assignment, different from the platform under para. 1, provided that they meet the requirements of para. 7 and provide an opportunity to perform the actions under para. 4, required for procurement through these platforms.

(7) (in force from 01.11.2019, prev. para. 4 - SG 107/20, in force from 01.01.2021) The platform under para. 1 shall be publicly available and interoperable with the most widely used market products of information and communication technologies for general use. In every case of transmission, exchange and storage of information, the platform guarantees the integrity of the data and the confidentiality of the documents for participation in the procedure until their opening and review, which is after expiry of the deadline for their receipt.

(8) (in force from 01.11.2019, prev. para. 5 - SG 107/20, in force from 01.01.2021) Contracting authorities do not use the platform under para. 1 for the preparation and exchange of documents containing classified information, with the exception of the decisions under **Art. 22, para. 1, items 1, 2, 4, 5, 6 and 8** and the notices under **Art. 156**. In these cases, the exchange of information shall be carried out in compliance with the requirements of the **Protection of Classified Information Act**.

(9) (in force from 01.11.2019, prev. para. 6 - SG 107/20, in force from 01.01.2021) Exceptionally, contracting entities may not require the use of the platform under para. 1 when preparing and / or submitting offers, where the specific nature of the procurement requires the use of specific tools and devices, or file formats supported by applications that are not publicly available and can not be provided to the Contracting authority for downloading or remote use, including when included in a copyright protection licensing scheme. In the documentation, the contracting authorities shall indicate the manner in which offers will be prepared and/or presented and shall state the written reasons which shall be published in the public procurement file.

(10) (in force from 01.11.2019, prev. para. 7 - SG 107/20, in force from 01.01.2021) The platform

under par. 1 shall not be used to present samples or models that can not be transmitted by electronic means.

(11) (in force from 01.11.2019, prev. para. 8 - SG 107/20, in force from 01.01.2021) In the cases under para. 6 and 7, when the platform under para. 1 is not used, the exchange of information is carried out by postal or other appropriate courier service or a combination thereof and electronic means.

(12) (in force from 01.11.2019, prev. para. 9 - SG 107/20, in force from 01.01.2021) In procurements for public works and in the competition for project, the contracting authorities may require in the preparation of offers or projects the use of special tools for electronic modeling of information, which are not publicly available. In such cases, contracting authorities shall provide appropriate means of access to those tools.

(13) (in force from 01.11.2019, prev. para. 10 - SG 107/20, in force from 01.01.2021) The access tools proposed by the contracting authorities under para. 9 are appropriate when:

1. provide unlimited and full direct free electronic access to these tools from the date of publication of the notice or from the date of dispatch of the call for confirmation of interest, where the notice or call specifies the Internet address at which these tools are available;

2. to persons who do not have access to the relevant tools or who are unable to obtain them within the relevant deadlines for reasons beyond their control, shall be granted free online access to the public procurement by generating one-time access codes.

(14) (in force from 01.11.2019, prev. para. 11 - SG 107/20, in force from 01.01.2021) When found unplanned interruption of the functioning of the platform under para. 1 on the day, on which a term for the award of a public procurement expires, that term shall be extended. The procedure for ascertainment the interruption and for the extension of the term is specified in the regulation for implementation of the Act.

### **Awarding Public Procurement through Centralized Electronic Platform**

Art. 40. (revoked - SG 86/18, in force from 18.10.2018)

### **Electronic Platforms of the Central Bodies and Purchases**

Art. 41. (revoked - SG 86/18, in force from 18.10.2018)

### **Buyer's Profile**

Art. 42. (revoked - SG 86/18, in force from 01.03.2019)

### **Delivering the Decisions**

Art. 43. (revoked - SG 86/18, in force from 01.11.2019)

## **Chapter six.**

### **PREPARATION OF THE PROCEDURE**

#### **Section I.**

#### **Preliminary Actions**

### **Market Consultations and External Participation in Preparation of Documentation**

Art. 44. (1) In preparation of awarding a public procurement, the contracting authority may conduct market consultations, by searching advice from independent experts or bodies, or market players.

(2) Consultations under Para. 1 may be used under the condition that they do not lead to violation

of competition and of the principles of non-discrimination and transparency.

(3) The contracting authority shall undertake actions, which may guaranty, that the persons, having participated in the market consultations and/or in the preparation of the procedure have no advantage before the other applicants or participants. These actions shall include at least the following:

1. publishing in the buyer's profile the whole information, exchanged in relation to the preparation for awarding the public procurement, including the received by the contracting authority result and if this is impossible – indication through the buyer's profile the place, where this information may be received;

2. determination of an appropriate term for receiving offers, including by estimating whether shortening of terms leads to breaches of the equality principle.

(4) The contracting authority shall be obliged to extend the term for receiving applications for participation or offers at least to the minimal terms for the relevant type of procedure in case that shortening of terms has been used and in the set term only one offer or application for participation has been received, which are produced by a person participated in the market consultation and/or in the preparation of the participation documentation.

(5) In case that with carrying out actions under Para. 3 or 4, observation of the equality principle cannot be provided, the applicant or participant, having participated in the market consultations and/or in the preparation for awarding the procurement shall be removed from the procedure, if it cannot be proved that his participation does not lead to breaching this principle.

### **Requirements in Defining the Terms for Receiving Offers and Applications for Participation**

Art. 45. (1) In defining the terms for receiving applications for participation and offers, the contracting authorities shall consider the complexity of the procurement and the time, needed for preparing the offers, without referring to the minimal terms for the relevant procedures, defined by this act.

(2) Where the offers may be drawn up only after visiting the site or after check on site of additional documents, related to the public procurement, the terms for receiving offers must be longer than the minimal ones, by giving opportunity to the interested person to get to know the whole information, needed for preparation of the offers.

(3) (new - SG 86/18, in force from 01.11.2019, amend. - SG 107/20, in force from 01.01.2021)  
Where the submission of offers or parts thereof by electronic means is not possible due to any of the reasons under **Art. 39a, para. 9 or 10**, the term for receipt of offers shall be extended by 5 days.

### **Separate Positions**

Art. 46. (1) In preparation for awarding a public procurement, the contracting authority shall estimate the possibility of its division into separate positions. When he decides that it is not appropriate to separate the public procurement into separate positions, in the decision for opening the procedure, the contracting authority shall indicate the reasons for this.

(2) Where the contracting authorities award public procurements with separate positions, they shall obligatorily define the subject and the volume of each position, and where applicable – the prognosis value as well.

(3) The Council of Ministers may define areas in which the public procurements shall be obligatorily divided into separate positions according to the specialized sectors of activity of the SMEs and their capacity possibilities.

(4) The contracting authorities shall indicate in the notice, with which they announce opening of the procedure or in the invitation for confirmation of interest whether the offers may be submitted for one, for several or for all the separate positions.

(5) Where the contracting authorities have indicated that offers may be submitted for several or for

all separate positions, they shall have the right to restrict the number of the separate positions, which are awarded to one contractor. This number shall be indicated in the notice, which announces the opening of the procedure, or in the invitation for confirming interest.

(6) In the cases under Para. 5, the contracting authorities shall indicate in the notice, which announces the opening of the procurement procedure, in the invitation for confirmation of interest or in the public procurement documentation objective and non-discriminating criteria or rules, which they will apply, where a participant has won a larger number of the maximum admissible ones of separate positions.

### **Special Conditions for Implementation of Procurements**

Art. 47. (1) The contracting authorities may include in the requirements for implementation of the procurement special conditions, related economic or social aspects of the implementation, innovations, environment protection or of employment.

(2) The conditions under Para. 1 must be related to the procurement subject and be indicated in the notice, which announces the opening of the procedure, or in the public procurement documentation.

(3) The contracting authority shall require from the participants to declare that their offers have been prepared while observing the obligations, related to taxes and securities, environment protection, employment protection and conditions at labour, which are in force in the country, or in the state where the public works is to be performed or the services to be provided and which are applicable to the public works or the provided services.

(4) In the cases under Para. 3, the contracting authority shall indicate in the notice, which announces opening of the procedure or the public procurement documentation the bodies, from which the applicants or participants may receive the needed information for the applicable rules and requirements.

(5) (new - SG 86/18, in force from 01.03.2019) When awarding a public procurement for the supply of road vehicles of categories M1, M2, M3, N1, N2 and N3 as defined in **Art. 149, para. 1 of the Road Traffic Act**, contracting authorities are obliged to take into account the energy and environmental impacts throughout the life cycle of vehicles, which shall include at least the requirements for:

1. energy consumption, and
2. Carbon dioxide (CO<sub>2</sub>) emissions; and
3. nitrogen oxides (NO<sub>x</sub>), non-methane hydrocarbons (NMHC) and particulate matter.

(6) (new - SG 86/18, in force from 01.03.2019) Contracting authorities shall apply the requirements of para. 5:

1. by designating as technical specifications in the procurement documentation, or
2. as indicators in the award criterion under **Art. 70, para. 2, item 2 or 3**;

(7) (new - SG 86/18, in force from 01.03.2019) Contracting authorities may not apply the requirements of para. 5 when awarding public procurement for the supply of vehicles, which are not subject to mandatory approval of the type or individual approval under an ordinance of the Minister of Transport, Information Technology and Communications, issued on the grounds of **Art. 138, para. 4 of the Road Traffic Act**.

## **Section II.**

### **Technical Specifications. Marking. Protocols from Testing**

#### **Determining the Technical Specifications**

Art. 48. (1) (amend. - SG 86/18, in force from 01.03.2019) The contracting authority shall determine the technical specifications in accordance with the requirements of applicable regulations in the

relevant field, by applying one of the following methods:

1. by indicating the work characteristics or the functional requirements, including the ecological, which allow exact determining of the parameters of the procurement subject,
2. through indication in the following order of:
  - a) Bulgarian standards, which introduce European standards;
  - b) European technical assessments;
  - c) general technical specifications;
  - d) international standards;
  - e) other standardization documents, established by the European bodies if standardization or where there are not such – through Bulgarian standards, Bulgarian technical approvals or Bulgarian technical specifications, referring to design, the method of calculation and fulfillment of public works, as well as to use of goods;
3. through determining work characteristics or functional requirements through indication of specifications under p. 2, whose reference shall be accepted for achieving compliance with the requirements for the work characteristics or functional requirements;
4. through specifications under p. 2 for part of the characteristics, and for others – by indication of the work characteristics, or functional requirements under p. 1.

(2) (amend. - SG 86/18, in force from 01.03.2019) Every indication of a standard, specification, technical assessment or technical approval under Para. 1. p. 2 must be added by the words "or equivalent".

(3) The contracting authority may set additional requirements, which are related to the subject of the procurement and are proportional to its value and purposes. They may refer to a specific process or method of production or provision of public works, supplies or services or to a specific process at another stage of their life cycle.

(4) If needed, in the technical specifications, the contracting authority shall indicate the requirement for transfer of the right over intellectual property.

(5) Where the result of the procurement will be used by natural persons, the technical specifications, which define the characteristics of the procurement subject, must be considered with the criteria for access for disabled people or to provide possibilities for disabled people to use this result.

(6) Where by an EU act obligatory requirements, related criteria for access to disabled people, or conditions for use of such people have been determined, the technical specifications shall include reference to these requirements.

(7) (New – SG 17/19) Where the object of the contract is the development, design and use of services and products which are based on the processing of personal data or process personal data, and where the processing of personal data falls within the material scope of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ, L 119/1 of 4 May 2016), the technical specifications defining the characteristics of the subject-matter of the contract must comply with the rules on the protection of personal data under Art. 25 of that Regulation.

### **Specific Conditions in Determining Technical Specifications**

Art. 49. (1) The technical specifications must provide equal access of the applicants or participants to the procedure for awarding the public procurement and not create unreasonable obstacles before awarding the public procurement in conditions of competition.

(2) The technical specifications shall not contain a concrete model, source or specific process, which characterizes the products or services, offered by a concrete potential contractor, not a trade mark, patent, type or concrete origin or production, which would lead to advantage or elimination of certain persons or products. Upon exception, where it is impossible the procurements product to be described

exactly enough and in an understandable way under **Art. 48, Para. 1**, it is admitted similar indication, where the words "or equivalent" shall be added.

### **Restriction for Removal**

Art. 50. (1) Where the technical specifications are determined under **Art. 48, Para. 1, p. 2**, the contracting authority shall not be able to remove the offer on grounds that the proposed public works, supplies or services do not comply to the indicated standard, specification, technical assessment or technical approval, if the participant proves in his offer with suitable means, including through the evidences under **Art. 52** that the proposed solutions satisfy in equivalent way the requirements, determined by the technical specifications.

(2) If technical specifications have been determined under **Art. 48, Para. 1, p. 1**, the contracting authority shall not be able to remove the offer for public works, supplies or services, which comply with Bulgarian standard, introducing European standard, European technical assessment, general technical specification, international standard or standardized document, established by a European body of standardization, if the participant proves in his offer with suitable means including through the evidences under **Art. 52**, that these standardization documents refer to the requirements, determined by the contracting authority for work characteristics and functional requirements.

### **Marking**

Art. 51. (1) Where the subject of the procurement includes concrete ecological, social or other characteristics, in the technical specifications the assessment indicators or conditions for fulfillment of the procurement the contracting authorities may require certain markings, which prove that the fulfillment will comply with the required characteristics. In these cases the marking shall:

1. refer to the procurement subject and be suitable for defining its characteristics;
2. be based on objectively checked and non-discrimination requirements;
3. be established according to an open and transparent procedure, in which all interested parties have had the right to participate;
4. be accessible for use of all potential applicants and participants;
5. be determined by an organization, which is independent from the potential applicants and participants in the public procurement procedure.

(2) Where the contracting authority does not require the procurement subject to meet all the requirements for marking, he shall define which are the applicable requirements for marking.

(3) The contracting authorities shall be obliged to accept all equivalent markings, which confirm that the offered public works, supply or service meets the set requirements for marking.

(4) The contracting authorities shall accept also any other suitable evidences for compliance, under the condition that the participant proves that the offered public works, supply or service meet the requirements of the concrete marking or to the concrete requirements, indicated by the contracting authority.

(5) The contracting authorities shall not require a certain marking, where it meets the conditions under Para. 1, p. 2 – 5, but includes also other, which are not related to the procurement subject. In these cases they shall define the technical specifications, by indicating only this part of the indicators of the marking, which are related to the procurement subject and are suitable for defining the characteristics of its subject.

### **Protocols of Testing, Certification and other Evidences**

Art. 52. (1) The contracting authorities may require from the participants and the applicants to produce a protocol of testing by a body for assessment of the compliance or certificate, issued by such a body, as an evidence for compliance with the requirements or criteria, related to the procurement

fulfillment.

(2) Where the contracting authorities require provision of certificated, drawn up by a concrete body for compliance assessment, they shall also accept certificate form other equivalent bodies.

(3) The contracting authorities shall accept other suitable evidences for compliance with requirements or the criteria, related to fulfillment of the procurement, where the participant upon reasons, not depending on him has not possibility to provide the certificates or protocols of testing under Para. 1 and 2 or has not possibility to receive them within the set terms and under the condition, that the participant proves that a public works, supplies and services meet the requirements or criteria, related to the procurement fulfillment.

(4) The competent bodies, which have the right to issue documents under Para. 1 and 2 shall produce upon request by persons also from other Member States information, within the frames of their competence, unless a legislative act contains prohibition for provision of such information.

(5) The contracting authorities may require samples, description and/or pictures of the goods, which will be supplied and whose compliance with the goods must be proved upon request by the contracting authority.

### **Variants**

Art. 53. (1) The contracting authorities may permit or require production of variants in the offer. In these cases they shall indicate this information in the notice, which announces the opening of the procedure or in the invitation for confirmation of interest.

(2) The variants must be related to the procurement subject.

(3) In the cases under Para. 1, the contracting authorities shall indicate in the public procurement documentation the minimum requirements which the variants must meet, as well as all concrete requirements for their production.

(4) For consideration shall be accepted only variants, which meet the envisaged by the contracting authorities minimal requirements.

(5) The chosen criteria for awarding and the indicators for assessment of the offers shall be able to be applied in one and the same way to the offers, which contain variants, meeting the minimum requirements, also, to the offers, which do not contain such variants.

(6) In procedures for awarding public procurements for supplies or services, the contracting authorities, which have permitted or required production of variants, shall not be able to reject a variant only on grounds that its selection would lead to signing a service contract instead of supply contract or vice versa – of a supply contract, instead of service contract.

## **Chapter seven.**

### **REQUIREMENTS TO APPLICANTS AND PARTICIPANTS**

#### **Section I.**

#### **Personal State of Applicants and Participants**

#### **Reasons for Obligatory Removal**

Art. 54. (1) The contracting shall remove from participation in a procedure for awarding public procurement an applicant or participant, where:

1. (amend. - SG 86/18, in force from 01.03.2019) he has been convicted with an enforced verdict for a crime under **Art. 108a, Art. 159a – 159d, Art. 172, Art. 192a, Art. 194 - 217, Art. 219 - 252, Art. 253 - 260, Art. 301 - 307, Art. 321, 321a** and **Art. 352 – 353f** of the Penal Code;

2. (amend. - SG 86/18, in force from 01.03.2019) he has been convicted with an enforced verdict

for a crime, analogical of the ones under p. 1 in another Member State or third state;

3. (amend. - SG 86/18, in force from 01.03.2019) he has obligations for taxes and obligatory security contributions in the meaning of **Art. 162, Para. 2, p. 1 of the Tax-Insurance Procedure Code** and the interests on them, to the state or to the Municipality of the central office of the contracting authority and of the applicant or participant, or analogical obligations under the legislation of the state, in which the applicant or participant has been established, proven by an act of a competent authority which has entered into force;

4. there is a inequality in the cases under **Art. 44, Para. 5**;

5. it has been established that:

a) (amend. – SG, 102/19, in force from 01.01.2020) he has produced a document with untrue contents, by which the declared lack is established of grounds for removal or the declared fulfillment of the selection criteria;

b) he has not produced required information, related to certifying lack of grounds for removal or fulfillment of the selection criteria;

6. (amend. - SG 102/17, in force from 22.12.2017, amend. – SG 15/18, in force from 16.02.2018, suppl. - SG 24/18, in force from 23.05.2018) it is established with an enforced penal decree or court decision, violation of **Art. 61, para. 1, Art. 62, para. 1 or 3, Art. 63, para. 1 or 2, Art. 118, Art. 128, Art. 228, para. 3, Art. 245 and Art. 301 - 305** of the Labour Code or **Art. 13, para. 1** of the Labour Migration and Labour Mobility Act, or analogical obligations, established by an act of a competent body, under the legislation of the state, in which the applicant or participant has been established;

7. there is conflict of interests, which cannot be removed.

(2) (amend. - SG 86/18, in force from 01.03.2019) The grounds under Para. 1, p. 1, 2 and 7 shall refer to the persons, who represent the participant or the applicant and the members of its management or supervision bodies according to the register in which the participant or applicant, if any, is entered, or documents certifying its legal personality. When the composition of these bodies includes legal person, the grounds refer to the natural persons who represent it according to the register, in which the legal person is entered, if any, or the documents attesting to its legal personality.

(3) (New - SG 86/18, in force from 01.03.2019) In the cases under Para. 2, where the applicant or participant, or a legal person in the composition of its control or management body is represented by a natural person in possession of a Power of Attorney, the grounds under Para. 1, items 1, 2 and 7 shall also apply to that natural person.

(4) (new - SG 86/18, in force from 01.03.2019) The contracting authority may not apply the requirements under para. 1 for public procurement, awarded on the grounds of **Art. 79, para. 1, items 3 and 4, Art. 182, para. 1, item 1 or Art. 191, para. 1, items 2 and 3**, when it is necessary to protect particularly important state or public interests. In such cases, the contracting authority is required to state reasons in the notice for awarding a procurement, and when awarding under **Art. 191, para. 1, item 2 and 3** - in the procurement file.

(5) (prev. para. 3, amend. - SG 86/18, in force from 01.03.2019) Para. 1, p. 3 shall not apply, where the amount of the unpaid due taxes or social-security contributions is up to 1% of the sum of the annual total turnover for the last finished financial year, but not more than BGN 50,000.

### **Grounds for Un-obligatory Removal**

Art. 55. (1) The contracting authority may remove from participation in a procedure for awarding public procurement or participant, for whom some of the following circumstances are present:

1. he has been declared in insolvency or is in an insolvency procedure, or is in a liquidation procedure, or he has signed a court settlement with the creditors under **Art. 740 of the Commerce Act** or has terminated his activity, and in case that the applicant or participant is a foreign person – is in a similar situation, comprising from a similar procedure, according to the legislation of the state in which he is



established;

2. he has been deprived from the right to exercise a certain profession or activity according to the legislation of the state, where the act has been committed;

3. he has signed an agreement with other persons in view to violation of competition, where the violation has been established by an act of a competent body;

4. (amend. and suppl. - SG 86/18, in force from 01.03.2019) it has been proved, that he is guilty for failure to fulfil a public procurement contract or contract for public works or service, lead to its cancellation or preliminary termination, payment of compensations or other similar sanctions, with the exception of the cases, where the non-fulfillment refers to at least 50% of the value or the contract volume;

5. he has tried to:

a) influence the decision taking on behalf of the contracting authority, related to removal, selection or awarding, including through provision of untrue or misleading information, or

b) receive information, which may give him ungrounded advantage in the awarding procedure of a public procurement.

(2) The contracting authority shall indicate the circumstances under Para. 1 in the notice which announces opening of the procedure or invitation for confirmation of interest, and in the procedures under **Art. 18, Para. 1, p. 8, 9 and 13** – in the invitation for participation in negotiations.

(3) (amend. - SG 86/18, in force from 01.03.2019) The grounds under Para. 1, p. 5 shall refer to the persons referred to in **Art. 54, para. 2 and 3**.

(4) Where the contracting authority has set a requirement for lack of the circumstances under Para. 1, p. 1, he shall have the right not to remove from the procedure an applicant or participant under the indicated ground, if it is proved that he has not terminated his activity and he can fulfill the procurements under the applicable national rules for continuation of the economic activity in the state, in which he has been established. This possibility shall be indicated in the notice, which announces the opening of the procedure, and in the procedures under **Art. 18, Para. 1, p. 8, 9 and 13** – in the decision for opening.

(5) With setting the requirements for lack of circumstances under Para. 1, the contracting authority shall take in consideration the subject and volume of the public procurement.

### **Measures for Proving Reliability**

Art. 56. (1) An applicant or participant, for whom grounds under **Art. 54, Para. 1** are present and the circumstances under **Art. 55, Para. 1**, indicated by the contracting authority, shall have the right to produce evidences, that he has undertaken measures, which guaranty his reliability, in spite of presence of the relevant ground for removal. For this purpose the applicant or participant may prove that:

1. he has paid off his obligations under **Art. 54, Para.1, p. 3**, including the accrued interests and/or fines or that they have been extended, delayed or guaranteed;

2. he has paid or is in a process of payment of due compensation for all the damages, occurred as a result of the crime or violation, committed by him;

3. has explained exhaustively the facts and circumstances, by actively assisted the competent bodies and has fulfilled concrete recommendations, technical, organizational and human resource measures through which new crimes or violation will be prevented;

4. (new - SG 102/17, in force from 22.12.2017) he has paid in full the due receivable under **Art. 128, Art. 228, para. 3** or **Art. 245** of the Labor Code.

(2) (Amend. and suppl. - SG 107/20, in force from 01.01.2021) The contracting authority shall consider the measures taken by the applicant or the participant and assess them taking into account the gravity and the specific circumstances related to the crime or violation.

(3) (amend. - SG 86/18, in force from 01.03.2019, revoked - SG 107/20, in force from 01.01.2021)

(4) (suppl. - SG 86/18, in force from 01.03.2019) The motives for acceptance or rejection of the undertaken under Para. 1 measures and the produced evidences shall be indicated in the decision for preliminary selection, or in the decision for grading or termination of the procedure, depending on the type

and stage at which is the procedure and when collecting offers with a call or invitation - in the protocol of the commission's work.

(5) An applicant or participant, who with an enforced verdict or another act under the legislation of the state in which the verdict is pronounced or the act is issued, has been deprived from the right to participate in public procurement procedures or concessions, shall not have the right to use the envisaged in Para. 1 possibility for the time, defined by the verdict or act.

### **Application of Grounds for Removal**

Art. 57. (1) (Suppl. - SG 107/20, in force from 01.01.2021) The contracting authority shall remove an applicant or participant from the procedure, for whom the grounds under **Art. 54, Para. 1** and the indicated by the contracting authority circumstances under **Art. 55, Para. 1**, occurred before and during the procedure are present and when in the cases under **Art. 56, para. 2** has determined that the measures taken are not sufficient to ensure the reliability of the candidate or participant.

(2) Para. 1 shall apply also where an applicant or participant in the procedure is a partnership of natural and/or legal persons and for a member of the partnership some of the grounds for removal are present.

(3) The grounds for removal shall apply till expiry of the following terms:

1. (suppl. - SG 86/18, in force from 01.03.2019) 5 years from the enforcement of the verdict – in relation to the circumstances under **Art. 54, Para. 1, p. 1 and 2**, unless the verdict states some other term of the penalty;

2. (amend. - SG 86/18, in force from 01.03.2019) 3 years from the date of:

a) the entry into force of the contracting authority's decision by which the applicant or participant is removed for the presence of the circumstances under **Art. 54, para. 1, item 5, letter "a"**;

b) the entry into force of an act of a competent body which establishes the presence of the circumstances under **Art. 54, para. 1, item 6** and **Art. 55, para. 1, items 2 and 3**, unless another term is specified in the act;

c) (suppl. – SG, 102/19, in force from 01.01.2020) the entry into force of a judicial decision or arbitration decision, or any other document proving the existence of the circumstances under **Art. 55, para. 1, item 4**.

(4) (amend. - SG 86/18, in force from 01.03.2019, amend. and suppl. – SGm 102/19, in force from 01.01.2020) Business entities that have been removed from a public procurement procedure due to presence of circumstances of **Art. 54, Para. 1, item 5, letter "a"** as well as those for which the presence circumstances under **Art. 55, Para. 1, item 4** has been proved with an enforced judicial, or arbitration decision shall be included in a list, which is of an information nature.

(5) (New - SG 107/20, in force from 01.01.2021) The business entity shall be excluded from the list under para. 4 after the expiration of the term for which the ground for removal is applied.

(6) (prev. para. 5 - SG 107/20, in force from 01.01.2021) In case of removal under **Art. 54** and **55**, the contracting authority must provide evidences for presence of grounds for removal.

### **Proving Lack of Grounds for Removal**

Art. 58. (1) For proving lack of grounds for removal, the participant, selected for contractor shall produce:

1. for the circumstances under **Art. 54, Para. 1, p. 1** – certificate, showing no previous convictions;

2. for the circumstance under **Art. 54, Para. 1, p. 3** – a certificate from the bodies of revenues and a certificate from the municipality of the contracting authority's central office and of the applicant, or participant;

3. (suppl. - SG 102/17, in force from 22.12.2017) for the circumstance under **Art. 54, Para. 1, item 6** and under **Art. 56, para. 1, item 4** – a certificate from the bodies of General Labour Inspectorate

Executive Agency;

4. for the circumstances under **Art. 55, Para. 1, p. 1** – a certificate, issued by the Registry Agency.

(2) (amend. - SG 102/17, in force from 22.12.2017) The certificate under **Art. 56, para. 1, item 4** shall be issued within 15 days of receipt of the request by the participant selected as contractor.

(3) Where the participant, selected for contractor is a foreign person, he shall produce the relevant document under Para. 1, issued by a competent body under the legislation of the state in which the participant has been established.

(4) In the cases under Para. 3, where the relevant state does not issue documents for the indicated circumstances or where the documents do not include all the circumstances, the participant shall produce a declaration, if such a declaration has legal significance under the legislation of the relevant state.

(5) Where the declaration has not legal significance, the participant shall produce official statement, made before a competent body in the relevant state.

(6) (revoked - SG 86/18, in force from 01.03.2019)

## **Section II. Selection Criteria**

### **General Requirements**

Art. 59: (1) The contracting authority may define in relation to the applicants or participants selection criteria, which shall refer to:

1. the ability (capacity) for exercising professional activity;
2. the economic and financial state;
3. technical and professional capacity.

(2) Contracting authorities may use to the applicants or participant only the selection criteria under this act, which are needed for establishment of their possibility to fulfill the procurement. The set criteria must be comply with the subject, value, volume and complexity of the procurement. Where the public procurement has separate positions, the selection criteria for every position shall comply with the subject, value, volume and complexity of the relevant position.

(3) The contracting authorities shall not have the right to request from the applicants or participants other documents for proving compliance with the set selection criteria, unless the ones, indicated in this act.

(4) (In force from 01.07.2018) In defining the documents for proving the selection criteria, the contracting authorities shall require predominantly such, which are covered by the electronic data base for certifying documents of the European Commission "e-ertis".

(5) The contracting authorities shall indicate the selection criteria and the documents, which prove their fulfillment in the notice, which announces opening of the procedure or in the invitation for confirmation of interest, and in the procedures under **Art. 18, Para. 1, p. 8, 9 and 13** – in the invitation for participation in negotiations. The selection criteria shall define the minimum requirement for admissibility.

(6) In participation in partnerships, which are not legal persons, the compliance with the selection criteria shall be proved by the partnership- participant, but not by each of the persons, included in it, with the exception of the relevant registration, production of a certificate or other condition, needed for fulfillment of the procurement, under the requirements of a normative or administrative act and according to the distribution of the participation of the persons in fulfillment of the activities, envisaged by the contract for establishment of the partnership.

(7) Where the conditions for fulfillment of a public procurement impose to be included such, which refer to partnerships and differ from the conditions for the individual participants, or applicants, they must be grounded by objective reasons and be proportional.

## **Ability (capacity) for Exercising Professional activity**

Art. 60. (1) Where this is applicable, the contracting authorities shall have the right to request from the applicants or participants to be entered in the Commercial Register and/or in a certain professional register, and for the foreign persons- in analogical registers under the legislation of the Member State of establishment.

(2) In the procedures for awarding public procurements for services, where for fulfillment of the relevant service under the legislation of the state in which the applicant or participant is established, it is needed a special permit or membership in a certain organization, the contracting authority may request from it to prove presence of such a permit or membership.

## **Economic or Financial State**

Art. 61. (1) In relation to the economic and financial state of the applicants or participant, the contracting authorities may set one or more of the following requirements:

1. (suppl. - SG 86/18, in force from 01.03.2019) for the last three completed financial years to have realized minimal total turnover, including minimal turnover in the area, falling in the scope of the procurement, calculated on the basis of annual turnovers;

2. (amend. - SG 86/18, in force from 01.03.2019) to have insurance "professional responsibility" where such a requirement results from a normative act;

3. to have reached positive correlation between certain assets and liabilities.

(2) The required by the contracting minimal total turnover under Para. 1, p. 1 must be coordinated with the value, volume and term of fulfillment of the public procurement and shall not exceed the double amount of its prognosis value, unless this is grounded with the nature of the public works, services or supplies. In case that the contracting authority requires turnover, which exceeds maximum the admissible, he shall motivate this in the notice.

(3) Where a certain procurement is divided in separate positions, the requirement under Para. 2 shall apply in relation of each position.

(4) Where an internal competition selection is conducted on the basis of a framework agreement, the condition under Para. 2 shall apply in relation to the prognosis value for the relevant awarding, and if it cannot be defined – on the basis of the prognosis value of the framework agreement.

(5) In dynamic systems for purchases, the condition under Para. 2 shall apply to the expected maximum size of concrete procurements, awarded under this system.

(6) In the cases under Para. 1, p. 3 the contracting authority shall indicate in the documentation for public procurement the way of establishing and calculating the set criteria in compliance with methods, defined by the Rules on application of the act.

## **Documents for Proving Economic and Financial State**

Art. 62. (1) For proving economic and financial state of the applicants or participants, one or several of the following documents shall be produced in relation to the set requirements:

1. bank certificates;

2. evidences for "Professional responsibility" insurance' ;

3. (suppl. - SG 86/18, in force from 01.03.2019) annual financial statements or parts of them, where their publication is required under the law of the country in which the applicant or participant is established;

4. Reference for the total turnover and/or for the turnover in the area, falling in the scope of the procurement.

(2) Where under a reasonable ground the applicant or participant is not in a condition to produce the required documents by the contracting authority, he may prove his economic and financial state through

another document, which the contracting authority will accept as suitable.

(3) (amend. - SG 86/18, in force from 01.03.2019) The information under Para. 1, item 3 and 4 covers the last 3 finished financial years. The information may also cover a shorter period, depending on the date, on which the applicant or participant has been established and has started his activity.

### **Technical and Professional Capacity**

Art. 63. (1) The contracting authority may define criteria, on the basis of which he may establish that the applicants or participant possess the needed human and technical resources, as well as with experience to fulfill the procurement while observing a suitable quality standard. The contracting authority may require from the applicant or participant:

1. (amend. - SG 86/18, in force from 01.03.2019) to have fulfilled activities with subject and volume, identical or similar to those of the procurement for the last:
  - a) 5 years from the date of submission of the application or offer – for public works;
  - b) 3 years from the date of submission of the application or offer – for supplies and services;
2. to have the needed number of technical persons and/or organizations, included or not in the structure of the applicant or participant, including such, who are responsible for the quality control and in public procurements for public works – the persons, who will fulfill the public works;
3. to have the needed technical means and facilities for provision of the quality, included for study and research, as well as to apply certain measures for provision of the quality;
4. to have a system for management and tracing the supplies, which will apply during fulfillment of the procurement;
5. to have human resource and/or management staff with certain professional competence for fulfillment of the procurement in case that the requirement is not used as indicator for assessment of the offers;
6. to apply certain measures for environment protection, while fulfilling the procurement;
7. to produce information about the average list of the annual number of the staff and the number of the members of the management staff for the last 3 years;
8. to have instruments, facilities and technical equipment, needed for fulfillment of the procurement;
9. the goods to be certified by accredited persons for quality control, certifying their compliance with the indicated specifications or standards;
10. to apply systems for quality management, including such for access of disabled people;
11. to apply systems and standards for environment protection.

(2) (amend. - SG 86/18, in force from 01.03.2019) In the cases under Para. 1, p. 1, where the nature of the procurement imposes this, the contracting authorities may accept experience for a period, longer than the indicated one. This possibility shall be indicated in the notice announcing the opening of the procedure or the call for confirmation of interest and in the procedures under **Art. 18, para. 1, items 8, 9 and 13** - in the invitation for participation in the negotiations.

(3) Where the subject of the public procurement is complex or has special purpose, the contracting authority may check the technical abilities of the applicant or participant and if needed, the equipment for testing and research and the possibilities for provision of the quality. The contracting authority may request this from a competent body of the state in which the applicant or participant has been established, if this body agrees to carry out a check on behalf of the contracting authority.

(4) (amend. - SG 86/18, in force from 01.03.2019) When awarding public procurement for supplies, which require installation or mounting works, for provision of services or for fulfillment of public works, the contracting authorities may set requirements to the applicants or participants for their skills and experience to provide the service or the carry out the mounting or public works.

(5) In the cases under Para. 4 in the conditions of the procedure the contracting authority may envisage also a requirement for activities of special significance to be carried out directly by the very participant, or a participant in the partnership.

(6) As a selection criteria, conditions or requirements, which are related to the fulfillment only of public procurement or to fulfillment of concrete indicated programmes or projects, or with concreteness of sources of financing or of a certain number of fulfilled contracts with concrete indication of their subject, shall not be included,

## **Evidencing**

Art. 64. (1) (amend. - SG 86/18, in force from 01.03.2019) For evidencing technical and professional abilities of the applicants or participants, one or several of the following documents shall be produced in relation to the set requirements:

1. a list of the public works, identical or similar to the subject of the procurement, with attached certificate for good fulfillment, which contain the value, date on which the fulfillment has been finished, the place, type and volume, as well as whether it has been fulfilled in compliance with the normative requirements;

2. (amend. - SG 86/18, in force from 01.03.2019) a list of the supplies or services, which are identical or similar with the subject of the public procurement by indicating the values, date and receivers with a documents proving performed supply or service;

3. a list of technical persons and/or organizations, included or not in the structure of the applicant or participant, including the ones, which are responsible for the quality control, and in public procurements for public works – the persons, who will carry out the public works;

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

5. description of the system for management and tracing the supplies;

6. (amend. - SG 86/18, in force from 01.03.2019) a list of the staff, who will fulfill the procurement and/or the members of the management staff, who will be responsible for the fulfillment, as well as documents that prove the professional competence of the persons;

7. description of the measures for protection of the environment, and where this is applicable – also indication of the standards and norms, which are applied;

8. declaration for the average annual number of the staff and the number of the members of the management staff for the last 3 years;

9. declaration for the instruments, facilities and technical equipment, which will be used for fulfillment of the procurement;

10. certificates, issued by accredited persons for quality control, certifying the compliance of the goods with the relevant specifications or standards.

(2) (amend. - SG 7/18) The contracting authority may not accept a produced evidence for technical or professional abilities, where it comes from a person, who has interest, which may lead to profit in the meaning of **Art. 54 of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property**.

(3) Where the contracting authority requires production of certificates, which establish the compliance of the applicant or participant with standards of quality management, including such, for access of disabled people, the contracting authority shall indicate the systems of quality management through the relevant series of European standards.

(4) In case that the contracting authority requires provision of certificates, which certify the compliance of the applicant or participant with certain systems or standards for environment protection, he shall indicate the ecological and audit scheme of the EU (EMAS) or the standards for protection of the environment through the relevant European or international standards. The contracting authority shall have

the right to refer also to other systems for ecological management, recognized in compliance with Art. 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ, L 342/1 of 22 December 2009), or other standards for ecological management, based on the relevant European or international standards of accredited bodies.

(5) The certificates under Para. 3 and 4 must be issued by independent persons, who are accredited under the relevant series of European standards by the Bulgarian Accreditation Service Executive Agency, or by another national body of accreditation, which is a party of the Multilateral Agreement for Mutual Recognition of the European Accreditation Organization for the relevant area, or to meet the requirements under **Art. 5a, Para. 2 of the National Accreditation of Conformity Assessment Authorities Act**.

(6) The contracting authority shall accept equivalent certificates, issued by bodies, established in other Member States.

(7) The contracting authority shall also accept other evidences for equivalent measures for provision of quality or environment protection, where an applicant or participant has not had access to such certificates or has not has possibility to receive them in compliance with the terms because of reasons, not depending on him.

(8) In the cases under Para. 7, the applicant or participant must be in a position to prove that the proposed measures are equivalent to the required ones.

### **Using the Capacity of Third Persons**

Art. 65. (1) (amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) The applicants or participants may – for a concrete procurement – use the capacity of third persons, notwithstanding of the legal connection between them, to prove compliance with the criteria, related to the economic and financial state, the technical and professional abilities.

(2) (amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) In relation to the criteria, related to the professional competence and experience in performing the procurement, the applicants or participants may use the capacity of third persons, only if these persons will participate in the fulfillment of the part of the procurement for which this capacity is needed.

(3) (Amend. - SG 107/20, in force from 01.01.2021) Where the applicant or participant uses the capacity of third persons, he must prove that he will have their resources by producing documents for the undertaken obligations by the third persons.

(4) (Amend. - SG 107/20, in force from 01.01.2021) The third persons must meet the relevant selection criteria for whose proof the applicant or participant will use their capacity and for them the grounds for removal from the procedure are not present.

(5) (suppl. - SG 86/18, in force from 01.03.2019) The contracting authority shall require from the applicant or participant to change the third person, indicated by him, if he fails to meet some of the conditions under Para. 4 due to a change in circumstances prior to the conclusion of the public procurement contract.

(6) In the conditions of the procedure, the contracting authority may envisage a requirement for joint and several liability for the fulfillment of the procurement by the applicant or participant and the third person, whose capacity is used for evidence of compliance with the criteria, elated to the economic and financial statement.

(7) Where an applicant or participant in the procedure is a partnership of natural and/or legal persons, he may prove the fulfillment of the selection criteria with the capacity of third persons while observing the conditions under Para. 2 – 4.

### **Subcontractors**

Art. 66. (1) The applicants and participants shall indicate in the application or the offer the subcontractors and the part of the procurement, which will be awarded to them if they intend to use such. In this case they must produce an evidence for the undertaken obligations by the subcontractors.

(2) Subcontractors must meet the relevant selection criteria according to the type and part of the procurement, which they will fulfill and for them the grounds for removal from the procedure must not be present.

(3) (new - SG 86/18, in force from 01.03.2019) Contractors shall conclude a subcontract with the subcontractors specified in the offer.

(4) (prev. para. 3, suppl. - SG 86/18, in force from 01.03.2019) The contracting authority shall request a change of a subcontractor, which fails to meet any the conditions under Para. 2 due to a change in circumstances prior to the conclusion of the public procurement contract.

(5) (new - SG 86/18, in force from 01.03.2019) Subcontractors may not reassign one or more of the activities included in the subject of the subcontract.

(6) (new - SG 86/18, in force from 01.03.2019) It is not a violation of the prohibition under para. 5 the supply of goods, materials or equipment necessary for the performance of the public procurement, where such supply does not include installation, as well as the conclusion of service contracts which are not part of the public procurement contract or of the subcontract,

(7) (prev. para. 4, - SG 86/18, in force from 01.03.2019) Where the part of the procurement, which is fulfilled by a subcontractor may be fulfilled as a separate site for the contractor or the contracting authority, the contracting authority shall pay remuneration for this part to the subcontractor.

(8) (prev. para. 5, amend. - SG 86/18, in force from 01.03.2019) Payments under Para. 7 shall be carried out on the basis of a request, sent by the subcontractor to the contractor, which shall be obliged to produce it to the contracting authority within 15 day term from its receiving.

(9) (prev. para. 6, amend. - SG 86/18, in force from 01.03.2019) With the request under Para. 8, the contractor shall produce an opinion, from which it shall be evident whether he contests the payments or part of them as undue.

(10) (prev. para. 7, amend. - SG 86/18, in force from 01.03.2019) The contracting authority shall have the right to refuse payment under Para. 7 where the request is contested by the moment of the reason for the refusal is removed.

(11) (prev. para. 8 - SG 86/18, in force from 01.03.2019) The applicable rules on the direct payments with subcontractors shall be indicated in the public procurement documentation and in the contract for awarding the procurement.

(12) (prev. para. 9 - SG 86/18, in force from 01.03.2019) Notwithstanding of the possibility for fulfillment by subcontractors, the responsibility for fulfillment of the public procurement contract shall be of the contractor.

(13) (prev. para. 10 - SG 86/18, in force from 01.03.2019) In public procurements for public works, as well as for services, whose fulfillment is provided in a site of the contracting authority, after signing the contract and before beginning of its fulfillment latest, the contractor shall notify the contracting authority about the name, contact data and representatives of the subcontractors, indicated in the offer. The contractor shall notify the contracting authority about any changes in the provided information in the run of fulfillment of the procurement.

(14) (prev. para. 11, amend. - SG 86/18, in force from 01.03.2019) Change or inclusion of subcontractor during the fulfillment of a public procurement contract shall be admitted, if necessary, in case that the following conditions are fulfilled at the same time:

1. for the new subcontractor the grounds for removal in the procedure are not present;
2. (amend. - SG 86/18, in force from 01.03.2019) the new subcontractor meets the selection criteria in relation to the part and type of the activities which he will fulfill.

(15) (prev. para. 12, amend. - SG 86/18, in force from 01.03.2019) In case of change or inclusion of subcontractor, the contractor shall produce to the contracting authority a copy of the contract with the new



subcontractor together with all the documents, which prove the fulfillment of the conditions of Para. 14 within three days of its conclusion.

### **Section III.**

#### **Declaration of Personal State and Compliance with the Selection Criteria**

##### **European Single Procurement Document (ESPD)**

Art. 67. (1) With submission of an application for participation or an offer, the applicant or participant shall declare the lack of the grounds for removal and compliance with the selection criteria through production of a European single procurement document (ESPD). In it the relevant information shall be provided, required by the contracting authority and the national data base shall be indicated, where the declared circumstances are contained, or the competent bodies, which, under the legislation of the state in which the applicant or participant are established, are obliged to provide information.

(2) Where the applicant or participant has indicated that he will use the capacity of third persons for evidencing the compliance with the selection criteria or that he will use subcontractor, for each of these persons a separate ESPD shall be produced, which shall contain the information under Para. 1.

(3) (revoked - SG 86/18, in force from 01.11.2019)

(4) (\*) The ESPD shall be provided electronically according to a form, confirmed by an act of the European Commission.

(5) (amend. and suppl. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) The contracting authority may request at any time following the opening of applications for participation or offers submission of all or part of the documents, which prove the information, indicated in the ESPD, where this is needed for the lawful awarding of the procurement.

(6) (amend. - SG 86/18, in force from 01.03.2019) Where the applicant or participant is an association, which is not a legal entity ESPD is submitted by each of the participants in the association. If it is necessary to declare circumstances relevant to the association, ESPD is also submitted for the association.

(7) (revoked - SG 86/18, in force from 01.03.2019)

(8) (amend. - SG 86/18, in force from 01.03.2019) The contracting authority shall not have the right to request documents which are accessible by official means or through a public register or can be provided through direct and free access to Member States' national databases.

### **Section IV.**

#### **Official Lists of Approved Economic Subject and Certification of Bodies**

##### **Evidencing Through Entry in Official Lists or Certification by Bodies**

Art. 68. (1) For evidencing the personal state, to the compliance with the selection criteria or compliance with the technical specifications, the applicant or participant may produce a certificate for registration in an official list of approved economic subjects or a certificate Issued by a certification body. In these cases the contracting authority may remove the applicant or participant from the procedure or to refuse to sign a contract with him on the ground that has not produced some of the required documents, under the conditions that the relevant circumstances are proved by the produced certificate.

(2) For each concrete procedure the contracting authority may require additional certificate, related to payment of social-security contributions and taxes, notwithstanding the produced by the applicant or participant certificate for registration in an official list of approved economic subjects, apart from the cases

under Art. 67, Apra. 8.

(3) The information, which may be extracted from registration in official lists or certification, shall not be objected without any ground available.

(4) The contracting authority may require the applicants or participant from other Member States to pass through the process of registration or certification in order to participate in the public procurement. The contracting authority shall recognize equivalent certificates, issued by bodies, established in other Member States.

(5) The contracting authorities shall be obliged to accept certificates for registration or certificates, issued by bodies, established in the Republic of Bulgaria or in another Member State, in which the applicant or participant is established.

### **Official Lists of Approved Economic Subjects and Certification by Bodies**

Art. 69. (1) The Council of Ministers may determine bodies or persons, which create and maintain official lists of approved subject for certain activities or certification bodies for certification of economic subjects for compliance with technical specification.

(2) The conditions for entry in the lists under Para. 1 shall be coordinated with the requirements of Art. 54 – 65.

(3) For registration of persons from other Member States in the lists under Para. 1 or for their certification by the bodies under Para. 1, additional evidences, different from the required ones by the Bulgarian persons, shall not be required.

(4) Persons, or bodies under Para. 1 shall be obliged upon request by a person, established in another Member State to provide information about the documents, produced as an evidence for registration in an official list, or as evidence that the economic subjects from another Member State hold equivalent certificate.

## **Chapter eight.**

### **CRITERIA FOR AWARDING THE PROCUREMENTS**

#### **Types of Awarding Criteria**

Art. 70. (1) The public procurements shall be awarded on the basis of the economically most advantageous offer.

(2) The economically most advantageous offer shall be defined on the basis of one of the following awarding criteria:

1. the lowest price;
2. cost level while accounting the cost effectiveness, including the costs for the whole life cycle;
3. optimal correlation quality/price, which shall be evaluated on the basis of the price or the level of costs, as well as of indicators, including quality, ecological and/or social aspects, related to the subject of the public procurement.

(3) The selected awarding criteria under Para. 2 shall be indicated in the notice, which announces the opening of the procedure or the invitation for confirmation of interests and in the public procurement documentation.

(4) The indicators, included in the criteria under Para. 2, p. 3 may contain:

1. measure of quality, including technical parameters, aesthetic and functional characteristics, accessibility, intended for all consumers, social, ecological and innovation characteristics and innovation trade techniques and conditions;
2. organization and professional competence of the staff, which is assigned to fulfill the procurements, where the capacity of the staff, engaged to fulfill the procurement may substantially influence

the fulfillment of the procurement, or

3. service and maintenance, technical assistance and conditions like: fulfillment data, way and term of fulfillment and deadline for finalization.

(5) The indicators, included in the criteria under Para. 2, p. 2 and 3 must be connected to the procurement subject. They may contain factors, which refer to every stage of the life cycle of public works, supplies, or services, notwithstanding of the fact that these factors do not refer to the characteristics, indicated in the technical specifications. They must not give unlimited freedom of selection and must guaranty real competition.

(6) (Suppl. – SG, 102/19, in force from 01.01.2020, amend. - SG 107/20, in force from 01.01.2021) Where the awarding criteria includes more than one indicator, the awarding authority shall define in the notice or invitation for confirmation of interest and in the public procurement documentation the reference weight of all the indicators and where this is objectively impossible, he shall list them according to the importance in a descending order. The awarding authority may define the minimum and maximum admissible values of the quantity indicators. Where the assessment indicator is linked to a period, including warranty support, the contracting authority shall set minimum and/or maximum limits, taking into account the time required for implementation of the procurement according to its complexity and the requirements of the applicable regulations.

(7) In the documentation the awarding authority shall indicate the methods for complex evaluation and the way of defining the evaluation of every indicator, The way must:

1. give possibility to be assessed the level of fulfillment, proposed in every offer, in compliance with the public procurement subject and the technical specifications;
2. give opportunity the technical proposals in the offers to be compared and evaluated objectively;
3. provide for the applicant s and participants sufficient information about the rules, which will be applied in defining the evaluation in every indicator, where:

- a) for the quantity defining indicators, values in digits or percentages shall be defined and the way of their calculation shall be indicated;

- b) for the quality indicators, which are quantitatively indefinable, the way for their evaluation shall be indicated by the commission with a concrete value through an expert evaluation.

(8) In the duly defined cases the payable price or the costs may be fixed. In these cases the evaluation shall be based only on the indications, related to measurement of quality.

(9) In a public procurement with a subject design and fulfillment of public works, the evaluation indicators must include characteristics, referable to each of the two activities.

(10) Inclusion of evaluation indicators shall not be included, which account the time for making the payments (delayed or extended payment) or evaluation of the size or refusal of advance payment, where provision of advance payment is envisaged.

(11) Where the prices of the goods or services – subject to the public procurement are subject to regulation, the applicants or participants may propose different prices only where this does not violate the policy of regulation of these prices.

(12) The contracting authorities shall not have the right to include selection criteria as indicators for evaluation of the offers.

### **Evaluation of Costs for the Whole Life Cycle**

Art. 71. (1)The costs for the whole life cycle shall include a price for acquiring one or more of the indicated costs, as follows:

1. costs, which are paid by the contracting authority or other users, like:

- a) costs for use, like energy consumption and other resources;

- b) maintenance costs;

- c) costs at the end of the exploitation period like costs for collection and recycling;

2. costs, related to ecological factors in relation to the product, service or public works during their

whole life cycle, under the condition that their value may be defined and checked; these costs may be related to emissions of greenhouse gasses and other harmful emissions or to mitigation of the climate changes.

(2) Where the contracting authorities envisage evaluation of the costs for the whole life cycle, they shall indicated in the public procurement documentation the data, which must be produced by the participant and the way of defining the evaluation.

(3) Where costs are evaluated, related to ecological factors, the way for defining their evaluation must meet the following conditions:

1. it must be based on non-discrimination criteria and give opportunity for objective check; where the way is developed for the concrete procurement, it shall not give unreasonable advantage to certain persons and other put in a disadvantage position;

2. it must be accessible for all interested persons;

3. the required data by the contracting authority should be able to be produced on behalf of the participants while laying reasonable efforts, including where they are from third countries, which are parties to the Agreement on Government Procurement (AGP) at the World Trade Organization, or are party to other international agreements, to which the EU is bound.

(4) Where a certain method for calculation of certain costs for the whole life cycle is obligatory under an EU legislation act, the contracting authorities shall be obliged to use this method.

(5) (amend. - SG 86/18, in force from 01.03.2019) In the cases under the Art. 47, para. 6, item 2 when energy and environmental impacts are presented in monetary terms, for calculation of certain costs for the whole life cycle of the vehicles, the contracting authorities shall apply methods, defined by an Ordinance of the Minister of Transport, IT and Communications.

### **Unusually Favorable Offers**

Art. 72. (1) Where a proposal in an offer of a participant, related to price or costs, which is subject to evaluation, is by more than 20% more favorable than the average value of the offers of the other participants in the same evaluation indicator, the contracting authority shall require a detailed written justification about the way of its formation, which is produced within 5 day term from receiving the request.

(2) The justification under Para. 1 may refer to:

1. the economic peculiarities of the production process of the provided services or the public works method;

2. the chosen technical decision or presence of extremely favorable conditions for the participant for provision of products or services or for fulfillment of public works;

3. original offered decision of the participant in relation to public works, supplies or services;

4. observation of the obligations under Art. 115;

5. the possibility for the participant to receive state aid.

(3) The received justification shall be evaluated in relation to its completeness and subjectivity concerning the circumstances under Para. 2, to which the participant refers. If needed, from the participant may be required clarifying information. The justification may not be accepted and the participant be removed only where the produced evidences are not sufficient to justify the offered price or costs.

(4) An offer shall not be accepted, where it is found that the proposed price in it or costs are more than 20% more favorable than the average values of the relevant offers in the other offers, because norms and rules have not been observed, related to environment protection, social and labour law, applicable collective agreements and/or provision of the international ecological, social and labour law, which are listed in Annex No 10.

(5) An offer shall not be accepted, where it is found that the offered in it price or costs are more than 20% more favorable than the average value of the relevant proposals in the other offers because of received state aid, where the participant cannot prove in the envisaged term that the aid is compatible with

the internal market in the meaning of Art. 107 of TFEU.

(6) (new - SG 86/18, in force from 01.03.2019) In procedures that contain a negotiation phase and several participants are invited, as well as when conducting an electronic auction, the contracting authority applies para. 1-5, where it finds that the proposal of one of the participants, achieved as a result of the negotiations or after the completion of the electronic tender is more than 20% more favorable than the average of the proposals of the other participants under the same rating indicator.

(7) (New - SG 107/20, in force from 01.01.2021) In the internal competitive selection, conducted on the grounds of **Art. 82, para. 3 and 4**, the contracting authority does not require the justification under para. 1, when for the same proposal such justification has already been presented and accepted in the procedure for concluding the framework agreement, conducted by a central purchasing body.

(8) (prev. para. 6, suppl. - SG 86/18, in force from 01.03.2019, prev. para. 7 - SG 107/20, in force from 01.01.2021) The contracting authorities shall be obliged to notify the European Commission about all cases under Para. 5, found in procedures under Art. 18, para. 1, items 1 - 11.

(9) (prev. para. 7 - SG 86/18, in force from 01.03.2019, prev. para. 8 - SG 107/20, in force from 01.01.2021) All bodies shall be obliged upon request and within the frames of its competence to produce to the contracting authorities – including from other Member States – information, related to law and legislative provisions, applicable collective agreements or national technical standards, referring to evidences and documents, produced in relation to the data under Para. 2.

## **Chapter nine.**

### **PROCEDURES, APPLICABLE BY PUBLIC CONTRACTING AUTHORITIES**

#### **Rules for Selection of procedure**

Art. 73. (1) With awarding public procurements, the public contracting authorities may select free open or restricted procedure.

(2) The public contracting authorities may select competition procedure with agreement or competition dialogue:

1. in a procurement, for which some of the following conditions are available:

a) the contracting authorities needs cannot be satisfied without adapting available market decisions;  
b) the public procurement includes decision/s, related to design or innovations;  
c) the public procurement cannot be awarded without conducting negotiations because of special circumstances, related to the nature, complexity or the legal and financial framework or because of related to them risks;

d) the technical specifications cannot be established by the contracting authority with the needed precision through reference to a standard, European technical evaluation, general technical specifications or technical standards;

e) the public procurement is for services under Annex No 2;

2. where an open or restricted procedure is terminated, because the sent offers fail to meet the conditions for production, including for form, way and term, or the applicants or participants fail to meet the set selection criteria, or for them one of the grounds for removal from the procedure is present.

(3) To partnership for innovations, a negotiation procedure without preliminary notice and competition for a project, the provisions of Art. 78 - 80 shall apply.

#### **Open Procedure**

Art. 74. (1) (amend. - SG 86/18, in force from 01.11.2019) The minimum term for receiving offers

in an open procedure shall be 30 days from the date of sending the public procurement notice for publication.

(2) The term under Para. 1 may be terminated, but shall not be shorter than 15 days if the contracting authority has published an notice for preliminary information and it:

1. has been sent for publication between 35 days and 12 months before the date of submission of the public procurement notice for publication, and

2. shall include the whole information under Part A, Section I of Annex No 4.

(3) (revoked - SG 86/18, in force from 18.10.2018)

(4) In case of occurring circumstances, which require urgent awarding of a procurement because of which the term under Para. 1 is impossible, the contracting authorities may define term for receiving offers, not shorter than 15 days from the date of submission of the public procurement notice for publication.

(5) In the public procurement notice, the contracting authority shall motivate the application of Para. 4.

### **Restricted Procedure**

Art. 75. (1) Every person may submit an application for participation in a restricted procedure in which he shall produce the required by the contracting authority information about lack of grounds for removal and his compliance with the selection criteria.

(2) The minimum term for receiving application for participation in a restricted procedure shall be 30 days from the date of submission of:

1. the public procurement notice for publication, or

2. invitation for confirmation of interest, where for notice of opening the procedure an notice of preliminary information has been used.

(3) Only applicants, which have been invited by the contracting authority has invited shall submit offers after conducted preliminary selection.

(4) (amend. - SG 86/18, in force from 01.11.2019) The minimum term for receiving offers in a restricted procedure shall be 25 days from the date of submission of the invitation for sending offers.

(5) The term under Para. 4 may be shortened, but shall not be shorter than 10 days under the conditions that the contracting authority has published notice for preliminary information, which shall not be used for notice of opening of procedure and it:

1. has been sent for publication between 35 days and 12 months before the date of submission of the public procurement notice for publication, and

2. shall include the whole information under Para. A, Section I of Annex No 4.

(6) (revoked - SG 86/18, in force from 18.10.2018)

(7) In case of occurrence of circumstances, which require urgent awarding of a procurement, because of which it is impossible to observe the terms under Para. 2 and 4, the contracting authorities may determine:

1. term for receiving applications for participation – not shorter than 15 days from the date of submission of the public procurement notice for publication;

2. term for receiving offers – not shorter than 10 days from the date of submission of the invitation of production of offers.

(8) In the notice for public procurement, the contracting authority shall motivate the application of Para. 7.

(9) The public contracting authorities under Art. 5, Para. 2, p. 8, 9, 14 and 16 may set a term for receiving offers and under an agreement with the selected applicants after finalization of the selection. The agreement shall be admissible only if all applicants are given equal term for preparation and submission of offers.

(10) Where no agreement is reached under Para. 9, the term shall be determined by the contracting authority and shall not shorter than 10 days from the submission of the invitation of production of offers.

## Competition Procedure with Negotiations

Art. 76. (1) Every person may submit an application for participation in a competition procedure with negotiation, in which he must produce the required by the contracting authority information about lack of removal grounds and his compliance with the selection criteria.

(2) In the documentation, the contracting authority shall describe his needs and the needed characteristics of supplies, services or public works and shall define criterion for awarding the procurement. The documentation shall indicate also the minimal requirements, which the offers must meet. The produced information must be sufficiently correct in order the interested persons to be able to define the character and scope of the procurement and to decide whether they should participate in the procedure.

(3) The minimal term for receiving of applications for participation in the procedure shall be 30 days from the date of sending:

1. the public procurement notice for publication, or

2. invitation for confirmation of interest – where for announcing the opening of the procedure an notice is used for preliminary information

(4) In the competition procedure with negotiation only applicants, who have been invited by the contracting authority after preliminary selection may submit initial offers, which may serve as a basis for conducting negotiations.

(5) (amend. - SG 86/18, in force from 01.11.2019) The minimal term for receiving initial offers shall be 25 days from the date of submitting the invitation under Para. 4.

(6) (amend. - SG 86/18, in force from 18.10.2018) The terms under Para. 3 and 5 may be shortened while observing the conditions under Art. 75, Para. 5, 7 and 8.

(7) The contracting authority shall conduct negotiations with the participants for improvement of the contents of the initial and the further offers.

(8) The negotiations may be conducted at further stages in order the number of the considered offers to be decreased, by applying the awarding criterion and the indicators for evaluation of the offers, indicated in the public procurement notice or in the invitation for confirming interest.

(9) Where the contracting authority intends to use the possibility under Para. 8, he shall indicate this in the public procurement notice or in the invitation for confirmation of interest.

(10) At every stage if the negotiations, the contracting authority shall inform in writing the participants in it for all the changes in the technical specification or in another document of the documentation, where applicable. The contracting authority shall provide to the participants sufficient time for making changes in the offers and their production.

(11) Where the contracting authority intends to finalize the stage negotiations, he shall notify the participant and shall define a term for presentation of final offers. In these cases the contracting authority shall check whether the final offers meet the minimal requirements and shall evaluate them on the basis of the selected awarding criterion.

(12) Where the possibility under Para. 11 is used, the received number of offers at the final stage must guaranty real competition, if sufficient offers or admitted applicants are available.

(13) The minimal requirements, which the offer must meet and the evaluation indicators are not subject to negotiations and cannot be changed.

(14) While conducting the negotiations, the contracting authority shall guaranty equality of the participants, by not providing information in a way, which may give advantage to some participants over others.

(15) The contracting authority shall not have the right to provide the proposals, or other confidential information, received from a participant in the negotiations, to the other participants without his explicit consent for each concrete case.

(16) The contracting authority may not conduct negotiations and award the procurement on the basis of the proposals with the initially submitted offers, where he has envisaged such possibility in the

notice for opening the procedure or in the invitation for confirmation of interest.

## **Competition Dialogue**

Art. 77. (1) Every person may submit an application for participation in a competition dialogue, which must contain the required by the contracting authority information about the lack of grounds for removal and his compliance with the selection criteria.

(2) The contracting authority shall indicate in the notice and/or in a describing document his needs and requirements, the awarding criterion, the indicators for evaluation of the offers and an indicative schedule for conducting the procedure.

(3) The minimum term for receiving participation applications shall be 30 days from the date of sending the public procurement notice for publication.

(4) Only candidates, who the contracted authority has invited after a preliminary selection, may participate in the following stage of the procedure – dialogue.

(5) During the dialogue all the issues may be discussed, related to the procurement, in view to define the parameters, which satisfy utmost the needs of the contracting authority.

(6) While conducting the dialogue, the contracting authority shall guaranty equality of the participants, by not providing information in a way, which might give advantage to some participants over others.

(7) The contracting authority shall not have the right to provide the proposals, or other confidential information, received by a participant during conducting the dialogue to the other participants without his explicit consent for each concrete case.

(8) The dialogue may be conducted at further stages, in order that the number of decision for discussion to be decreased, by applying the awarding criteria and the evaluation indicators, indicated in the public procurement notice or in the describing document. When the contracting authority intends to conduct the dialogue at further stages, he shall indicate this in the notice or in the description document.

(9) The contracting authority shall conduct the dialogue by the time the decision/s are defined, which can satisfy his needs. At the final stage the received number of decisions must guaranty real competition, as far as sufficient decisions are available, which satisfy the requirement of the contracting authority or admitted applicants.

(10) After announcing the dialogue for finalized, the contracting authority shall notify all the participants, remained at the last stage and shall invite them to produce final offers, prepared on the basis of the decision/s concretized during the dialogue. The offers must contain all the obligatory elements, needed for fulfillment of the procurement.

(11) With awarding a public procurement through competition dialogue, the contracting authority shall evaluate the offers under the criterion of optimal correlation quality/price and in compliance with the indicators, indicated in the public procurement notice or in the describing document.

(12) The contracting authority may require the offers to be explained, or improved. The explanations, as well as the provided additional information shall not change the basic characteristics of the offer or procurement, including the needs and requirements in the notice or the description document, if tjis may lead to violation of competition ir to discrimination.

(13) The contracting authority may conduct negotiations with the participant, produced an offer, which is with optimal correlation quality /price, in order to confirm the financial engagements, or other conditions in the offer, by specifying finally the conditions of the procurement. Specifying the conditions shall not lead to change essentially the basic parameters of the offer or of the procurement, including the defined needs and requirements in the notice or in the describing document, as well as to violation of the competition or to discrimination.

(14) The contracting authority may envisage awards or payment for the participants in the dialogue.



## **Partnership for Innovations**

Art. 78. (1) Every person may submit an application for participation in a partnership for innovations, in which he must present the required by the contracting authority information about lack of grounds for removal and his compliance with the selection criteria.

(2) In the public procurement documentation the contracting authority shall motivate the need of receiving innovation goods, service or public works, as well as the possibility it to be satisfied through the available offers on the market. The contracting authority shall describe his needs, by indicating which elements of the description are minimal requirements, which all offers must meet. The provided information must be sufficient and correct, in order that the interested persons may define the nature and scope of the wanted decision and to consider whether they will participate in the procedure.

(3) In the public procurement documentation, the contracting authority shall define the rules, applicable to the intellectual property right.

(4) The minimal term for receiving an application for participation in the partnership procedure shall be 30 days from the date of sending the public procurement notice for publication.

(5) During the preliminary selection, the contracting authority shall consider the technical and professional abilities of the candidates in the area of scientific research and development activity and the development and introduction of innovation decisions.

(6) Only applicants, who have been invited by the contracting authority after a preliminary selection, may produce offers for research and innovations.

(7) The contracting authority may envisage conducting of the negotiations in stages, in order to decrease the number of the offers, by applying the awarding criteria and the evaluation indicators, indicated in the notice. When intending to use this opportunity, the contracting authority shall indicate this fact in the notice.

(8) The contracting authority shall conduct negotiations with the participants for improvement of the contents of the initial and further offers with the exception of the final offers.

(9) The minimal requirements and evaluations indicators shall not be subject to negotiations and shall not be changed.

(10) With awarding a public procurement through partnership for innovations, the contracting authority shall evaluate the offers only under the criterion of optimal correlation of quality /price.

(11) While conducting the negotiations, the contracting authority shall guarantee equality for the participants, by not providing information in a way, which may give advantage to some participants over others.

(12) While conducting the negotiations, the contracting authority shall inform in writing all participants, whose offers have not been rejected about any changes in the technical specifications, or in another document of the public procurement documentation, different from the one, which defines the minimal requirements. After making such changes, the contracting authority shall provide to the participants sufficient time so that they may change and produce again the changed offers.

(13) The contracting authority shall not have the right to provide the offers or other confidential information, received by a participant in the negotiations, to the other participants without his explicit consent about each concrete case.

(14) The partnership contract for innovations shall aim at development of innovation product, service or public works, a further acquiring of the received supplies, services or public works as a result of this, under the condition that they comply with the level of fulfillment and the maximum costs, agreed between the contracting authority and the participant/s.

(15) The partnership contract shall settle the fulfillment of the procurement of successive stages according to the steps in the process of scientific researches and innovations, which may include production of the products, provision of services or public works.

(16) The partnership contract shall define the interim purposes, which are to be achieved, as well as

the contribution for payment of the relevant remunerations.

(17) The contracting authority shall guaranty that the different stages of the partnership express the level of innovation of the proposed decision and successiveness of the scientific research and innovation activities, needed for development of the innovation decision.

(18) The expected value of the acquired supplies, services or public works must be correspondent to the investment, needed for their development.

(19) The contracting authority shall not have the right to disclose to the other partners the proposed decisions or any other confidential information, provided by a certain partner within the frames of the partnership, without his explicit consent for each case.

(20) In the cases under Para. 16, the contracting authority may finalize the partnership for innovations after each stage, and in partnership for innovations with several partners – to decrease their number by termination of the contracts, if he has indicated this opportunity in the conditions for this in the public procurement documentation.

### **Negotiation Procedure without Preliminary Notice**

Art. 79. (1) The public contracting authorities may apply the negotiation procedure without preliminary notice only in the following cases:

1. in an open, or restricted procedure not offers or participation applications have been received, or all submitted offers or participation applications are not suitable and the initially announced conditions of the procurement are not changed substantially;
2. where all participants have been invited, whose offers in a previous or open or restricted procedure meet the requirements of the contracting authority, but exceed his financial resource;
3. the procurement may be fulfilled only by a certain contractor in some of the following cases:
  - a) the aim is the procurement to create or acquire unique work of art, or creative product;
  - b) lack of competition because of technical reasons;
  - c) exclusive rights present, including intellectual property rights;
4. where an urgent awarding is needed because of extraordinary circumstances and it is not possible the terms to be observed, including the shortened ones for an open, restricted procedure or competition procedure with negotiation; the circumstances, which define the urgency, shall not be due to the contracting authority;
5. the goods – subject to supply shall be produced with the purpose of study, experimentation, scientific or development activity and are in quantities, which do not allow sufficient market realization to be provided or the costs of the scientific – research and development activity to be covered;
6. where additional supplies of goods are needed from the sane supplier, intended for partial replacement or addition to the available supplies or facilities and the change of the supplier leads to incompatibility or to substantial technical difficulties in the exploitation and maintenance because of acquiring goods with different technical characteristics;
7. subject of the procurement is a supply of goods, which is traded at the stock exchange, according to a list, approved by the Council of Ministers upon proposal of the Minister of Finance;
8. in supplies or services, provided in special favorable conditions by a person, who terminates his economic activity, as well as by syndics or liquidators in an insolvency procedure, with an agreement with creditors or other similar procedure, in which the persons is situated under his national legislation;
9. the service shall be awarded after a competition for a project, conducted under the law by sending participation invitations for the negotiations of the selected participant or of all selected participants in compliance with the competition conditions;
10. where it is needed repetition of the public works or the service, awarded by the same contracting authority to the initial contractor in case of the following conditions available:
  - a) the initial procurement has been awarded with an open procedure, restricted procedure, competition procedure with negotiation, competition dialogue or partnership for innovations;

b) in the notice of the initial procurement, a possibility has been indicated for repeated awarding, as well as the volume or quantity of the possible additional public works or services and conditions, in which they will be awarded;

c) the total value of the new procurement is included and indicated in defining the value of the initial one;

d) the new procurement complies with the basic project, in whose fulfillment the initial procurement has been awarded.

(2) The contracting authority may apply Para. 1, p. 3, letters "b" and "c" only where there is not sufficiently good alternative or replacement and lack of competition is not due to artificial shortening of the procurement parameters.

(3) The continuity of the procurement contracts under Para. 1, p. 6, including in periodically repeated contracts for such procurements, shall not exceed 3 years.

(4) In the cases under Para. 1, p. 7, the contract shall be signed upon the rules of the relevant stock exchange.

(5) The repeated awarding of public works or the services under Para. 1, p. 10 may be applied not later than 3 years after signing the initial contract.

(6) With the decision for opening the procedure, the contracting authority shall motivate the applicable ground under Para. 1.

(7) The terms and procedure for conducting the procedure shall be defined by the rules on the implementation of the act.

### **Competition for a Project**

Art. 80. (1) (amend. - SG 86/18, in force from 01.03.2019) The competition for a project shall be conducted on its own or as a part of a procedure for awarding a public procurement for a service.

(2) (amend. - SG 86/18, in force from 01.03.2019) When the competition for a project is conducted on its own the estimated value is determined by including the total amount of awards and payments.

(3) (amend. - SG 86/18, in force from 01.03.2019) Where the competition for a project precedes a procedure for the award of a public procurement for service any awards or payments to participants are included in the estimated value as well as the value without VAT of the public procurement for services, which may be awarded through a negotiation procedure, without preliminary notice.

(4) The participation in a competition for a project shall not be restricted:

1. through indication of national sign or territorial scope;
2. through requirement for a certain legal-organization form of the participant.

(5) In an open competition, all interested persons may produce projects.

(6) Where the competition for a project is conducted with a restricted number of participants, the contracting authority shall define clear and non-discrimination criteria for decreasing the number of applicants. In this case projects may submit only applicants, who have been invited by the contracting authority. The number of the invited applicants must be sufficient, so that real competition is guaranteed.

(7) The competition shall be conducted by jury, which shall be independent in decision taking or expressing opinions. In relation to the jury members, there should not be a conflict of interest with the applicants or participants.

(8) The conditions and procedure for conducting a competition for a project shall be determined by the rules on implementation of the act.

## **Chapter ten.**

### **SPECIFIC TECHNIQUES AND INSTRUMENTS FOR AWARDED PROCUREMENTS**

## **Section I. Framework Agreement**

### **General Provisions**

Art. 81. (1) The contracting authorities may sign framework agreements on the basis of the procedures, provided by the act and in case of present premises for their conducting.

(2) Framework agreement with an agreement, signed between one or more contracting authorities and one or more contractors so that the conditions of the procurement are defined, which will be awarded during a certain period, including about the process, and if possible- the envisaged quantities as well.

(3) The term of the framework agreement, signed by a public contractor shall not be longer than 4 years, and by sector contracting authority – 8 years.

(4) The term under Apra. 3 may be longer in exceptional cases and because of reasons, related to the subject of the framework agreement. The contracting authority shall indicate this in the motives about this in the notice.

(5) In the cases of framework agreement, signed for the needs of several contracting authorities, or by central body for purchases, in the public procurement notice and in the framework agreement the circle of persons, who may use it shall be indicated.

(6) After signing a framework agreement, including new contractors shall not be admitted.

(7) The contracting authorities shall not have the right to use the framework agreements in a way, which prevents, restricts or violates competition.

### **Designation of a public procurement contractor under a framework agreement (title amend. - SG 86/18, in force from 01.03.2019)**

Art. 82. (1) Where in the framework agreement all the conditions have been defined, the contracting authority shall sign a public procurement contract, while applying these conditions. In case that the framework agreement is signed with more than one contractor, it must define the conditions, on the basis of which the contractor under each contract will be determined.

(2) Where the frameworks agreement does not define all conditions and it is signed with one person, the contracting authority shall require in writing from this person to supplement his offer.

(3) Where in the framework agreement not all conditions have been defined and it is signed with more than one person, for each contract, which is to be signed, the contracting authority shall conduct internal competitive selection for determination of a contractor.

(4) Within the frames of the internal competition selection, the contracting authority shall:

1. send a written invitation to the persons in the framework agreement;
2. define suitable term for receiving offers, while taking in consideration the complexity of the procurement subject and the time, needed for drawing up the offers;
3. (repealed, - SG, 102/19, in force from 01.01.2020)
4. appoint a commission, which shall consider and rank the offers;
5. select by a decision a contractor of the public procurement on the basis of the defined criterion for awarding the procurement and shall sign a contract or shall terminate the internal competitive selection.

(5) The contracting authority shall indicate in the notice, in the public procurement documentation and in the framework agreement the criterion, on the basis of which the internal competition selection will be conducted, and where applicable – also the indicators and methods for evaluation of the offers.

(6) For conducting internal competitive selection, the contracting authority may apply the evaluation indicators and methods, used for signing the framework agreement, refine them – if needed – or include new indicators and methods, where suitable.

(7) The contracting authority may conduct internal competitive selection also where he has signed a framework agreement with more than one person, where all the conditions have been defined, only if he has envisaged them in the public procurement documentation for signing framework agreement. This possibility shall apply also in relation to certain positions of the framework agreement.

(8) In the cases under Para. 7, the contracting authority shall indicate in the documentation objective criteria, on the basis of which a decision has been taken for conducting internal competitive selection or direct application of the framework agreement conditions, as well as which of the agreed indicators will be subject to internal competitive selection.

(9) In the cases of signing contract, on the basis of a framework agreement, the parties shall not have the right to change substantially the conditions, defined in it under Art. 116, Para. 5.

## **Section II. Dynamic Systems for Purchases**

### **General Requirements**

Art. 83. (1) The dynamic system for purchases (DSP) shall be complete electronic process, which the contracting authorities may use in often realized procurements, whose type characteristics meet the requirements of the contracting authorities.

(2) The dynamic system for purchases shall be open during its whole term of action for every applicant, who meets the selection criteria. The access and participation in it shall be free for all interested persons.

(3) The dynamic system for purchases may be separate in certain categories, which may be based on the maximum admissible size of the expected concrete procurements, concrete geographic region, in which they will be fulfilled, or on other objectively defined characteristics, related to the subject of the procurement.

(4) All the applicants, who meet the selection criteria shall be included in the DSP. The contracting authorities shall not have the right to restrict the number of applicants in it.

(5) Where the contracting authority has separated DSP in separate categories, for each category he shall define its characteristics and applicable selection criteria.

(6) (revoked - SG 86/18, in force from 18.10.2018)

(7) The dynamic system for purchases shall not apply in offers in the defence and security areas.

### **Creating Dynamic System for Purchases**

Art. 84. With creating DSP, the contracting authority shall:

1. publish an notice for public procurement, an notice for preliminary information or periodic indicative notice, where he shall indicate that he creates DSP and shall define the term for its action;
2. indicate in the procurement documentation at least the nature and the prognosis quantity of the envisaged purchases, whether DSP is separated in separate categories, as well as information about the way DSP is functioning, including use of electronic equipment, organization and technical requirements for realizing connection with the equipment;
3. provide unlimited, complete and direct access to the public procurement documentation during the whole DSP term of action.

### **Inclusion of Applicants in a DSP**

Art. 85. (1) Any person may submit an application for inclusion in DSP within the frames of the term of its action.

(2) The minimal term for receiving applications for inclusion in DSP shall be 30 days from the date

of sending:

1. the public procurement notice for publication, or
2. the invitation for confirmation of interest, where as an invitation for participation in the procedure an notice for preliminary information or periodical indicative notice shall be used.

(3) Within the term of 10 working days from receiving the application, the contracting authority shall take decision about inclusion of the applicant in DSP, by applying the announced selection criteria. In case that carrying out additional check is needed about meeting the selection criteria, the term may be extended by 15 working days.

(4) In the public procurement documentation the contracting authority may define term for consideration of the application, longer than 10 working days, if by the time the set term expires, no invitation for production of offers will not be sent for awarding the first concrete procurement

(5) The contracting authority shall not have the right to send an invitation for production of offers for the first concrete procurement, before considering all received application for participation within the term under Apra. 2.

### **Awarding Public Procurement through DSP**

Art. 86. (1) With awarding public procurements through DSP, the rules for restricted procedure shall be applied.

(2) (Amend. – SG, 102/19, in force from 01.01.2020) In the cases under Para. 1, the contracting authority shall send the decision under **Art. 22, Para. 1, item 12** and the invitation approved by it, to all applicants admitted, to submit an offer for each specific contract within the DSP. The decision shall be sent by the order of **Art. 22, Para. 10**. Where DSP is divided in categories, the invitation shall be sent to the applicants, included in the relevant category.

(3) After sending the invitation for provision of offers for the first concrete procurement, new terms shall not be set for receiving applications for participation.

(4) The term for receiving offers shall not be shorter than 10 days from the date of sending the invitation for production of offers.

(5) The term under Para. 4 may be set upon mutual agreement between the contracting authority and the admitted applicants, under the condition, that all admitted applicants have equal time for preparation and sending their offers.

(6) The contracting authority shall select the contractor of the procurement in compliance with the awarding criterion and the evaluation indicators of the offers, indicated in the notice or invitation for confirming interest, where the creation of DSP is announced through an notice for preliminary information or periodic indicative notice.

(7) Where needed, the indicators for evaluation of the offers may be formulated more exactly in the invitation for production of offers.

### **Updating Information**

Art. 87. (1) The contracting authority may, at any time during the DSP action, request from the admitted applicants to produce ESPD with updated information about the declared data on the basis of which they have been included in the DSP.

(2) The information under Para. 1 shall be provided within the term of up to 5 working days from receiving the request.

(3) During any time within the term of DSP action, the contracting authority may request from the applicants to produce documents for evidence of the circumstances, included in the ESPD, apart from the cases under Art. 67, Para. 8.

(4) The contracting authority shall take decision for termination of the participation in the DSP, where as a result of the actions under Para. 1 – 3 it is found, that the applicant fails to meet the conditions for

inclusion in the DSP.

### **Extending and Termination of the DSP**

Art. 88. (1) The term of the DSP action may be changed. For notice the change, the contracting authority shall use the form of notice, which has announced the creation of DSP.

(2) In case of pre-term termination of DSP, the contracting authority shall publish an notice for awarding a procurement.

## **Section III. Electronic Tender**

### **General Requirements**

Art. 89. (1) The electronic tender shall be repeating electronic process, which starts after the initial complete evaluation of the offers and allows they to be graded through methods for automatic evaluation of the produced in the offers new, lower prices and/or new values, referring certain elements of the offers.

(2) Public procurements for services and public works shall not be subject to electronic tender, which have subject of intellectual activity, including activities of design of public works sites and which are not subject to automatic evaluation with electronic means.

(3) The contracting authorities may select contractor of a public procurement through an electronic tender, where the technical specifications of the public procurement may be exactly defined, including in the cases of internal competition selection, conducted for awarding a procurement under a framework agreement.

(4) (amend. and suppl. - SG 86/18, in force from 01.03.2019) The contracting authorities may conduct electronic tender in awarding a procurement through an open procedure, restricted procedure, competition procedure with negotiation, a procedure of negotiation with preliminary invitation for participation, a public competition or a collecting offers with a call.

(5) The contracting authorities may conduct an electronic tender also in the cases of awarding public procurement within the frames of DSP.

(6) The electronic tender shall not be applied, if it prevents, restricts or violates competition.

### **Conducting Electronic Tender**

Art. 90. (1) Conducting an electronic tender shall be based on:

1. prices, where the procurement is awarded only on the basis of the price;
2. prices and/or values of the indicators, where the awarding criterion is in optimal correlation quality/price or lowest cost while using approach for cost effectiveness.

(2) using electronic tender shall be indicated in the notice, which announces opening of the procedure or in the invitation for confirmation of interest.

(3) The public procurement documentation, related to conducting the electronic tender shall include at least the following information:

1. the indicators for evaluation of the offers, which will be subject to electronic tender, under the condition that these indicators are quantitatively definable and may be expressed in digits or in percentage;
2. the step, the measure unit and other technical parameters, related to the automatic submission and evaluation of the offers, and where applicable – minimal and/maximal values of the indicators under p. 1, which may be offered;
3. the information, which will be provided to the participants during the electronic tender and where needed – when it will be provided;
4. the information, related to the procedure for conducting the electronic tender;

5. the conditions, in which the participants may submit new proposals;
6. (new - SG 86/18, in force from 01.03.2019) the number and timing of the stages when the electronic tender is planned to be phased;
7. (prev. para. 6 - SG 86/18, in force from 01.03.2019) the information, related to use of electronic equipment, as well as the procedure, conditions and technical requirements for connection.
  - (4) (amend. - SG 86/18, in force from 01.03.2019) Before conducting the electronic tender, the appointed commission shall carry out initial evaluation of the accepted offers in compliance with the selected awarding criterion.
  - (5) (amend. - SG 86/18, in force from 01.03.2019) All participants whose offers are admitted shall be sent simultaneously by electronic means an invitation containing:
    1. the result of the initial evaluation of every offer;
    2. the procedure for connection to the use electronic equipment;
    3. date and time of the start of the electronic tender;
    4. the way of finalization of the electronic tender.
  - (6) (revoked - SG 86/18, in force from 01.03.2019)
  - (7) Where the awarding criterion is optimal correlation quality/price, the invitation under Para. 5 shall also contain the mathematical formula, the applicable indicators, their weight and measure units. Where variants have been envisaged, for each of them a separate formula shall be drawn up.
  - (8) (amend. - SG 86/18, in force from 01.03.2019) The electronic tender shall not begin earlier than 2 working days after the date of sending the invitations.
  - (9) (amend. - SG 86/18, in force from 01.03.2019) Conducting the electronic tender shall be organized in a way, which gives possibility to each participant to define his relative place in the grading at any moment.
  - (10) (amend. - SG 86/18, in force from 01.03.2019) When the electronic tender takes place in successive stages, the number of participants is announced at each stage.
  - (11) Under the condition that the invitation has envisaged, the participants may be provided with information about proposed prices or values during the tender by the other participants.
  - (12) Provision of information during the electronic tender shall not lead to disclosure of the participants' identity.

### **Finalization of the Electronic Tender**

Art. 91. (1) The electronic tender shall finish:

1. with the date and time, indicated in the invitation, or
2. (amend. - SG 86/18, in force from 01.03.2019) when all stages of the electronic auction defined in the invitation have been completed, or
3. (amend. - SG 86/18, in force from 01.03.2019) when no new proposals meeting the requirements of the contracting authority have been received in two successive stages or the proposals received do not lead to a change in the best proposal.
  - (2) (amend. - SG 86/18, in force from 01.03.2019) Where the contracting authority intends to conduct the electronic tender in stages, he shall indicate the time schedule for conducting each stage of the electronic tender in the participation invitation.
  - (3) The contracting authority shall select the contractor of the public procurement on the basis of conducting the electronic tender and shall sign contract with him.

### **Section IV. Electronic Catalogs**



## **General Requirements**

Art. 92. (1) The contracting authorities may request the offers to be produced in the form of electronic catalogue or to include an electronic catalogue, where they award public procurements by using electronic media. This requirement shall be indicated in the notice or in the invitation for confirmation of interest.

(2) (revoked - SG 86/18, in force from 18.10.2018)

(3) The offers, produced in the form of electronic catalogue may be accompanied with other documents, supplementing the offer.

(4) (amend. - SG 86/18, in force from 01.03.2019) The electronic catalogue, which are drawn up by the participants for a certain procedure, must comply with the established by the contracting authority technical specifications.

(5) In an electronic dialogue, submitted for a concrete procedure for a public procurement, only products, public works or services may be included, which meet the requirements of the contracting authority for a concrete procurement.

## **Us of Electronic Catalogue in a Framework Agreement**

Art. 93. (1) Where a framework agreement has been signed with more than one contractor after submitting offers in the form of electronic catalogues, the contracting authorities may envisage a possibility for conducting an internal competitive selection for the concrete procurements, by

1. sending an invitation to the participants to update their general catalogues in the part, complying with the requirements of the concrete procurement, or

2. collecting from the already received electronic catalogues for the concrete goods the needed information for drawing up offers, in the condition that this possibility is indicated in the public procurement documentation on the framework agreement.

(2) In the cases under Para. 1, p. 2, the contracting authorities shall notify the participants for the date and time, when they intend to collect the information, by providing sufficient term between the notification and the actual collection, which would give possibility for the participants to take decision about their consent to be used the submitted by them information about the concrete procurement.

(3) In the cases under Para. 1, p. 2, before awarding the procurement, the contracting authorities shall provide the collected information of the relevant participant to give him possibility to object, or confirm it.

## **Use of Electronic Catalogue in a DSP**

Art. 94. (1) With awarding public procurement through DSP, the contracting authorities may request the offers for a concrete procurement to be produced in the form of electronic catalogue.

(2) (amend. - SG 86/18, in force from 18.10.2018) Where the DSP participation application is accompanied by an electronic catalogue, complying with the established by the contracting authority technical specification, the procurement on the basis of DSP may be awarded under Art. 93, Para. 1, p. 2.

(3) In the cases under Para. 2, the electronic catalog shall be further supplemented by the applicants under the conditions of Art. 93, Para. 2 and 3.

## **Section V. Central Awarding**

### **Central Body for Purchases**

Art. 95. (1) The contracting authorities may receive supplies and/or services from a central body of purchases, which offers centralized activities for purchasing.

(2) The contracting authorities may acquire public works, supplies and services through public procurements, awarded by the body under Para. 1 while using:

1. dynamic system for purchases, managed by this body;
2. framework agreement, signed by this body.

(3) Where other contracting authorities envisage to use DSP, managed by a central body for purchasing, this shall be indicated in the notice, which announced the creation of DSP.

(4) The contracting authorities shall not apply the procedures for public procurement, where they award to a central body for purchases a public procurement with subject service for fulfillment of centralized activities on purchases, which may also include provision of supporting activities for purchasing.

(5) In the cases under Para. 1 and 2, it shall be accepted that the contracting authorities have observed the provisions of the act.

(6) In the cases under Para. 1, p. 1 and 2, the contracting authorities shall be responsible for the lawfulness of their actions, related to selection of contractor and awarding concrete contract for public procurement while using DSP, managed by the central body for purchasing or of the signed by it framework agreement.

(7) Supplies, services or public works, awarded by a central body for purchases under Art. 5, Para. 4, p. 3 may be used only for fulfillment of sector activities.

### **Creating Central Bodies for Purchases**

Art. 96. (1) A group of contracting authorities may take decision for establishing a central body for purchases.

(2) Central bodies for purchases for the needs of the administrations of the executive power, as well as for the needs of certain sectors shall be established by a Council of Ministers act.

(3) The central bodies for purchases for the needs of the Municipalities shall be established by a decision of the relevant Municipal councils upon proposal of the Municipality Mayors. The National association of municipalities in the Republic of Bulgaria may fulfill the functions of a central body for purchases for awarding procurements for the needs of the Municipalities with a decision of the general meeting.

(4) The Municipal council, upon proposal of the Mayor may take decision for acquiring supplies and/or services by a central body for purchases under Para. 3 upon agreement with this body.

### **Electronization of the Central Awarding**

Art. 97. (In force from 01.01.2017, revoked - SG 86/18, in force from 18.10.2018)

### **Use of a Central Body for Purchases, Established in another Member State**

Art. 98. (1) The contracting authorities shall use DSP, the framework agreements and the contracts, signed by a central body for purchases, established in another Member State, in case that the concrete contracting authority is indicated in them.

(2) In the cases under Para. 1, while awarding procurement through DSP, as well as while determining a contractor on the basis of a framework agreement, the legislation of the Member State shall apply, in which the central body for purchases has been established.

(3) The contracting authorities may not use the possibilities under Para. 1 in view to circumvention of the law.

## **Chapter eleven.**

## CONDUCTING PUBLIC PROCUREMENT AWARDING PROCEDURES

### Notice Opening of the Procedure

Art. 99. (Suppl. – SG, 102/19, in force from 01.01.2020) For notice of the procedure opening, the contracting authorities shall send for publication:

1. the notice, which announces the opening of the procedure to the EU Official Journal – in the cases under Art. 18, Para. 1, p. 1 - 7 and 11;
2. the decision for the procedure opening to PPR – in the cases under Art. 18, Para. 1, p. 8 - 10 and 13;
3. the decision for the procedure opening and the notice for the public procurement to PPR – in the cases under Art. 18, Para. 1, p. 12.

### Change of Conditions

Art. 100. (1) (amend. and suppl. - SG 86/18, in force from 01.03.2019) The contracting authority may, upon own initiative or upon request of an interested person to make changes to the terms of the procedure set out in the notice, which announces the procedure opening, in the invitation for confirmation of interest, in the public procurement documentation and in the description document.

(2) The interested persons may make proposals for changes in the documents under Para. 1 within 10 day term from the publication of the notice in the PPR, by which the procedure opening is announced and/or from receiving the invitation for confirming interest.

(3) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) The contracting authority may make the changes under Para. 1 once within 14-day term from the publication of the notice in the PPR, by which the procedure opening shall be announced, where he is sends for publishing a notice of amendment or additional information and the decision, approving it.

(4) Where changes are made in the invitation for confirmation of interest, the contracting authority shall send to the persons, declared interest, the documents under Para. 2 within 14 day term form submitting the invitation for confirmation of interest.

(5) In procedure, in which the terms for receiving offers are shortened under Art. 74, Para. 2 or Art. 133, Para. 2, as well as where the terms for participation application and/or offers are shortened because of a need of urgent awarding, the term under Para. 2 shall be a 3-day one, and under Para. 3 – 4 -5 day one.

(6) (amend. - SG 86/18, in force from 01.03.2019) After expiry of the terms under para. 3- 5, the contracting authority may only make changes within the terms announced by the publication of notices for change or additional information and the decision approving it.

(7) The contracting authority shall extend the terms for receiving offers, where:

1. (suppl. - SG 86/18, in force from 01.03.2019) in the cases under Apra. 1 substantial changes have been made in the conditions of the announced procurement, which impose a change in the participants offers; the new term must be consistent with the time it takes for people to get acquainted with and reflect changes, but can not be shorter than originally defined;

2. (suppl. - SG 86/18, in force from 01.03.2019) timely explanations of the procedure conditions have been required and they may not be produced within the term under Art. 33, Para. 2; from the day of publishing the explanations in the buyer's profile to the term for submission of offers may not be less than 6 days or 4 days respectively.

(8) (revoked - SG 86/18, in force from 01.03.2019)

(9) (revoked - SG 86/18, in force from 01.03.2019)

(10) With the notice for change or additional information in the cases of changes under Para. 7, p. 1, the contracting authorities shall not introduce conditions, which would change the range of interested

persons.

(11) (Suppl. - SG 107/20, in force from 01.01.2021) The contracting authority shall extend the announced terms in the procedure, where this is imposed in relation to an appealing procedure or for other objective reasons which impede the participation of the persons and the contracting authority could not have foreseen.

(12) (Amend. – SG, 102/20, in force from 01.01.2020, amend. - SG 107/20, in force from 01.01.2021) The contracting authority may set a additional term in the procedure, where:

1. in the initially determined term there are not applications or offers or only one application or offer has been received;

2. the term under **Art. 158, Para. 4** is not sufficient.

(13) With the publication of the notice for change or additional information, it is considered, that all the interested persons have been notified.

### **Participation Application**

Art. 101. (1) Depending on the type and stage of the procedure, the applicants shall submit participation applications and the participants – offers.

(2) The participation application shall contain information about the personal state of the applicants and the selection criteria.

(3) The offer shall contain the technical and price proposal.

(4) In an open procedure, to the offer, the participants shall provide information about their personal state and the selection criteria.

(5) (amend. - SG 86/18, in force from 01.03.2019) While drawing up the applications or offers, every applicant or participant must attach exactly to the announced conditions by the contracting authority.

(6) The offers and the participation applications shall be drawn up in the Bulgarian language. Where the procurement is with a place abroad, the contracting authority may admit the participation application and the offer to be produced in an official language of the relevant country.

(7) By the time the term for submission of the participation application and the offers expires, each applicant or participant may change, supplement or withdraw the application or his offer.

(8) Every participant in a procedure for awarding a public procurement shall have the right to produce only one offer.

(9) A person, who participated in a partnership or has agreed to be subcontractor of another applicant or participant, shall not submit independently an application for participation or an offer.

(10) The public procurement awarding procedure one natural or legal person may participate only in one partnership.

(11) Related persons shall not be able to be independent applicants or participants in one and the same procedure.

(12) The contents of the offers and participation applications, the procedure and way of their submission and receiving shall be determined by the Rules on the implementation of the act.

(13) Where the public procurement has separate positions, the conditions under Para. 8 – 11 shall apply separately for each of the positions.

### **Confidentiality**

Art. 102. (1) The applicants and participants may indicate in their participation applications of offers information, which they consider as confidential in relation to the present trade secret. Where the applicants and participants have referred to confidentiality, the relevant information shall not be disclosed by the contracting authority.

(2) The participants shall not be able to refer to confidentiality in relation to their proposals of the offers, which are subject to evaluation.

(3) The contracting authority may set requirements for protection of information with confidential nature while producing information to the applicants or participants in the run of the procedure, as well as with signing the public procurement contract.

### **Commission**

Art. 103. (1) The contracting authority shall appoint a commission for performing the selection, consideration and evaluation of the offers and conducting negotiation and dialogue. The commission shall contain odd number of members.

(2) In relation to the commission members, there should not be conflict of interest with the applicants or participants.

(3) The commission actions shall be recorded, where the results of its operation shall be reflected in a report.

(4) The commission decision shall be taken by majority of its members. Where a commission member is against the taken decision, he shall sign the record with reservation and shall attach his grounds in writing.

(5) The rules for the commission operation shall be determined by the Rules on the implementation of the act.

### **Consideration of Participation Applications and Offers**

Art. 104. (1) With conducting the public procurement procedures firstly a preliminary selection shall be performed, after which the participants offers shall be considered.

(2) In an open procedure, in the public procurement notice the contracting authority may envisage the evaluation of the technical and price proposals of the participants to be carried out before conducting the preliminary selection. In these cases the check for available grounds for removal and compliance with the selection criteria shall be carried out in a way, which is not influenced by the results of the evaluation of the technical and price proposals.

(3) Using the possibility under Para. 2 shall be admitted, where all the proposals of the participants' offers shall be presented through digital value, which shall be announced at the moment of opening the offers.

(4) (suppl. - SG 86/18, in force from 01.03.2019) Where in relation to the selection criteria or the requirements to the persons state of the applicants or participants a lack has been established, the inadequacy and/or incompliance of the information, including irregular or factual error, the applicants or participants shall be provided with a possibility to produce new information, to supplement or explain the produced information. This possibility also applies to subcontractors and third parties indicated by the applicant or the participant.

(5) While considering the offers, where needed, checks are admitted on the data, declared by the participants, including through requirement of information from other bodies and persons. From the participants may be required to produce explanations or additional evidence about data, indicated in the offer. The check and the explanations shall not lead to changes in the technical and price proposal of the participants.

(6) The procedure for removal of incompliance and irregularities under Para. 4 shall be defined by the Rules for implementation of the act while observing the principles of equality and transparency.

### **Decreasing the Number of Applicants, Invited for Participation**

Art. 105. (1) In a restricted procedure, competitive procedure with negotiation, competitive dialogue and partnership for innovation, the contracting authorities may decrease the number of the applicants, meeting the selection criteria, who will be invited for presentation of offers or for conducting

dialogue.

(2) In the notice, which opens the procedure, the contracting authorities shall indicate the objective and non-discriminatory criteria or rules, which will be applied for decreasing the number of the applicants and the minimal number of applicants, who intend to invite. The contracting authorities may also indicate a maximum number of applicants, who they intend to invite.

(3) In a restricted procedure, the minimal number of applicants shall be 5, and in a competitive procedure with negotiation, competitive dialogue and partnership for innovations – 3. The number of the invited applicants must be sufficient, in order to be guaranteed a real competition.

(4) Where the number of applicants, who meet the requirements, indicated in the notice, which announces opening of the procedure, exceeds the announced maximum number of the persons, who will be invited to present offers, the contracting authority shall carry out a selection, on the basis of the indicated in the notice objective and non-discriminatory criteria.

(5) In case that the contracting authority has indicated in the notice a restriction of the applicants number, who will be invited to submit offers, he shall be obliged to invite such a number of applicants which shall be at least equal to the preliminary determined minimum.

(6) Where the number of the applicants, meeting the selection criteria and the minimal requirement, is under the indicated minimum in the notice, the contracting authority may continue the procedure, by inviting only the applicants, who meet these criteria and requirements.

(7) The contracting authority shall not invite persons to submit offers, who have not submitted a participation application or applicants, who fail to meet the selection criteria and the minimal requirements.

### **Accepting the Operation of the Commission**

Art. 106. (1) The report under Art. 103, Para. 3 shall be produced to the contracting authority for confirmation. The report shall have attached the records of the commission operation.

(2) Where in the run of the operation reasonable grounds occur for agreements, decisions or coordinated practices between the participants in the meaning of **Art. 15 of the Protection of Competition Act**, this circumstance shall be indicated in the report under Para. 1.

(3) Within 10 day term from receiving the report, the contracting authority shall confirm it or return it to the commission with written instructions, where:

1. the information in it is not sufficient for taking a decision for finalization of the procedure, and/or

2. it finds violation in the commission operation, which may be removed without the need for termination of the procedure.

(4) The instructions under Para. 3 shall not direct to a concrete contractor or to certain conclusions on behalf of the commission, but only they should mention:

1. what information must be included, so that sufficient grounds are present, which define the proposals of the commission in the cases under Para. 3, p. 1;

2. the violation, which must be removed in the cases under Para. 3, p. 2.

(5) The commission shall produce to the contracting authority a new report, which shall contain the results of the review of its actions.

(6) Within 10-day term from confirmation of the report, the contracting authority shall issue a decision for determining a contractor or for termination of the procedure.

(7) In the cases under Para. 2, the contracting authority shall notify the Competition Protection Commission. The notification shall not stop the conducting and finalization of the procedure.

### **Other Reasons for Removal from Participation**

Art. 107. (amend. - SG 86/18, in force from 01.03.2019) Apart from the grounds under Art. 54 and

55, the contracting authority shall remove:

1. an applicant or participant, who fails to meet the set selection criteria or fails to fulfill other condition, indicated in the notice for public procurement, the invitation for confirmation of interest or in an invitation for participation in negotiations, or in the documentation;
2. participant, who has submitted an offer, which does not meet:
  - a) (suppl. - SG 86/18, in force from 01.03.2019) the preliminary announced condition for performance of the procurement;
  - b) rules and requirements, related to observation of the environment, the social labour law, applicable collective agreements and/or provision of the international ecological, social and labour law, which are listed in Annex No 10;
3. participant, who fails to produce in term the justification under Art. 72, Apra. 1 or whose offer has not been accepted under Art. 72, apra. 3 – 5;
4. applicants or participants, who are related persons;
5. (new - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) applicant or participant who has submitted an application or an offer that does not meet the conditions for submission, including the form, manner, term and validity;
6. (new – SG, 102/19, in force from 01.01.2020) A person, who has violated a prohibition under **Art. 101, Para. 9 or 10.**

## **Chapter twelve. FINALIZATION OF THE PROCEDURE**

### **Final Decision under the Procedure**

Art. 108. The procedures under this act shall finish with a decision about:

1. (amend. - SG 86/18, in force from 01.03.2019) determining a contractor upon a public procurement contract, including upon a contract, signed on the basis of DSP or qualification system;
2. determining contractors upon a framework agreement;
3. grading of participants and/pr awarding prices and/or other payments in a competition for a project;
4. termination of the procedure.

### **Determining Contractor of a Public Procurement**

Art. 109. The contracting authority shall determine as contractor of the procurement a participant, for who the following conditions have been fulfilled:

1. (amend. - SG 86/18, in force from 01.03.2019) there are no grounds for removal from the procedure, apart from the cases under **Art. 54, Para. 4 and 5** and meets the selection criteria, and where applicable – the non-discriminatory rules and criteria for decreasing the number of the applicants;
2. the offer of the participant has received the highest evaluation while applying the preliminary announced by the contracting authority conditions and the selected criterion for awarding.

### **Termination of the Procedure**

Art. 110. (1) The contracting authority shall terminate the procedure with a grounded decision, where:

1. no offer, participation application, or competitive project has been submitted, or no participant for negotiations has appeared;
2. all the offers or participation applications do not meet the conditions for presentation, including for form, way and term, or are inappropriate;

3. all the competition projects do not meet the preliminary announced conditions by the contracting authority;
  4. the first and second graded participants refuse to sign a contract;
  5. violations have been found in its opening and conducting, which cannot be removed, without this changing the conditions, in which the procedure is announced;
  6. because failure to fulfill some of the conditions under Art. 112, Para. 1, no public procurement contract shall be signed;
  7. all the offers, which meet the preliminary announced conditions by the contracting authority exceed the financial resource, which he may provide;
  8. the need for conducting the procedure or for awarding the contract falls as a result of a substantial change in the circumstances or in impossibility to be provided financing for fulfillment of the procurement because of reasons, which the contracting authority could not envisage;
  9. substantial changes are needed in the conditions of the announced procurement, which would change the circle of the interested persons.
- (2) The contracting authority may terminate the procedure with a grounded decision, where:
1. only one offer, participation application or competition project has been submitted;
  2. there is only one appropriate participation application or one suitable offer;
  3. there is only one competition project, which meets the preliminary announced conditions by the contracting authority;
  4. the participant, graded at the first place:
    - a) refuses to sign a contract;
    - b) fails to fulfill some of the conditions under Art. 112, Para. 1, or
    - c) fails to prove that there are no grounds for removal from the procedure.
- (3) In the cases under Para. 1, p. 7 the contracting authority shall obligatorily include in the decision the lowest proposed price and cannot sign a contract with the same subject for a price, equal or larger than the indicated one in the decision, while conducting a further procedure within the frames of the same year.
- (4) Where the initially announced procedure has been terminated, the contracting authority may find a new procedure for awarding a public procurement with the same subject only if the decision for termination has been enforced.
- (5) The contracting authority may withdraw the enforced decision for selecting a contractor and issue a decision for termination of the procedure, where before signing the contract a circumstance under Para. 1, p. 4, 6 and 8 or Para. 2, p. 4. occurs.

### **Chapter thirteen.**

## **AWARD OF A PUBLIC PROCUREMENT (TITLE AMEND. - SG 86/18, IN FORCE FROM 01.03.2019)**

### **Section I.**

#### **Guaranties (Title, amend. – SG, 102/19, in force from 01.01.2020)**

#### **Guaranties (Title, amend. – SG, 102/19, in force from 01.01.2020)**

Art. 111. (1) (amend. - SG 86/18, in force from 01.03.2019) The contracting authority may require from the selected contractor to provide guarantees, which may insure the fulfillment of the contract and/or providing means in advance.

(2) (amend. - SG 86/18, in force from 01.03.2019) The guaranty, insuring the contract fulfillment shall not exceed 5% of its value. In case of reserved procurement, which is awarded to specialized



undertakings or cooperation of disabled people, the fulfillment contract guaranty shall not exceed 2% of the contract value. Fulfillment guaranty may be required also in a case of change, with which additional supplies, services or public works under the contract is required.

(3) The guaranty, which insures the provided means in advance, may be to the amount of these means and shall be liberated by 3 days after return or absorption of the advance payment.

(4) (amend. and suppl. - SG 86/18, in force from 01.03.2019) The envisaged guaranties and their percentage shall be indicated in the notice, which announces the opening of the procedure, in the confirmation of interest invitation, the invitation for participation in negotiations or in the notice.

(5) The guaranties shall be provided in one of the following forms:

1. amount of money;
2. bank guaranty;
3. insurance, which insures the fulfillment by covering the responsibility of the contractor.

(6) The guaranty under Para. 5, p. 1 or 2 may be provided on behalf of the contractor for the account of a third person – guarantor.

(7) The participant, selected for contractor, shall choose himself the guaranty form for fulfillment or for the provided means in advance.

(8) Where the selected contractor is a partnership, which is not a legal person, each of the partners in it may be an ordering the bank guaranty or depositor of the guaranty sum or holder of the insurance.

(9) The conditions and terms for detention or release of the fulfillment guaranty shall be provided by the public procurement contract.

(10) Where the public procurement contract is fulfilled in stages, the contracting authority shall include in the draft contract a clause for partial release of the guaranties, or of the fulfilled part of the public procurement subject. Where the procurement subject includes guaranty maintenance, the contracting authority shall determine in the draft contract what part of the fulfillment guaranty is intended for insurance of the guaranty maintenance.

## **Section II.**

### **Public Procurement Contract. Framework agreement. (title amend. - SG 86/18, in force from 01.03.2019)**

#### **Signing a Contract**

Art. 112. (1) The contracting authority shall sign with the selected contractor a written public procurement contract in the condition that with the signing of the contract, the selected contractor:

1. produces a document for registration in compliance with the requirement of Art. 10, Para. 2;
2. (amend. - SG 86/18, in force from 01.03.2019, suppl. - SG 107/20, in force from 01.01.2021) submits documents under **Art. 58**, certifying the lack of grounds for removal from the procedure as well as documents for compliance with the selection criteria, including third parties and subcontractors, if any;
3. produces the defined guaranty for fulfillment of the contract;
4. carries out the relevant registration, produces a document or fulfills any other requirement, needed for fulfillment of the procurement according to the requirement of a normative of administrative act and has been set by the contracting authority in the conditions of the announced procurement.

(2) The contracting authority shall not sign a contract, where the participant, graded at the first place:

1. refuses to sign a contract;
2. fails to fulfill some of the conditions under Para. 1, or
3. fails to prove that there are not grounds for removal of the procedure.

(3) In the cases under Para. 2, the contracting authority may amend the enforced decision in the part for selection of a contractor and with a grounded decision selects the second graded participant for

contractor.

(4) (amend. - SG 86/18, in force from 01.03.2019) The contract must comply with the draft contract, attached to the documentation, supplemented with all the proposals from the participant's offer on the basis of which the latter has been selected for contractor of the procurement. Amendments in the draft contract shall be admitted upon exception, where the condition of **Art. 116, Para. 1, p. 7** has been fulfilled but circumstances have occurred during or after conducting the procedure.

(5) The obligatory minimal contents of the contract shall be set by the Rules on the implementation of the act.

(6) The contracting authority shall sign the contract within one month term after the decision for selection of a contractor has been enforced or of the determination, which admits preliminary fulfillment of this decision, but not before expiry of 14 day term from the notification of the interested applicants and/or interested participant about the decision for selection of a contractor.

(7) The contracting authority may sign a public procurement contract before the expiry of the 14 day-term from the notification of the interested applicants and/or interested participants about the decision for selection of a contractor in the following cases:

1. the contractor has been selected as a result of:

a) procedure under Art. 18, Para. 1, p. 8 - 10 and 13 and there is only one invited participant, or

b) procedure under Art. 18, Para. 1, p. 8 - 10 and 13, open under Art. 79, Para. 1, p. 4, Art. 138, Para. 1, Art. 164, Para. 1, p. 3 or 4, or Art. 182, Para. 1, p. 1 and already there are invited participants;

2. the selected contractor is the only interested participant and there are no other interested applicants, or

3. the contract is signed on the basis of a framework agreement with one participant.

(8) The contracting authority shall not have the right to sign contract with the selected contractor before the enforcement of all the decisions of the procedure, unless it has been admitted preliminary fulfillment or where the procedure has been opened under Art. 79, Para. 1, P. 4, Art. 138, Para. 1, Art. 164, Para. 1, p. 3 or 4, or Art. 182, Para. 1, p. 1.

(9) (new - SG 86/18, in force from 01.03.2019) In the cases under para. 1 the contracting authority has no right to request documents:

1. (suppl. – SG, 102/19, in force from 01.01.2020) which have already been submitted, or have been made available to the contracting authority, who has concluded the framework agreement and are up to date;

2. to which access is available ex officio or in public register;

3. which can be provided through direct and free access to Member States' national databases.

4. (new – SG, 102/19, in force from 01.01.2020) under Para. 1, item 2 - when a contract is concluded on the basis of a framework agreement, without conducting an internal competitive selection.

(10) (New – SG, 102/19, in force from 01.01.2020) In the cases under Para. 9, item 1, before the conclusion of the contract the designated contractor shall declare in writing, that the documents provided are up to date.

### **Conclusion of a framework agreement (Titel, amend. – SG, 102/19, in force from 01.01.2020)**

Art. 112a. (new - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) (1) When a framework agreement is concluded, the conditions of **Art. 112, Para. 1, item 1, 2, and 4** shall apply.

(2) The Contracting Authority does not require the documents under **Art. 112, para. 1, item 2** upon conclusion of a contract under a framework agreement, which sets out all the conditions.

(2) The contracting authority shall not conclude a framework agreement with a participant, designated as a contractor who

1. refuses to sign the framework agreement;
2. fails to fulfil one of the conditions under Para. 1, or
3. fails to prove, that there are no grounds for exclusion from the procedure.

(3) In the cases under Para. 2, the contracting authority may amend the enforced decision in the part, concerning the selection of the contractor and by reasoned decision, determine the next rated participant for contractor.

(4) The framework agreement must conform to the project, enclosed in the documentation, supplemented by all the proposals from the offer of the participant, or participants, selected for the contractors of the procurement. Amendments to the draft framework agreement shall exceptionally be allowed, where the condition under **Art. 116, Para. 1, item 7** has been fulfilled and are imposed by circumstances, occurring during or after the procedure.

(5) The contracting authority shall not have the right to conclude a framework agreement, prior to the entry into force of any of the decisions under the procedure, except where prior fulfillment is permitted. The contracting authority shall conclude the framework agreement within the deadlines of **Art. 112, Para. 6**

- (6) In the cases under Para. 1, the contracting authority shall not be entitled to request documents:
1. which have already been produced and are up to date;
  2. to which there is official access or through a public register;
  3. which can be provided through direct and free access to Member States' national databases.

(7) In the cases under Para. 6, item 1, with conclusion of the framework agreement, the selected contractor shall declare in writing, that the documents submitted are up to date.

### **Term of the Public Procurement Contracts**

Art. 113. (1) The public procurement contracts for periodic or long term fulfillment shall be signed for a term, which shall not exceed 5 years.

(2) Upon exception, the contracting authorities may sign contracts with a longer term, where this is imposed because of the nature of the procurement subject, the need of return of the investment or because of a technical reason, where the contracting authority shall indicate the grounds for this fact in the decision for opening.

(3) The term of contracts, signed on the basis of a framework agreement may exceed the deadline of the agreement:

1. by not more than a year – where time is needed for finalization of the fulfillment of the contract subject;
2. by more than a year – where it is connected with the fulfillment of activities, servicing the basic subject, including guaranty service and training of staff.

(4) Signing unlimited public procurement contracts, or contracts, whose term is continued automatically shall not be admitted. Contracts, signed in violation of the rules under Para. 1 and 2 shall be considered as signed for one year.

### **Contract under Condition**

Art. 114. (Suppl. - SG 107/20, in force from 01.01.2021) Where in opening of the procedure not financing is ensured, the contracting authority shall indicate this fact in the notice or invitation for confirmation of interest and in the procedures under **Art. 18, para. 1, items 8 - 10 and 13** - in the opening decision and shall envisage in the draft contract a clause for delayed fulfillment. In this case each of the parties may request termination of the contract without preliminary notification after expiry of a 3 month term from its concluding.

## **Requirements during Fulfillment of the Contracts**

Art. 115. During fulfillment of the public procurement contracts, the contractors and their subcontractors shall be obliged to observe all applicable rules and requirements, related to environment protection, social and labour law, applicable collective agreements and/or provision of the international ecological, social and labour law under Annex No 10.

### **Electronic invoices**

Art. 115a. (new - SG 86/18, in force from 01.11.2019) In the case of payments under public procurement contracts, contracting authorities are obliged to accept and process electronic invoices provided their content meets the requirements of **Art. 114, para. 1** of the Value Added Tax Act and invoices comply with the European electronic invoicing standard approved by Commission Implementing Decision (EU) 2017/1870 of 16 October 2017 on the publication of the reference of the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council or an equivalent standard with which it is implemented.

### **Amendment of a Public Procurement Contract and Framework Agreement**

Art. 116. (1) (amend. - SG 86/18, in force from 01.03.2019) The public procurement contracts and the framework agreements may be amended where:

1. the amendments are envisaged in the public procurement documentation and in the contract with clear, exact and unambiguous clauses, including clauses for change of the price or options; the scope and the nature of the possible amendments and options, as well as the conditions, in which they may be used shall not lead to change of the procurement subject or of the framework agreement;

2. because of unforeseen circumstances a need occurs of carrying out additional supplies, services or public works, which are not included in the initial public procurement, if the change of the contractor:

a) is impossible because of economic or technical reasons, including requirements for interchangeability or operative compatibility with the existing equipment, services or facilities, awarded with the initial procurement, and

b) would cause substantial difficulties, related to maintenance, exploitation and service or duplication of costs of the contracting authority;

3. because of circumstances, which in laying the due care, the contracting authority could not envisage, a need of change has occurred, which does not lead to a change of the subject of the contract or the framework agreement;

4. (amend. - SG 86/18, in force from 01.03.2019) where the contractor is required to be replaced by a new contractor, if such possibility of substitution is provided in the procurement documentation and in the contract by clear, precise and unambiguous clauses concerning the occurrence of specific conditions;

5. (new - SG 86/18, in force from 01.03.2019) where the contractor is required to be replaced by a new contractor where a universal or partial succession to the original contractor is present where a universal or partial succession to the original contractor is available, including through merger, consolidation, division or spin-off and also change of the legal form where it is in liquidation or in an open insolvency procedure and the following conditions have been fulfilled at the same time:

a) for the new contractor there are not reasons for removal from the procedure and he meets the initially established selection criteria;

b) the change of the contractor does not lead to other substantial amendments of the public procurement contract or of the framework agreement and does not aim at circumvention of the law;

6. (revoked, new - SG 86/18, in force from 01.03.2019) the conditions under items 4 or 5 are present in respect of a participant - association which is not a legal entity;

7. (prev. para. 5 - SG 86/18, in force from 01.03.2019) changes are needed, which are not substantial;

(2) In the cases under Para. 1, p. 2 and 3 if an increase of the price is needed, it shall not exceed more than 50% of the value of the basic contract or framework agreement. Where successive amendments are made, the restriction shall apply to the total value of the amendments. The successive amendments shall not aim at circumvention of the law.

(3) (revoked, new - SG 86/18, in force from 01.03.2019)

(4) (amend. - SG 86/18, in force from 01.03.2019) In the cases under Para. 1, p. 2 and 3 where the public procurement contract contains a clause for indexation or has been signed under certain prices, for a basic value the updated value at the moment of the amendment shall be accepted.

(5) (amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) Amendment of a public procurement contract or a framework agreement shall be considered as substantial in the meaning of Para. 1, p. 7, where it substantially alters the nature of the contract or framework agreement originally concluded, including where one or more of the following conditions are met:

1. the amendment introduced conditions, which, if they were a part of the procedure for awarding a public procurement, would attract to participation additional participants or applicants, they would allow admittance of other participants or applicants, different from the initially selected ones, or would lead to acceptance of an offer, different from the initially accepted one;

2. (amend. - SG 107/20, in force from 01.01.2021) the amendment modifies the economic balance of the contract or framework agreement in favor of the contractor in a way that was not provided for in the original contract or framework agreement;

3. the amendment concerns the subject or volume of the public procurement contract or the framework agreement;

4. (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) the contractor is changed by a new one, apart from the cases of Para. 1, p. 4, 5 or 6.

(6) In case of an amendment of a contract, signed by a sector contracting authority, the conditions under Para. 2 shall not apply.

### **Transferability of Receivables**

Art. 117. The money receivables on the public procurement contract and on the subcontracting contracts shall be transferable, may be pledged and on them compulsory fulfillment may be carried out.

### **Methodology for changing the price of a public procurement contract in case of inflation**

Art. 117a. (New - SG 62/22, in force from 05.08.2022) (1) In the cases under Art. 116, para. 1, items 1, 2 and 3, a change in the price of a public procurement contract as a result of inflation, in which the prices of basic goods and materials that form the value of the contract have been significantly increased, is carried out according to a methodology approved by an act of the Council of Ministers.

(2) When in the cases under **Art. 116, para. 1, item 1**, the contracting authority stipulates a clause for changing the price in connection with inflation under para. 1, it can link this clause with the methodology under para. 1.

### **Termination of a Public Procurement Contract or a Framework Agreement**

Art. 118. (1) The contracting authority shall terminate the public procurement contract or the framework agreement in the cases, envisaged by an act, contract or agreement, or where:

1. a substantial change of the procurement is needed, which does not allow the contract or the framework agreement to be changed under Art. 116, para. 1;

2. it is found that during the procedure for awarding the procurement, for the contractor the

circumstances under Art. 54, Para. 1, p. 1 have been present, on the basis of which he had to be removed from the procedure;

3. the procurement should not have been awarded to the contractor because of a present violation, ruled by the EU Court of Justice in a procedure under Art. 258 of TFEU.

(2) In the cases under Apra. 1, p. 2 and 3 the contracting authority shall not owe compensation for suffered harms because of termination of the contract or the framework agreement.

### **Voidable Contracts or Framework Agreements**

Art. 119. (1) Contracts or framework agreement shall be voidable where they have been signed:

1. without procedure for awarding public procurement in spite of presence of ground for its conducting or where the procedure has been conducted without observation of the requirement of Art. 99;

2. in unlawful application of the grounds of Art. 13 - 15, Art. 79, Para. 1, Art. 138, Para. 1, Art. 149, Para. 1, Art. 164, Para. 1 or Art. 182, Para. 1;

3. before the enforcement of an act of the contracting authority, issued in relation to the procedure and a violation is found, which has affected the possibility of:

a) the interested person to submit an application for participation or an offer;

b) an interested applicant to submit and offer;

c) an interested applicant or participant to take part in selection of a contractor.

(2) The contracting authority shall terminate a contract, signed on the basis of a framework agreement, which has been made void in a judicial procedure.

### **Subsidized Application**

Art. 120. For all unsettled issues in relation to signing, fulfillment and termination of the public procurement contracts, the provisions of the **Commerce Act** and the **Obligations and Contracts Act** shall apply.

## **Chapter fourteen.**

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

#### **Documentation and Accountability**

Art. 121. (1) (amend. - SG 86/18, in force from 01.03.2019) The contracting authorities shall maintain a file for each public procurement in view to provision of documental traceability (audit path) in relation to all their actions and decisions, as well as of the actions of the commissions for awarding public procurements notwithstanding if the procurements are awarded by electronic media.

(2) The file shall contain all the decisions, notices, documentation and other additional documents, explanations, invitations, records, final reports of the commission, the offers or participation applications, evidences for undertaken actions under Art. 44, Para. 3 – 5, description of the reasons, because of which other means are used for submission of documents, different from the electronic ones in electronic submission, and in the cases of realized preliminary control – also the opinions of the Public Procurement Agency and the grounds for the contracting authority for the unaccepted recommendations. The file shall contain the contract or the framework agreement, as well as all the documents, related to fulfillment and its accounting.

(3) The contracting authorities shall store the information, related to contracts, where they apply the exceptions from the act.

#### **Term of Storage**

Art. 122. (1) (new - SG 86/18, in force from 01.11.2019) The electronic documents in the public procurement file shall be stored in the platform under Art. 39a, para. 1 for a period of 5 years from the year in which the contract was concluded or the award was terminated. Upon expiration of this period, they are archived for a period of 5 years in accordance with the **Electronic Government Act**.

(2) (prev. para. 1, amend. - SG 86/18, in force from 01.11.2019) Where the contracting authorities keep paper documents as part of the files under Art. 121, para. 1 and / or information under Art. 121, para. 3, the term shall be 5 years from the date of completion of the contract or from the date of termination of the award.

(3) (prev. para. 2, amend. - SG 86/18, in force from 01.11.2019) The terms under para. 2 may be extended in case that this comes for rules for operation of funding, auditing and certification bodies in relation to provision of funds on EU projects and programmes.

### **Part three.**

## **SPECIAL RULES WITH AWARDING PUBLIC PROCUREMENTS BY SECTOR CONTRACTING AUTHORITIES**

### **Chapter fifteen.**

## **SECTOR ACTIVITIES**

### **Types**

Art. 123. Sector activities shall be the ones, connected to:

1. natural gas and heating energy;
2. electric energy;
3. water supply;
4. transport services;
5. exploitation of geographic area;
6. post services.

### **Natural Gas and Heating Energy**

Art. 124. (1) Activities, related to natural gas and heating energy shall be:

1. provision or exploitation of fixed networks for public services in relation to production, transfer or distribution of natural gas or heating energy;
2. (suppl. – SG, 102/19, in force from 01.01.2020) supply of the networks under p. 1 with natural gas or heating energy, which includes production of retail and wholesale trade;
3. (repealed - SG, 102/19, in force from 01.01.2020).

(2) Supply of natural gas or heating energy of fixed networks for public services by a sector contracting authority shall not be accepted as activity under Para. 1 where the following conditions have been fulfilled:

1. (amend. - SG 107/20, in force from 01.01.2021) production of natural gas or heating energy is an inevitable result of carrying out an activity, different for the activities under para. 1 or under **Art. 123, p. 2 – 4**;
2. (amend. - SG, 102/19, in force from 01.01.2020) supply of these networks aims only at the economic exploitation of the production of natural gas or heating energy, under the condition that the quantity of the supplies is not more than 20% of the average turnover of the producer for the last 3 years, including for the current year.

## **Electric Energy**

Art. 125. (1) Activities, related to electric energy shall be:

1. provision or exploitation of fixed networks for public services in relation to production, transfer or distribution of electric energy;

2. (suppl. – SG, 102/19, in force from 01.01.2020) supply of the networks under p. 1 with electric energy, which includes production of retail and wholesale trade;

3. (repealed - SG, 102/19, in force from 01.01.2020)

(2) Supply with electric energy of fixed networks for public services by a sector contracting authority shall not be accepted as an activity under Para. 1, where the following conditions have been met:

1. the production of electric energy is realized because of the fact, that its use is needed for carrying out an activity, different from the activities under Para. 1, or under **Art. 123, p. 1, 3 and 4**;

2. supply of these networks depends only on own use of the contracting authority and does not exceed 30% of the whole production of energy, by taking into account the average value for the last 3 years, including the current year.

## **Water supply**

Art. 126. (1) Activities, related to water supply shall be:

1. supply or exploitation of fixed networks for public services in relation to production, transfer or distribution of drinking water;

2. (suppl. -SG, 102/19, in force from 01.01.2020) provision of networks under p. 1 with drinking water, which includes production and retail and wholesale trade;

3. (repealed - SG, 102/19, in force from 01.01.2020).

(2) Persons, who carry out an activity under Para. 1 shall apply the provision of the law in relation to contract for procurements or competitions for a project, related to:

1. hydro-technical projects, irrigation or drainage in the condition that the water quantity, intended for drinking needs is more than 20% of the total quantity of the water, provided through such projects or facilities for irrigation or drainage, or

2. drainage and wastewater treatment.

(3) Supply of drinking water to fixed networks for public services on behalf of a sector contracting authority shall not be accepted as an activity under Para. 1 where the following conditions have been met:

1. the production of drinking water is realized in view to the need of its use for carrying out an activity, different from the activities under Art. 123, 1 - 4;

2. supply of these networks depends only on own use of the producer and does not exceed 30% of the total production of drinking water, by taking in consideration the average value for the last 3 years, including the current year.

## **Transport Services**

Art. 127. (1) Activities, related to transport services shall be provision or exploitation of networks for public procurement in the area of railway, tramway, trolleybus or autobus transport, as well as if automated transport systems or rope lines.

(2) In relation to the transport services it is accepted, that there is a network, where the service is provided in exploitation conditions, established by a competent body, which may include the conditions of the serviced itineraries, the capacity, which must be available, frequency of the service, etc.

## **Exploitation of a Geographic Area**

Art. 128. Activities, related to exploitation of a geographic area shall be activities, which aim at:



1. provision use of airports and marine or inland ports or other terminals by carriers in air, marine or inland water ways;
2. extraction of oil or natural gas;
3. studies for, or extraction of coal or other solid fuels.

### **Postal Services**

Art. 129. Activities, related to postal service shall be provision of:

1. postal services;
2. services, different from the postal ones, for which the conditions of Art. 130 have not been fulfilled and if they are provided by a subject, which provides services under p. 1 as well.

## **Chapter sixteen.**

### **EXCLUSION OF SECTOR ACTIVITY FROM THE APPLICABLE FIELD OF THE ACT**

#### **Activities, directly Exposed to Competition**

Art. 130. (1) The act shall not apply in relation to public procurement and competition for a project, intended to create conditions for realization of activity under Art. 123, if the activity is directly exposed to competition and is realized in the conditions of a market, whose access is not restricted.

(2) The assessment of existence of competition shall be carried out on the basis of monitoring of the relevant geographic market for receiving activity and shall include criteria, defined in compliance with the TFEU. These criteria may refer to the characteristics of the relevant goods or services, presence of alternative services or services, process and the possibility more than one supplier to offer these goods or services.

(3) The access to a certain market shall be unlimited, if the national legislation introduces the EU acts under Annex No 12. In all the cases, the access to the market shall be accepted as free, if this is proved.

(4) The activity in relation to which Para. 1 is applied, may be a part of a larger sector or branch.

(5) The activity, in relation of which Para. 1 is applied, may cover the territory of the whole country or certain geographic area.

(6) In case of study for present competition, the area, in which the relevant undertakings carry out the activity shall be taken in consideration, including if searching or provision of goods and services is studies, the competition conditions shall be assessed, from point of view of homogeneity, so that the area is restricted from the neighboring areas, in which the competition conditions are completely different. The nature and characteristic of the goods or services shall be subject to assessment, present obstacles for entering the market by other persons, the consumers' preferences, substantial differences in the market shares of the undertakings between the relevant area and neighboring areas and substantial differences in prices.

#### **Procedure for excluding Sector Activity from the Applicable Field of the Act.**

Art. 131. (1) The procedure for exclusion of sector activity shall be carried out under rules of the European Commission.

(2) The Council of Ministers, upon proposal of the relevant sector Minister or sector contracting authority may submit to the European Commission a request on the basis of the criteria under Art. 130, in view to establish that a certain activity is directly exposed to competition. Where needed, the request shall be accompanied by an opinion of an independent national body, which is competent in relation to the relevant activity.

(3) The request under Para. 1 shall indicate all the facts, which are of significance for exclusion of the sector activity from the applicable field of the act, including the applicable normative acts and the

existing administrative provision.

## **Chapter seventeen.**

### **AWARDING PUBLIC PROCUREMENTS**

#### **Section I.**

#### **Procedures, Applied by Sector Contracting Authorities**

##### **Free Selection of a Procedure**

Art. 132. While awarding public procurements, the sector contracting authorities shall select free an open and restricted procedure, negotiation with a preliminary invitation for participation and competition dialogue.

##### **Open Procedure**

Art. 133. (1) (amend. - SG 86/18, in force from 01.11.2019) The minimal term for receiving offers in an open procedure shall be 30 days form the date of sending the notice for a public procurement for publication.

(2) The term under Para. 1 may be shortened, but not shorter than 15 days, if the contracting authority has published periodically an indicative notice and it:

1. has been sent for publication between 35 days and 12 months before the date of submitting the public procurement notice, and

2. includes the whole information under Part a, Section I of Annex No 5.

(3) (revoked - SG 86/18, in force from 18.10.2018)

(4) In case of occurring circumstances, which require urgent awarding of a procurement, because of which the observation of the term under Para. 1 is impossible, the contracting authorities may define a term for receiving the offers not shorter than 15 days from the date of submission of the public procurement notice for publication.

(5) In the public procurement notice, the contracting authority shall motivate the application of Para. 4.

##### **Restricted Procedure**

Art. 134. (1) Any person may submit an application for participation in a restricted procedure, in which he must provide the required by the contracting authority information about the lack of reasons fir removal and his compliance with the selection criteria.

(2) The minimal term for receiving participation applications in a restricted procedure shall be 30 days from the date of submission of:

1. the public procurement notice for publication, or

2. the invitation for confirming interest, where for notice of opening the procedure, a periodic indicative notice has been used.

(3) In case of occurrence of circumstances, which require urgent awarding of a procurement, because of which observation of the term under Para. 2 is impossible, the contracting authorities may define term for receiving the participation applications, which shall not be shorter than 15 days.

(4) In a restricted procedure, only applicants shall submit offers, who the contracting authority has invited after conducted a preliminary selection.

(5) The term for receiving offers may be defined upon an agreement between the contracting authority and the selected applicants. The agreement shall be admissible only if all the applicants are

provided by equal term for preparation and submission of offers.

(6) Where no agreement has been reached under Para. 5, the term shall be defined by the contracting authority and shall not be shorter than 10 days from the date of submission of the invitation for submission of offers.

### **Procedure of Negotiation with Preliminary Participation Invitation**

Art. 135. (1) Any person may submit an application of participation in negotiation with preliminary participation invitation on the basis of removal and compliance with the selection criteria.

(2) The minimal term for receiving participation applications in the procedure shall be 30 days from the date of submission of:

1. the notice of the public procurement for publication, or
2. The invitation of confirmation of interests, where for notice of the opening of the procedure, a periodic, indicative notice has been used.

(3) In case of occurrence of circumstances, which require urgent awarding of a procurement, because of which it is impossible to observe the term under Para. 2, the contracting authorities may define term for receiving participation applications, which shall not be shorter than 15 days.

(4) in the procedure, only applicants, who the contracting authority has invited after conducted preliminary selection may submit initial offers, which shall serve as a basis for conducting negotiations.

(5) The term for receiving offers may be defined upon agreement between the contracting authority and the selected applicants. The agreement shall be admissible only if all applicants have been provided by equal term for preparation and submission offers.

(6) Where no agreement has been reached under Para. 5, the term shall be defined by the contracting authority and shall not shorter than 10 days from the date of submission of the invitation for provision of offers.

### **Competition Dialogue**

Art. 136. (1) Any person may submit an participation application in a competition dialogue, which shall present the required information by the contracting authority about the lack of grounds for removal and his compliance with the selection criteria.

(2) The contracting authority shall indicate in the notice and/or in the description document his needs and requirements, the awarding criteria, the assessment indicators of the offers and indicative schedule for conducting the procedure.

(3) The minimal term for receiving participation applications shall be 30 days from the date of submission of the notice of the public procurement for publication. In case of occurrence of circumstances, which require urgent awarding of a procurement, because of which it is impossible to observe the term, the contracting authorities may define a term for receiving participation applications, which shall not be shorter than 15 days.

(4) Only applicants, who have been invited by the contracting authority after conducted preliminary selection, may participate in the follow up stage of the procedure – dialogue.

(5) During the dialogue all issues may be discussed, related to the procurement in view to be defined the parameters, which to largest extend satisfy the contracting authorities' needs.

(6) During the dialogues, the contracting authority shall guaranty equality of the participants, by not providing information in a way, which may give advantage to some of the participants over others.

(7) The contracting authority shall not have the right to provide the proposals or other confidential information, received by a participant during the dialogue to the other participants, without his explicit consent for each case.

(8) The dialogue may be conducted at follow up stages, so that the numbers of the decision for discussions is decreased, by applying the awarding criteria and the assessment indicators, indicated in the

public procurement notice or in the description document. Where the contracting authority intends to conduct dialogue at follow up stages, he must indicate this in the notice of in the description document.

(9) The contracting authority shall conduct the dialogue to defining the decision/s, which may satisfy his needs.

(10) After announcing the dialogue for finished, the contracting authority shall notify all the participants, remained at the last stage and shall invite them to provide their final offers, drawn up on the basis of the decision/s, established during the dialogue. The offers must contain all the obligatory elements, needed for fulfillment of the procurement.

(11) While awarding a public procurement through competition dialogue, the contracting authority shall assess the offers according to the criteria of optimal correlation quality/price and in compliance with the indicators, indicated in the notice for public procurement or in the description document.

(12) The contracting authority may request the offers to be explained, specified, or improved. The explanations, specification and improvements, as well as provided additional information must not change the basic characteristics of the offer or procurement, including the defined needs and requirements in the notice or description document, if this may lead to violation of competition or to discrimination.

(13) The contracting authority may conduct negotiations with the participant, having produced an offer, which is with optima; correlation quality/price, in order to be confirmed the financial commitments or other conditions in the offer, by specifying finally the conditions of the procurement. Specifying the conditions shall not lead to change in the nature of the basic parameters of the offer or procurement, including the defined needs and requirements in the notice or the description document, as well as to violation of competition or to discrimination.

(14) The contracting authority may envisage awards or payments for the dialogue participants.

### **Partnership for Innovations**

Art. 137. (1) Every person may submit a participation application for innovations, which must contain the required by the contracting authority information about the lack of grounds for removal and his compliance with the selection criteria.

(2) In the public procurement documentation, the contracting authority shall motivate the need of receiving innovation goods, service or public works, as well as the impossibility for it to be fulfilled through the available market proposals. The contracting authority shall describe his needs, by indicating which elements of the description are minimal requirements, which must be met by all offers. The provided information must be sufficient and exact, so that the interested person may define the nature and scope of the sought decision and estimate whether they should participate in the procedure.

(3) In the public procurement documentation, the contracting authority shall define the rules, applicable to the intellectual property rights.

(4) The minimal term for receiving a participation application in the partnership procedure for innovations shall be 30 days from the date of sending the public procurement notice. In case of occurrence of circumstances, which require urgent awarding of a procurement, because of which it is impossible to observe the term, the contracting authority may define a term for receiving participation application, which shall not be shorter than 15 days.

(5) In the preliminary selection, the contracting authority shall estimate the technical and professional abilities of the applicants in the area of the scientific research and development activity and the development and implementation of innovation decisions.

(6) Only applicants, who have been invited by the contracting authority after a preliminary selection, may produce offers for researches and innovations.

(7) The contracting authority may envisage a follow up conducting of the negotiations, in order to diminish the offer number, by applying the awarding criteria and the indicators for assessment, indicated in the notice. When intending to use this opportunity, the contracting authority shall indicate this fact in the notice.

(8) The contracting authority shall conduct negotiations with the participants for improvement of contents of the initial and follow up offers with the exception of the final offers.

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

(10) While awarding a public procurement through innovation partnership, the contracting authority shall assess the offers only under the criterion correlation quality/price.

(11) During conducting the negotiations the contracting authority shall guaranty equality for the participants, by not providing information in a way, which may give advantage to some of the participants over others.

(12) While conducting the negotiations, the contracting authority shall inform in writing all the participants, whose offers are not removed, about all changes in the technical specifications or in another document of the public procurement documentation, different from the one, which defines the minimal requirements. After introduction of such changes, the contracting authority shall provide to the participants sufficient time to change and produce again the changed offers.

(13) The contracting authority shall not have the right to provide the proposals or any other confidential information, received by a participant during the negotiations to the other participants, without his explicit consent for each case.

(14) The contract for partnership for innovations aims development of an innovation product, service or public works and the follow up acquiring of the received as a result supplies, services, or public works under the condition that they comply with the levels of fulfillment and with the maximum costs, negotiated between the contracting authority and the participant/s.

(15) The partnership contract shall provide for the fulfillment of the procurement at follow up stages according to the steps in the process of scientific researches and innovations or public works.

(16) The partnership contract shall define the interim objectives, which are to be achieved, as well as the deposits for payment of the relevant remuneration.

(17) The contracting authority shall guaranty, that the different stages of the partnership reflect the level of innovation of the proposed resolution and the successiveness of the scientific research and innovation activities, needed for development of innovation decision.

(18) The expected value of the acquired supplies, services or public works must correspond to the investment, needed for their development.

(19) The contracting authority shall not have the right to disclose to the other partners the proposed resolutions or other confidential information, provided by a certain partner within the frames of the partnership, without his explicit consent for each case.

(20) In the cases under Para. 16, the contracting authority may finish the partnership for innovations after each stage, and in partnership for innovations, with several partners, to diminish their number by termination of certain contracts, if he has indicated this opportunity and the conditions for this in the public procurement documentation.

### **Negotiation Procedure without Preliminary Participation Invitation**

Art. 138. (1) The sector contracting authorities may apply a negotiation procedure without preliminary participation invitation under Art. 79, Para. 1, p. 1 - 4 and p. 6 - 10, also, where:

1. the procurement aims at only scientific and research activity, experiment, study or development activity; the awarded procurements shall not cover production in quantities, which allow to be provided sufficient market realization or to cover the costs of the scientific and research and development activity;

2. for a very short time a possibility occurs to receive supplies under especially favorable conditions and price, substantially lower than the usual market prices; in this case, the persons, who offer goods at prices, lower than the market ones shall be invited to negotiations.

(2) In the cases under Para. 1, p. 1 the awarding of the procurement shall not concern the possibility other interested persons to participate in follow-up procurements with the same or similar subject.

(3) In conducting a negotiation procedure without preliminary invitation for participation under Art. 79, Para. 1, p. 6, the restriction under Art. 79, Para. 3 shall not apply.

(4) With the decision for opening the procedure, the contracting authority shall motivate the applicable reason under Para. 1.

(5) The conditions and procedure for conducting the procedure shall be provided by the Rules on the application of the act.

### **Competition for a Project**

Art. 139. The competition for a project shall be conducted under the provision of Art. 80.

## **Section II.**

### **Specific Techniques and Instruments for Awarding Procurement**

#### **Dynamic System for Purchases**

Art. 140. (1) With awarding public procurement through DSP, the term for receiving participation applications under Art. 85, Para. 2 shall not be shorter than 15 days.

(2) In case that a sector contracting authority shortens the term under Art. 85, Para. 2, he shall indicate the circumstances, on the basis of which the term has been shortened.

(3) Where the contracting authority has envisaged reasons for removal and/or selection criteria in compliance with Art. 144, Para. 2, he may at any time within the action term of DSP request from the admitted applicants to provide ESPD with updated information about the declared data, on the basis of which they have been included in DSP.

(4) The information under Para. 3 shall be provided within the term of up to 5 working days from receiving the request.

(5) At any time, within the action term of DSP, the contracting authority may request from the applicants to produce documents for evidencing the circumstances, included in ESPD.

(6) For unsettles issues about creation, extension and termination of DSP, as well as about awarding procurement within the frames of DSP, the provision of Section Ii of Chapter Ten shall apply.

## **Section III.**

### **Qualification Systems**

#### **Creating Qualification Systems**

Art. 141. (1) (Amend. – SG, 102/19, in force from 01.01.2020) The sector contracting authorities may create qualification systems of economic subjects. In these cases. they shall send for publication a notice under Art. 35, Para. 1, item 8.

(2) The sector contracting authorities shall announce every change in the term of action of the qualification system, as well as its termination, by using the following standard forms:

1. notice for qualification system – in case of change of the action term without termination of the qualification system;

2. notice for awarding procurement – in case of termination of the action of the qualification system.

(3) The qualification systems shall be organized in a way, which gives opportunity to the economic subjects to be included in them at any time.

(4) The qualification system may cover various stages, related to the preliminary selection.

(5) (Amend. – SG, 102/19, in force from 01.01.2020) With the creation of the qualification system,

the sector contracting authorities shall define objective rules and criteria, on:

1. including and excluding of interested persons from the qualification system;
2. operation of the qualification system, including the periodic verification of the status of the participants and the period of application of the system.

(6) (Amend. – SG, 102/19, in force from 01.01.20200) The criteria and rules under Para. 5 may include technical specifications. In these cases, the contracting authorities shall apply **Art. 48 – 52** and in case of need may update the criteria and the rules.

(7) The interested persons may – for the purposes of entry in the qualification system – refer to the capacity of third persons, notwithstanding of the legal relation between them, in relation to the criteria, related to the economic and financial state, the professional and technical abilities in case that the contracting authority requests such.

(8) (Amend. – SG, 102/19, in force from 01.01.20200) The sector contracting authorities shall provide access to the criteria and rules under Para. 5, through the PPR and the buyer's profile.

(9) (Amend. – SG, 102/19, in force from 01.01.2020) A sectoral contracting authority may benefit from a qualification system, established by another person when it meets his requirements. In this case the contracting authority shall with a decision, approve a notice about a qualification system, stating the details of the qualification system, used and shall send it for publication under **Art. 35**. The terms of use of the system shall be governed by an agreement between the contracting authorities.

(10) The qualification systems shall be organized in a way, which guaranties the use and storage of the information in relation to entry of economic subjects in it. The information may be grouped in categories according to the type of procurements, for which the entry is valid.

(11) The contracting authority shall take decision about inclusion or refusal for inclusion of the interested persons in a qualification system within 6-month term from submission of the application for inclusion in the qualification system. The refusal shall be grounded.

(12) Where for the decision under Para. 11, more than 4 months are needed, the contracting authority shall inform the interested person within the term of 2 months from submission of the application about the reasons and about the data by which the decision will have been taken.

(13) (Repealed - SG, 102/19, in force from 01.01.2020).

(14) (amend. and suppl. - SG, 102/19, in force from 01.01.2020). The sector contracting authority may take decision for termination of the participation in the qualification system of an applicant, on the basis of the determined rules and criteria in it. The decision shall be sent to the applicant at least 15 days before the date, defined for termination of his participation in the qualification system under **Art. 22, Para. 10**.

(15) In case that the contracting authorities require fees for inclusion in the qualification system for maintenance or updating the information, they shall not exceed the costs, needed for these activities.

### **Awarding procurement through Qualification System**

Art. 142. (1) The concrete procurements for public works, supplies or services, falling in the scope of the qualification system, shall be awarded through restricted procedure or negotiation procedure with a preliminary participation invitation, and the contractor of the contract shall be selected among the persons, entered in the qualification system.

(2) (New – SG, 102/19, effective from 01.01.2020) In the cases under Para. 1, depending on the type of procedure, the contracting authority shall send the decision under **Art. 22, Para. 1, item 12** and the corresponding invitation to the persons, entered in the system and give them access to the documentation. The decision shall be sent under **Art. 22, Para. 10**.

(3) (Repealed, former Para. 2 - SG, 102/19, effective from 01.01.2020) The contracting authorities shall indicate in the invitation for production of offers or for participation in negotiations, the awarding criteria of the procurement, if they have not been included in the notice for creation of the qualification system, as well as if:

1. it is required the offers to be produced in the form of electronic catalogue, or to include an electronic catalogue;

2. it is envisaged conducting an electronic tender in determining a contractor;

3. the offers may be submitted for one, for several, or for all positions;

4. a restriction for the number of positions is present, which are awarded to one contractor.

(4) (New - SG 107/20, in force from 01.01.2021) The term for receiving offers may be determined by agreement between the contracting authority and the persons entered in the qualification system giving all persons the same term for preparing and submitting offers.

(5) (New - SG 107/20, in force from 01.01.2021) When no agreement is reached under para. 4, the term shall be determined by the contracting authority.

(6) (New - SG 107/20, in force from 01.01.2021) In the cases under para. 4 and 5, the term for receipt of offers may not be shorter than 10 days from the date of sending the invitation for submitting the offers.

(7) (Amend. - SG, 102/19, effective from 01.01.2020, prev. para. 4 - SG 107/20, in force from 01.01.2021) Where, at the same time as the publication of the notice of establishment of a qualification system, the sector contracting authorities shall announce the opening of the first public procurement, within the system, a decision shall be issued. pursuant to **Art. 22, Para. 1, item 1 and 9** and shall approve the notice and documentation of participation.

### **Confidentiality in a Qualification System**

Art. 143. The sector contracting authorities may apply Art. 102, Para. 3 also in relation to the information, provided in relation to use of a qualification system, notwithstanding whether the circumstances, related to confidentiality have been indicated in the notice for a qualification system.

## **Section IV.**

### **Applicants and Participants**

#### **Grounds for Removal and Selection Criteria**

Art. 144. (1) The sector contracting authorities may establish objective rules and criteria for removal and selection of participants or applicants, which shall be provided to the interested persons.

(2) The rules and criterion under Para. 1 may include the reasons for removal under Art. 54, Para. 1 and Art. 55, Para. 1, as well as the selection criteria under Art. 59, Para. 1, while observing the relevant conditions for their setting, declaring and proving.

(3) The public contracting authorities, who carry out sector activities, shall apply obligatorily the grounds for removal under Art. 54, Para. 1 and may apply the grounds for removal under Art. 55, Para. 1.

(4) With the selection of the applicants in a restricted procedure or in a procedure of negotiation with preliminary invitation for participation, the contracting authority may:

1. impose to an applicant conditions of administrative, technical or financial nature, which do not concern the other applicants;

2. require checks or evidences, which repeat already presented by the applicant evidences.

(5) In a restricted procedure, negotiation procedure with preliminary invitation for participation, competition dialogue, or partnership for innovations, the contracting authority may establish objective and non-discriminatory rules and criteria, which are to be applied for decreasing the number of applicants, who will be invited to produce offers or to participate in the negotiations. The number of the invited applicants shall be sufficient, in order to guaranty real competition.

(6) For unsettled issues about decreasing the number of the applicants, the provision of Art. 105 shall apply.



## **Provision of Technical Specifications for Regularly Awarded Procurements and such, for which Periodic Indicative Notice is Used as Invitation for Participation in a Procedure**

Art. 145. (1) Any interested person shall have the right to request from a sector contracting authority to be provided with technical specifications, which traditionally are used in the procurements or refer to procurements, in which for notice the opening of a procedure, periodical indicative notice is used, unless this is impossible.

(2) (amend. - SG 86/18, in force from 01.11.2019) In the cases under Para. 1 the sector contracting authorities shall be obliged to provide unlimited, complete, free and direct access to the technical specifications through the platform under Art. 39a, para. 1. Where they are included as a part of already provided documents, the contracting authority shall indicate the address, at which the technical specifications are accessible.

(3) The documents, which because of objective reasons, including ones, related to confidentiality of information are not accessible through an internet address, they shall be provided in another appropriate way.

### **Offers, Including Products of Origin from Third Countries**

Art. 146. (1) The sector contracting authorities may remove a supply offer, where the share of the products of origin from third countries, with which the EU or the Republic of Bulgaria has not signed multilateral or bilateral agreement, providing comparative or effective access, exceeds 50% of the total value of the products, included in it.

(2) The share of the products under Para. 1 shall be defined under Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ, L 269/1 of 10 October 2013).

(3) With applying Para. 1, the software, which is used in the equipment of telecommunication measures shall be accepted as a product.

(4) Where 2 or more offers are equivalent in compliance with the selected criteria for awarding the offers, with advantage shall be classified the offers, which cannot be removed under Para. 1. The offer prices shall be considered as equivalent if the difference between them does not exceed 3%.

(5) An offer shall not be preferred before another one under Para. 4, where its acceptance would oblige the contracting authority to buy goods with technical characteristics, which are different from the existing ones, which would lead to incompatibility or to technical difficulties during their exploitation and maintenance.

### **Subsidized Application**

Art. 147. For unsettled issues in this Part, the provisions of Part One and Part Two shall apply.

## **Part four.**

## **SPECIAL RULES WHILE AWARDING PUBLIC PROCUREMENTS IN THE DEFENSE AND SECURITY AREA**

### **Chapter eighteen.**

### **GENERAL PROVISIONS**

#### **Scope**

Art. 148. (1) The provision of this Part shall apply in awarding public procurements for:

1. supply of military equipment, including parts, components and/or mounting elements for it, as well as equipment, included in the list of products, related to defense, adopted under **Art. 2, Para. 1 of the Act on the Export Control of Defence - Related Products and Dual Use Items and Technologies**;
  2. supplies of sensitive equipment, including parts, components and/or mounting elements for it;
  3. services, directly related to the equipment under p. 1 and 2 including for each element of its life cycle;
  4. public works, directly related to the equipment under p. 1 and 2 including, for each element of its life cycle;
  5. services for specific military purposes or for sensitive services;
  6. public works for specific military purposes, or for sensitive public works.
- (2) For unsettled issues in this Part, the rules for public contracting authorities shall apply.

### **Exceptions**

Art. 149. (1) The act shall not apply to procurements in the area of defense and security:

1. awarded in specific procedure rules:
  - a) under international agreements or contracts, signed while observing the provisions of TFEU between the Republic of Bulgaria – on one part and one, or more third countries – on the other;
  - b) of an international organization, which carries out purchases for its own purposes, or for procurements, which are to be awarded in compliance with these rules;
2. awarding of which is related to provision of information, whose disclosure contradicts the basic interests of security of the country under Art. 346 of TFEU;
3. awarded for intelligence activity purposes;
4. awarded within the frames of a programme for cooperation on the basis of scientific and research and development activity, carried out jointly with at least 2 EU Member State for development of a new product and where applicable – at the later stages of the whole or for parts of the life cycle of this product;
5. awarded in a third country, where the operative needs impose the contracts to be signed with contractors, located in the region of the operations, including for civil procurements, carried out in positioning of forces outside the EU territory;
6. awarded by the Council of Ministers of another government, related to:
  - a) supply of military equipment or sensitive equipment, or
  - b) public works and services, directly related to the equipment under letter "a", or
  - c) public works and services for specific military purposes or sensitive public works and sensitive services;
7. for financial services with the exception of insurance services;
8. awarded to undertakings of a Member State, or of a third country in implementing an international agreement or contract, related to location of armies;
9. for arbitration and conciliation services;
10. in labour legal relations in the meaning of **§ 1, p. 26 of the Additional Provisions of the Income Taxes on Natural Persons Act**;
11. for services for scientific and research and development activity, where the contracting authority pays the whole service, but the benefits from it do not remain exclusively for the contracting authority while carrying out his activity;
12. in acquiring or renting, notwithstanding of the financial means of land, existing buildings or other immovable properties or rights over them;
13. awarded by a public contracting authority, including where he carries out sector activity, of a legal person, in case that the following conditions are fulfilled at the same time:
  - a) the contracting authority shall exercise control over the legal person, similar to the one, which he exercises over his own structure units;
  - b) more than 80% of the activity of the legal person shall have been formed from implementation

of activities, awarded by the contracting authority or his separate structures or by other legal persons, controlled by the contracting authority;

c) (amend. – SG, 102/19, in force from 01.01.2020) in the legal person-contractor, there is no direct private equity participation; by way of exception, direct private equity participation is permitted, where this is required by provisions of national law, in accordance with the EUT and the TFEU, and it is not linked to control or blocking powers and does not have a decisive influence on the activities of legal person.

(2) After finalization of the programme under Para. 1, p. 4, the participant from the Bulgarian party shall notify the European Commission about the share of costs for the scientific and research and development activity to the total costs of the cooperation programme, about the agreement for sharing the costs, as well as about the expected share of the purchases of the Member State, if there are such.

(3) In the cases under Para. 1, p. 13, letter "a", the contracting authority shall exercise control over the legal person, similar to the one, which he exercise over his own structural units, where there is a decisive influence over the strategic purposes and the important decision of this legal person. Such a control may be exercised also by another legal person, which is controlled in the same way by the contracting authority.

(4) The method for defining the price of the contracts under Para. 1, p. 13 shall be provided by the Rules on the implementation of the act.

(5) In the cases under Para. 1, p. 13 while defining the percentage of the activity, the average total turnover shall be taken in consideration, or another suitable indicator, which measures the fulfillment of the activity for the last 3 years.

(6) In the cases under Para. 1, p. 13, where because of the date of creation or of starting the activity of the legal person or because of reorganization of his activity, there are no data about the turnover or where these data are not updated, it shall be sufficient to be proved, that the mode of measuring the activity is authoritative, more specially through his business programme.

(7) Where some of the conditions drops out, needed for signing of a contract under Para. 1, p. 13, the contract shall be terminated with the signing under the law of a new contract with the same subject. In this case, the contracting authority shall open awarding of a new procurement within 1 month term from dropping of the relevant condition.

(8) (amend. - SG 86/18, in force from 01.03.2019) The contracting authorities shall not be able to refer to the exclusions under Para. 1 when the grounds provided for by the law are not available.

(9) The criteria and procedure for determining presence of basic interests under Para. 1, p.3 shall be provided by the ordinance under Art. 13, Para. 2.

### **Mixed Procurements, including Activities in the Areas of Defense and Security**

Art. 150. (1) Where the subject of the public procurement contains several activities, to part of which the provisions of this Part apply, and to others – the rules for public contracting authorities or the rules for sector contracting authorities, it shall be awarded under this Part, under the condition, that because of objective reasons, the awarding is specified of a general procurement. Where the contracting authority decides to award certain procurements for some activities, the rules, applicable to the relevant activity shall be observed.

(2) Where for one of the activities of the subject of the public procurement the provision of this Part are applied, and another activity is outside the applicable field of the act, including the cases under Art. 346 of the TFEU and because of objective reasons awarding of a general procurement is justified, the act shall not apply to this procurement.

(3) The act shall not apply to public procurements, whose subject contains objectively inseparable parts, some of which fall in the scope of Art. 346 of the TFEU, and to others the provision of this Part shall apply.

(4) Decision taking for awarding a general procurement shall not be admitted in view to application of this Part, or excluding the procurement of the applicable field of the act.

## **Mixed Procurements for Services**

Art. 151. A public procurement, which includes at the same time services under Annex No 14 and Annex No 15, shall be awarded under the procedure, provided for the services, whose prognosis value is higher.

## **Awarding through Central Bodies for Purchases**

Art. 152. (1) The contracting authorities may receive supplies or services from or through a central body for purchases, including where it is an European public body, which is not contracting authority and carried out centralized activities of purchasing.

(2) Where the contracting authorities receive supplies or services under Para. 1, it shall be considered that the provisions of the law have been observed, if:

1. the central body for purchases has observed the provision of this Part, and where it is a European public body, which is not a contracting authority – rules, equivalent to the ones, indicated in the act;
2. a possibility for appealing has been provided.

(3) The central body and the contracting authority shall be responsible for the lawfulness of the procedure, which they conduct.

## **Chapter nineteen. PUBLICITY AND TRANSPARENCY**

### **Preliminary Informative Notice**

Art. 153. (1) The contracting authorities may announce their intentions for awarding public procurements or for signing framework agreements during the following 12 months by publishing a preliminary informative notice.

(2) The contracting authorities shall be obliged to send the notice under Para. 1, only where they intend to shorten the terms for receiving offers.

### **Notice for a Public Procurement**

Art. 154. The contracting authorities shall publish a notice for a public procurement, by which it shall be considered that they send an invitation for participation in a restricted procedure, negotiation procedure with publication of a notice for procurement and competition dialogue to an unlimited number of persons, who meet the set requirements.

### **Notice for changes or additional information**

Art. 154a. ((New – SG, 102/19, in force from 01.01.2020) (1) Notice of changes or additional information shall be forwarded for publication, when the following are announced:

1. changes in the notices, invitations and documents for public procurements, and in the descriptive document;
2. (amend. and suppl. - SG 107/20, in force from 01.01.2021) termination of procedures under **Art. 18, para. 1, items 2, 5 and 6** and, in the case of separate positions, where all are terminated.

(2) In the cases under Para. 1, item 2, the notice shall be sent within seven days of the entry into force of the termination decision. Where the separate positions are terminated by separate decisions, the time limit shall run from the date of entry into force of the latest of them.

## **Notice for Awarding a Procurement**

Art. 155. (1) The contracting authorities shall send for publishing an notice for awarding a procurement within the term up to:

1. 30 days after signing a contract for public procurement or a framework agreement;
2. (repealed, - SG, 102/19, in force from 2020, new - - SG 107/20, in force from 01.01.2021) thirty days after concluding a contract on the grounds of **Art. 149, para. 1, item 13**.

(2) (amend. - SG 86/18, in force from 01.03.2019) In cases of procurements, awarded on the basis of a framework agreement, the contracting authorities may publish an information about the signed contracts within the term of up to 30 days after the end of each quarterly.

(3) Information of the notice under Para. 1, the notice of which contradicts the law, including in the area of defense and security, as well as such, in relation of which the participants have referred to confidentiality in relation to presence of trade secret, it shall not be published in the EU Official Journal and PPR.

## **Notice of completion of a public procurement contract or framework agreement**

Art. 155a. (New - SG 107/20, in force from 01.01.2021) The contracting authorities shall send for publication a notice for completion of a public procurement contract or framework agreement under the conditions and by the order of **Art. 29**.

## **Place, Form and Way of Publication of the Notices**

Art. 156. (1) The contracting authorities shall submit to the EU Official Journal:

1. the preliminary informative notices;
2. the notices for public procurements;
3. notice for change or additional information;
4. notice for awarding procurements;
5. notices for voluntary transparency, where applicable.

(2) (amend. - SG 86/18, in force from 01.11.2019, amend. – SG, 102/19, in force from 2020) The notices under Para. 1, p. 1, 2, 4 and 5 shall be drawn up according to standard forms, confirmed by an act of the European Commission and shall contain at least the information, indicated in Annex No 16, depending on the stage of the procedure.

(3) (Amend. – SG, 102/19, in force from 01.01.2020) Notices under Para. 1 shall be sent for publication under the procedure of **Art. 35, Para. 3** and shall be published in the PPR under the conditions and procedure of **Art. 36**.

(4) (New - SG 107/20, in force from 01.01.2021) The notice under **Art. 155a** shall be published in the PPR by the order of **Art. 36**.

## **Chapter twenty.**

### **REQUIREMENTS TO THE APPLICANTS AND PARTICIPANTS**

#### **Grounds for Removal**

Art. 157. (1) The contracting authority shall remove from participation in a procedure for awarding a public procurement an applicant or participant:

1. (amend. - SG 86/18, in force from 01.03.2019) who has been convicted with an enforced verdict for a crime under **Art. 108a, Art. 159a – 159d, Art. 172, Art. 192a, Art. 194 - 217, Art. 219 - 252, Art. 253 - 260, Art. 301 - 307, Art. 321** and **321a** of the Penal Code;

2. (amend. - SG 86/18, in force from 01.03.2019) who has been convicted by an enforced verdict for a crime, analogical to the ones under p. 1 in another Member State or in a third country;

3. who is in conflict of interests, which cannot be removed.

(2) The contracting authority may remove from participation in a procedure for awarding a public procurement an applicant or participant, for whom some of the following circumstances is present:

1. he has been declared in insolvency or is in an insolvency procedure, or in a liquidation procedure, or has signed a court settlement with his creditors in the meaning of **Art. 740 of the Commerce Act**, or has terminated his activity, and in case that the applicant or participant is a foreign person – is in a similar situation, comprising from a similar procedure, under the legislation of the state, in which he has been established;

2. has obligations for taxes and obligatory security contributions in the meaning of **Art. 162, Para. 2, p. 1 of the Tax-Insurance Procedure Code** and the interests on them to the state or to the municipality of the central office of the contracting authority and of the applicant or participant, or analogical obligations, established by an act of a competent body under the legislation of the state, in which the applicant or participant has been established, unless an extension, rescheduling or guaranty has been admitted of the obligations or the obligation is under an act, which has not been enforced;

3. he has been deprived of the right to exercise a certain profession or an activity under the legislation of the state, in which the violation has been done, including for violations related to export of products in the area of defense and security;

4. with an enforced judgement it has been established, that he is found guilty for failure to fulfill an obligation under a public procurement contract, including in relation to security of information and security of supplies;

5. it has been found that he has produced a document with untrue contents, related to a certificate of lack of grounds for removal or of fulfillment of the selection criteria;

6. it has been found by the security services in the meaning of the **Protection of Classified Information Act**, on the basis of any evidences, including intelligence means, that he does not have the needed reliability, because of which there is a risk of a threat of the national security.

(3) The contracting authority shall indicate the circumstances under Para. 2 in the notice for public procurement and in procedures under Art. 18, Para. 1, p. 10 – in the invitation for participation in negotiations.

(4) (amend. - SG 86/18, in force from 01.03.2019) The grounds under Para. 1 and Para. 2, p. 5 shall apply to persons referred to in **Art. 54, para. 2 and 3**.

(5) In participation in a procedure, the applicant or participant shall produce a declaration for lack of grounds for removal.

(6) For proving the lack of grounds for removal, the participant, selected for contractor shall produce:

1. for the circumstance under Para. 1, p. 1 – a certificate, showing no convictions;

2. for the circumstance under Para. 2, p. 1 – a certificate, issued by the Registry Agency;

3. for the circumstance under Para. 2, p. 2 – a certificate by the revenue bodies and a certificate by the municipality under the central office of the contracting authority and of the applicant or participant.

(7) The contracting authority shall not have the right to require the production of the documents under Para. 6, where the circumstances in them are accessible through a public free register or the information and the access to it are provided by a competent body to the contracting authority officially.

(8) While applying the grounds for removal under Para. 1 and 2, the measures for proving reliability under Art. 56 shall not apply.

### **Selection Criteria**

Art. 158. (1) In defining and proving the selection criteria, Art. 59 – 62 and Art. 65 shall apply.

(2) For proving the technical and/or professional abilities apart from the requirements under Art. 63

and the evidence under Art. 64, the contracting authority may set additional conditions and require from the applicants or participants to produce:

1. description of the technical equipment and the measures for provision of quality, of equipment for testing and studying, as well as of the internal rules of the participant in relation to intellectual property;
2. description of the technical equipment, materials, means, number of workers and employees and know-how and/or the sources of supply with indication of the geographic location, where it is outside the territory of the EU, which the applicant has for fulfillment of the procurement, in order to meet the eventual increasing of the needs of the contracting authority as a result of a crisis or for provision of the maintenance, modernization or adaptation of the supplies, covered by the procurement;

3. permit, certificate or confirmation for access to classified information in the meaning of the **Protection of Classified Information Act**, including for the possibility of processing, storage and provision of such information at the level of protection, required by the contracting authority – in case of procurements, which contain or require classified information.

(3) In the cases of Art. 64, Para. 1, p. 2 the list shall cover the last 5 years from the date of submission of the application.

(4) The contracting authority may determine in the notice and additional term, in which the persons, who do not have permit, certificate or confirmation under Para. 2, p. 3 to produce the relevant document. Within the term for receiving participation applications, the persons shall submit to the contracting authority a written consent for carrying out a procedure for study and shall attach the needed documents under the **Protection of Classified Information Act**, which shall be submitted by the contracting authority to the competent security service.

(5) The contracting authorities shall recognize the permits for access to classified information, issued in compliance with the legislation of the Member State, in which the applicant or participant has been established in presence of an enforced international agreement or bilateral agreement for protection of classified information, on which the Republic of Bulgaria is a party. Under the conditions of the Protection of Classified Information Act, the contracting authority may request carrying out additional studies in the relevant Member State.

(6) In the conditions of the **Protection of Classified Information Act**, the contracting authority may request the national body of security in the state, where the applicant has been established, to check the compliance of the premises or installations, which eventually would be used, the production and administrative procedure, which will be followed, the methods for management of the information and/or the status of the staff, who may be fired for fulfillment of the procurement.

(7) With participation in a procedure, the applicant or participant shall produce evidences for compliance with the selection criteria, set by the contracting authority.

(8) Where upon reasonable grounds the applicant or participant is not in a state of producing the required by the contracting authority documents for evidencing the technical and/or professional abilities he may prove them with any other document, which the contracting authority may accept as suitable. This possibility shall not refer to the documents under Para. 2, p. 3.

## **Chapter twentyone.**

### **AWARDING PROCUREMENTS. AMENDMENT OF A CONTRACT**

#### **Technical Specifications**

Art. 159. (1) (amend. - SG 86/18, in force from 01.03.2019) The contracting authority shall define the technical specifications in accordance with the requirements of applicable regulations in the relevant field, by applying one of the methods, indicated in **Art. 48, Para. 1, p. 1, 3 and 4**, of through indication in the following order of:

1. Bulgarian standards, which introduce European standards;

2. European technical assessments;
3. general technical specifications;
4. Bulgarian standards, which introduce international standards;
5. international standards;
6. other technical standards, established by European bodies of standardization, in case there are not such – through national standards, national technically approved or national technical specifications, referring to design, method of calculations and fulfillment of public works, as well as to use of goods;
7. technical specifications, created and widely accepted by the industry;
8. national standards in the area of defense and similar to them specifications for equipment and supplies in the area of defense.

(2) With determining the technical specifications, the requirements of **Art. 48, Para. 2 – 6** shall apply.

### **Free Choice of a Procedure**

Art. 160. With awarding public procurements under this Part, the contracting authorities shall choose freely a restricted procedure and negotiation procedure with publication of a procurement notice.

### **Restricted Procedure**

Art. 161. (1) Any person may submit a participation application for a restricted procedure, in which he must provide the requested by the contracting authority information about lack of grounds for removal and his compliance with the selection criteria.

(2) For the restricted procedure, offers may submit only applicants, who have been invited by the contracting authority after a conducted preliminary selection.

### **Negotiation Procedure with Publication of Notice for Procurement**

Art. 162. (1) (Amend. – SG, 102/19, in force from 01.01.2020) With conducting a negotiation procedure with publishing an notice for procurement, the contracting authority shall apply **Art. 76**, Para. 1, 2, 4, 7 and Para. 10 - 15.

(2) The contracting authority may envisage a possibility the negotiations to be conducted at follow up stages, in order to diminish the number of the considered offers, by applying the awarding criteria. This possibility shall be indicated in the public procurement notice or in the documentation.

### **Competition Dialogue**

Art. 163. (1) The contracting authority may choose the procedure of competition dialogue, where the procurement is especially complicated, because of which it is impossible its awarding by using restricted procedure or negotiation procedure with publication of notice for procurement.

(2) The public procurement is especially complicated, where upon objective reasons the contracting authority cannot determine:

1. the technical specifications, and/or
2. the financial or legal framework of the procurement.

(3) With conducting a competition dialogues, the contracting authority shall apply **Art. 77, Para. 1, 2 and Para. 4 - 14**.

### **Negotiation Procedure without Publishing an Notice for Procurement**

Art. 164. (1) The contracting authorities shall take decision for awarding public procurements through a negotiation procedure without publishing an notice for procurement in the following cases:



1. in case of a restricted procedure, the competition dialogue or negotiation procedure with publishing an notice for a procurement, not offers have been submitted, or participation application or the submitted offers or participation applications are unsuitable and the initially announced conditions of the procurement have not been substantially changed;
2. where all the invited participants, whose offers in the previous restricted procedure, competition dialogue or negotiation procedure with publishing of an notice for procurement meet the contracting authority's requirements, but exceed his financial resource and the initially announced conditions of the procurement are not substantially changed;
3. where undertaking urgent actions are needed in case of a crisis and the terms for conducting a restricted procedure or of a negotiation procedure with publishing an notice, have not been observed, including the shortened terms, as well as in the cases under Art. 173, Para. 1, 2, letter "a";
4. where urgent awarding is needed of the procurement because exceptional circumstances and it is not possible the terms to be observed, including the shortened ones, for a restricted procedure, or negotiation procedure with publishing an notice for procurement; the circumstances, which justify presence of urgency must not be because of the contracting authority;
5. upon technical reasons or considerations, related to protection of exclusive rights, the procurement may be awarded only to a certain contractor;
6. the procurement is with subject service of scientific and research or development activity, apart from the cases under Art. 149, Para. 1, p. 4 and 11;
7. the goods – subject of supply are produced with the purpose of research, experiments, scientific or development activity and are in quantities, which do not allow the provision of sufficient market realization or to cover the costs for scientific and research and development activity;
8. where additional supplies of goods are needed by the same supplier, intended for partial change or addition of the available supplies or facilities, and the change of the supplier leads to incompliance or to substantial technical difficulties during exploitation and maintenance because of acquiring goods with different technical characteristics;
9. subject of the procurement is supply of goods, traded at the stock exchange under the list of Art. 79, Para. 1, p. 7;
10. For a short period occur favorable conditions for supply of goods at prices, lower than the market ones, including in a sale of property of trade companies, declared in liquidation or insolvency;
11. because of unforeseen circumstances, awarding of an additional service or public works is needed to the same contractor under the following conditions:
  - a) the additional service or public works cannot technically or economically be separated from the subject of the basic contract without substantial difficulties for the contracting authority or in spite of being separated, they are substantially needed for the fulfillment of the procurement;
  - b) the total value of the procurements, by which additional services or public works are awarded, is not more than 50% of the value of the basic procurement;
12. where a repetition of a service, or public works is needed by the same contractor in the presence of the following conditions:
  - a) the initial procurement has been awarded in a restricted procedure or negotiation procedure with publication of an notice for procurement, or competition dialogue and the notice for it indicates possibility for such an awarding;
  - b) the total value of the new procurement is included and is indicated in defining the value of the initial procurement;
  - c) the new procurement complies with the basic project for whose fulfillment the initial procurement has been awarded;
13. the procurement subject is related to provision of aeronautic and marine transport services for the armed forces or for security forces of the country, which are located or are to be located outside its territory, where the contracting authority must provide these services by contractors, whose offers are valid

only for such short terms, that the term for conducting the restricted procedure or negotiation procedure with publishing a procurement notice, including for the shortened term, cannot be observed;

14. the procurement is for services, included in Annex No 15.

(2) In the cases under Para. 1, p. 8 the contract for additional procurement shall not be longer than 5 years. Upon exception a longer term may be determined, where this is imposed by circumstances, related to expected exploitation life of the available items, facilities or systems and technical difficulties, which the change of the contractor may cause.

(3) In the cases under Para. 1, p. 9 the contract shall be signed upon the rules of the relevant stock exchange.

(4) In the cases under Para. 1, p. 10, the contract shall be signed under **Part Three of the Commercial Act**.

(5) In the cases under Para. 1, p. 12, the procedure may be opened not later than 5 years from awarding the first procurement, unless because of exception, the procedure is to be conducted after this term because of circumstances, related to the expected exploitation life of the available items, facilities or systems and technical difficulties, which the change of the contractor may cause.

(6) With the decision for opening the procedure, the contracting authority shall motivate the applicable reason under Para. 1.

(7) The conditions and procedure for conducting the procedure shall be provided by the Rules on the application of the act.

### **Terms for Conducting the Procedures**

Art. 165. (1) The minimal term for receiving participation applications in a restricted procedure, negotiation procedure with publishing an notice for procurement and competition dialogue shall be 30 days from the date of submission of the public procurement notice for publication.

(2) (amend. and suppl. - SG 86/18, in force from 01.11.2019) The minimal term for receiving offers in a restricted procedure shall be 35 days from the date of sending the invitation for producing of offers. Where no unlimited, complete, free and direct access has been provided to the documentation for public procurement through the platform under **Art. 39a, para. 1**, the term shall be 40 days.

(3) The terms under Para. 2 may be shortened by 4 days, where the contracting authority has published a preliminary informative notice and it:

1. has been sent for publication between 52 days and 12 months before the date of submission of the public procurement notice for publication, and

2. includes the whole information under Part. A of Annex No 16.

(4) In case of occurrence of circumstances, which require urgent awarding of a procurement, because of which it is impossible the terms under Para. 1 and 2 to be observed, the contracting authorities may determine:

1. term for receiving participation applications – not shorter than 15 days from the date of submission of the public procurement notice for publication;

2. term for receiving offers – not shorter than 10 days from the date of submission of the invitation for production of offers.

(5) In the public procurement notice the contracting authority shall motivate the application of Para. 4.

### **Decreasing the Number of the Applicants, Offers, or Decisions**

Art. 166. (1) Where in a restricted procedure, negotiation procedure with publication of notice of a procurement and competition dialogue, the contracting authority shall use the possibility for decreasing the number of the applicants, the minimal number of applicants, which he intends to invite shall not be smaller than 3 persons.

(2) Where after conducting preliminary selection the contracting authority finds, that the number of the applicants, meeting the selection criteria and the minimal requirements is not sufficient, in order to guaranty real competition, he may:

1. publish again the initial notice and to repeat the stage of selection for the newly received applications, or
2. to interrupt the procedure.

(3) In the cases under Para. 2, the contracting authority shall invite the applicants, selected after the first and second publication, to submit offers.

### **Invitations to the Applicants**

Art. 167. (1) In the cases of restricted procedure, competition dialogue and negotiation procedure with publication of a procurement notice, the contracting authority shall submit at the same time written invitation to the selected applicants for submission offers or for participation in negotiations or dialogue.

(2) The invitations shall contain at least the information under Annex No 17.

(3) Where the documentation or parts of it is with a person, different from the contracting authority, the invitation shall indicate the address from which it may be received. In case that not access has been provided to the documentation through electronic media, the invitation must have indicated the final date for submission of a request for receiving the documents. Where the request has been sent within the set term, the competent bodies shall immediately submit the documents.

### **Amendment of a Public Procurement Contract and Framework Agreement**

Art. 168. (amend. - SG 86/18, in force from 01.03.2019) The contracting authorities shall apply the reasons for amendment of a public procurement contract and framework agreement under **Art. 116, Para. 1, p. 1 and 3 - 7.**

## **Chapter twentytwo.**

### **SPECIFIC TECHNIQUES AND INSTRUMENTS FOR AWARDING PROCUREMENTS**

#### **Framework Agreement**

Art. 169. (1) Where the contracting authority signs a framework agreement with several persons, their number shall not be smaller than 3 persons, under the condition that there is sufficient number of potential contractors, who meet the selection criteria and/or sufficient number of offers, which meet the preliminary announced conditions of the contracting authority.

(2) The framework agreements shall be signed for the term, not longer than 7 years.

(3) Upon exception the term under Para. 2 may be longer, where in view to the expected exploitation life of the supplied goods, facilities or systems, the change of the contractor may cause technical difficulties. The contracting authority shall indicate the grounds for this fact in the notice.

(4) For unsettled issue about signing a framework agreement and awarding procurements on the basis of a framework agreement, the provisions of Section I of Chapter Ten shall apply.

#### **Electronic Tender**

Art. 170. (1) The contracting authorities may conduct electronic tender with awarding procurement through a restricted procedure or negotiation procedure with preliminary publication of an notice for procurement, as well as in conducting an internal competition selection on the basis of a framework agreement, where the technical specifications of the public procurement may be exactly determined.

(2) The use of electronic tender shall be indicated in the public procurement notice.

(3) For unsettled issues about conducting electronic tender, the provision of Section III of Chapter Ten shall apply.

## **Chapter twentythree.**

### **SECURITY OF THE INFORMATION AND OF THE SUPPLIES**

#### **Special Requirements for Fulfillment of the Procurement**

Art. 171. The contracting authorities may envisage special requirements for the fulfillment of the public procurement, related to awarding of subcontractors, or such, with whom guarantying of the protection of classified information and security of supplies is aimed.

#### **Requirements for Protection of Classified Information**

Art. 172. (1) The contracting authorities shall indicate in the notice whether the public procurement contains or requires classified information. In these cases in the documentation, which is provided with the participation invitation, the contracting authority shall set to the participants and their subcontractors, requirements in view to protection of classified information.

(2) In the cases under Para. 1, the contracting authority may:

1. require permit, certificate or confirmation for access to classified information in the meaning of the **Protection of Classified Information Act**, including about the possibility for processing, storage and submission of such information at the level of protection, required by the contracting authority;
2. require provision of a permit, certificate or confirmation for access to classified information in the meaning of the **Protection of Classified Information Act** for the selected subcontractors;
3. include in the draft contract clauses, which oblige the contractor to:
  - a) provide the document under p. 2 for the subcontractors as well, selected during the fulfillment of the procurement;
  - b) observe the classified information, become known to him in the run of the procedure, during and after finalization the fulfillment of the procurement;
  - c) in the contracts with the subcontractors, selected before and during the fulfillment of the procurement, include clauses under letter "b" for observation of the classified information.

(3) With provision of the technical specifications of the applicants or participant in the procedures and with signing the public procurement contract, the contracting authority may set requirements for protection of the information of confidential nature, or of classified information. The contracting authority may require from the applicants or participants to guaranty the observation of these requirements from their subcontractors as well.

(4) The applicants or participants, including their subcontractors shall not have the right to disclose the information under Para. 3.

#### **Security of Supplies**

Art. 173. (1) Where the contracting authority has included in the notice requirements for security of supplies, he may:

1. require the offer to contain also:
  - a) licenses, or other suitable documents, issued in the relevant Member State, by which it is proved, that the participant is in condition to fulfill the obligations in relation to the export, transfer or transit if goods, related to the procurement;
  - b) indication of all the restrictions, elated to disclosure, transfer or use of goods and services or the results from them, which comprise from control of export or from agreements in the defense area;

c) evidences, that the organization and the location of the chain for supplies of the participant allow observation of these requirements, as well as declaration, that possible changes in the supply chain during the fulfillment of the procurement will not render unfavorable influence;

d) every accompanying documentation, received from the national bodies of the participant about the fulfillment of additional needs, required by the contracting authority, occurred as a result of a crises;

2. include in the draft contract clauses, which shall oblige the contractor:

a) to create and/or maintain the capacity, needed for meeting additional needs, required by the contracting authority, as a result of a crises, according to the agreed conditions and order;

b) to carry out maintenance, modernization or adaptation of the supplies, which are covered by the procurement;

c) to notify immediately the contracting authority about each change, occurred in his organization, supply chain or production strategy, which may affect the fulfillment of the procurement;

d) in case of termination of the production to provide to the contracting authority all the special means, needed for production of spare parts, components, mounting elements and special test equipment, including technical designs, licenses and instructions for use, under the conditions and procedure, agreed with the occurrence of the relevant circumstance.

(2) The contracting authority shall not set requirements to the participant, which may generate contradiction with the licensed criteria for export, transfer or transit of the relevant Member State.

## **Chapter twentyfour.**

### **RULES FOR SELECTION OF SUBCONTRACTORS**

#### **Subcontractors**

Art. 174. (1) In the notice for public procurement, the contracting authority may determine a part of the public procurement, which may be fulfilled by subcontractors, by determining the minimal and maximum percentage of the procurement value, but not more than 30%.

(2) In their offer, the participants may propose a share of the total value of the procurement, which exceeds the maximum amount under Para. 1, to be fulfilled by a subcontractor.

(3) In their offer, the participants shall indicate the types of works of the procurement subject, which they will assign to the subcontractors and the corresponding share of these works of the procurement, which shall not be smaller than the minimum percentage, determined by the contracting authority, as well as the subcontractors, which have already been determined.

(4) Where a participant has determined by his offer one or more subcontractors, with whom he will sign contract for subcontracting, he shall:

1. indicate in his offer the proposed subcontractors, the type of works, which they will carry out and the share of their participation;

2. produce documents, which prove the observation of the requirement for selection of each of them according to the type and share of their participation;

3. notify the contracting authority about every change of the subcontractors, occurred during the fulfillment of the public procurement contract.

(5) The contracting authority shall not have the right to set restrictions, based on national belonging of the subcontractors.

#### **Selection of Subcontractors**

Art. 175. (1) Where the participant, determined for contractor is contracting authority, he shall sign the subcontracting contracts through a procedure, conducted under the provision of this Part.

(2) Where the participant, determined for contractor is not the contracting authority and must apply

Para. 10 and 11, he shall prepare an notice under a standard form, which shall contain at least the information under Annex No 18.

(3) The notice under Para. 2 shall be published in PPR and in the EU Official Journal, while observing Art. 156, Para. 2 and 3.

(4) In the cases under Para. 2, the subcontractors shall be selected while observing the principles of transparency and competition.

(5) The contracting authority shall have the right to reject subcontractors, selected by the participant, selected as contractor, in case that they do not meet the indicated in the notice and documentation selection criteria. Rejection of a subcontractor shall become with a grounded decision, which shall be sent to the participant, selected for contractor. In this case, the participant, selected for contractor shall be obliged again to apply the relevant procedure for selection of subcontractor.

(6) Where no subcontractor has been selected, as none of the subcontractors, participating in the procedure, or the offers, proposed by them fail to meet the criteria, indicated in the notice for subcontracting and this would hinder the observation of the requirements, determined in the basic procurement:

1. the participant, selected for contractor, who is not the contracting authority, may:

a) independently fulfill the public procurement contract, if he proves, that he is able to do so, or  
b) to sign contracts for subcontracting without observing the relevant procedure for awarding, if he proves, that the selected persons meet the selection criteria;

2. the participant, selected for contractor, who is the contracting authority, may conduct a procedure of negotiation without publication of a procurement notice.

(7) The decisions of the selected participant for contractor, related to the selection of subcontractor, shall not be subject to appeal in the cases, where the participant, determined for contractor is not the contracting authority.

(8) The contracting authority may oblige the participant, selected for contractor, to select the subcontractors under Para. 1 – 4 for all or part of the activities, proposed for subcontracting, if they are at the value under Art. 20, Para. 1, p. 4. This requirement shall be indicated in the notice.

(9) The contracting authority shall indicate in the decision for selection of a contractor under which of the activities, proposed for subcontracting, must be selected the subcontractors under Para. 1 – 4.

(10) With selection of subcontractor under Para. 1 – 4, the selection criteria shall be applied, indicated by the contracting authority of the public procurement. The participant, selected for contractor, may determine other criteria, which comply with the ones, indicated by the contracting authority.

(11) The selection criteria under Para. 10 must be objective, non-discriminatory, to be related to the subject of the subcontracting contract and to be proportional to its volume.

#### **Part five.**

### **RULES FOR AWARDING PUBLIC PROCUREMENTS AT LOW VALUE**

#### **Chapter twentyfive.**

### **PUBLIC COMPETITION. DIRECT NEGOTIATION**

#### **Section I.**

### **General Provisions**

#### **Scope**

Art. 176. The provision of this Chapter shall apply in awarding public procurements at the value under Art. 20, Para. 2.

## **Subsidized Application**

Art. 177. For unsettled issues in this Chapter, the provisions of Part One and Part Two shall apply.

## **Section II. Public Competition**

### **Publication of an Notice**

Art. 178. (1) For notice of opening of a public competition procedure, the contracting authority shall publish an notice for a public procurement, which shall contain at least the information under Annex No 19.

(2) (amend. - SG 86/18, in force from 01.03.2019) In the notice under Para. 1, the contracting authority shall set a term for receiving offers, which must be coordinated with the volume and complexity of the public procurement. The term shall not be shorter than 20 days for and shall begin to run from sending the notice for publication.

(3) (new - SG 86/18, in force from 01.03.2019) The term under par. 2 may be shortened, but may not be less than 10 days, if the contracting authority has published a prior information notice, and if:

1. it was sent for publication between 35 days and 12 months before the date of dispatch of the contract notice for publication, and
2. it includes all the information listed in Part A, Section I, of Annex 4 or Annex 5, depending on the type of contracting entity.

(4) (prev. para. 3, amend. - SG 86/18, in force from 01.03.2019) In case circumstances occur, which require urgent awarding of a procurement, because of which it is impossible to observe the term under Para. 2, the contracting authority may set a term for receiving offers not shorter than 10 days from sending the public procurement notice for publication.

(5) (revoked, prev. para. 4, amend. - SG 86/18, in force from 01.03.2019) In the public procurement notice the contracting authority shall be obliged to motivate the application of Para. 3.

### **Change of the Announced Conditions**

Art. 179. (1) (suppl. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) The contracting authority may make changes in the notice and/or the documentation of the public procurement upon own initiative or upon request of an interested person, made within the term of 3 days from publication of the public procurement. The changes shall be made once, where the announcement for change or additional information and the decision, which approves it, shall be sent for publication within the term of 7 days from the publication in PPR of the notice for public procurement and where the term is shortened under **Art. 178, Para. 3 or 4** – up to 5 days.

(2) Where the term for submission of offers is extended, the time, needed for expression of the explanations or changes in preparation of the offers shall be taken in consideration.

### **Provision of Explanations**

Art. 180. (1) (amend. - SG 86/18, in force from 01.03.2019) With a written request for explanations of the conditions of the public procurement, made up to 5 days before expiry of the term for receiving offers, the contracting authority shall publish in the buyer's profile written explanations.

(2) The explanations shall be published at the buyer's profile within the term of 3 days from receiving the request and the person, made the enquiry shall not be mentioned in them.

## Selecting Contractor

Art. 181. (1) For participation in the procedure, the interested persons shall submit offers, which shall have attached information about the lack of reasons for removal and their compliance with the selection criteria.

(2) (suppl. - SG 86/18, in force from 01.03.2019) During conducting the procedure, assessment of the technical and price proposals of the participants shall be admitted before consideration of the documents for compliance with the selection criteria, where this possibility is indicated by the contracting authority in the notice and the requirements of Art. 104, para. 3 are met.

(3) In the cases under Para. 2, the check for presence of reasons for removal and or compliance with the selection criteria shall be carried out in a way, which is not influenced by the assessment results of the technical and price proposals.

(4) The commission, appointed by the contracting authority shall draw up a protocol for performing the control of the participants, consideration, assessment and classification of the offers.

(5) The contracting authority shall confirm the protocol under Para. 4 under Art. 106.

(6) Within 10 day term form confirmation of the protocol, the contracting authority shall issue a decision for selection of a contractor or for termination of the procedure.

(7) In case of termination of the procedure, the grounds under Art. 110 shall apply.

(8) (revoked - SG 86/18, in force from 01.11.2019)

## Section III. Direct Negotiation

### Direct Negotiation with Certain Persons

Art. 182. (1) The contracting authority may conduct direct negotiation with certain persons in case of the reasons under Art. 79, Para. 1, p. 3 and p. 5 – 9, or where:

1. (amend. - SG 86/18, in force from 01.03.2019) an urgent awarding of the procurement is needed because of exclusive circumstances and it is not possible to observe the terms under **Art. 178, Para. 2 and 4** of the circumstances, which motivate the urgency, they shall not be due to the contracting authority;

2. the awarding procedure through public competition has been terminated, as there are not offers submitted, or the submitted offers are unsuitable and the initially announced conditions are not changed substantially;

3. for a very short time a possibility occurs to be received supplies or services in specially profitable conditions and in a price, substantially lower than the usual market prices;

4. a repetition of the public works, or services are needed, awarded by the same contracting authority to the initial contractor in presence of the following conditions:

a) the initial procurement has been awarded by a public competition;

b) the notice of the initial procurement indicates the possibility for repeated awarding, as well as the volume or the quantity of the possible additional public works or services and the conditions in which they will be awarded;

c) the total value of the new procurement is included and is indicated while determining the value of the initial one;

d) the new procurement complies with the basic project, during whose fulfillment the first procurement has been awarded;

5. the public procurement is for services under Annex No 2 and has a value under Art. 20, Para. 2,



p. 2.

(2) With the decision for opening the procedure, the contracting authority shall motivate the applicable ground under Para. 1.

(3) In the cases under Para. 1, p. 3, at the negotiations shall be invited all the persons, offering goods and services at prices, lower than the market ones.

(4) The repeated awarding of public works or services under Para. 1, p. 4 is possible not later than 3 years after signing the initial contract.

(5) (new - SG 86/18, in force from 01.03.2019) In the cases under para. 1, item 5 the contracting authority may conclude a contract only if there are at least three selected participants.

(6) (prev. para. 5 - SG 86/18, in force from 01.03.2019) The conditions and procedure for conducting direct negotiation shall be determined by the Rules on the implementation of the act.

## **Section IV. Public Procurement Contract**

### **Signing the Contract**

Art. 183. The contracting authority shall sign with the selected contractor a written contract for public procurement under the conditions and procedure of Art. 112.

### **Amendment of the Contract**

Art. 184. (1) The contracting authority may amend a public procurement contract under the conditions of Art. 116.

(2) (revoked - SG 86/18, in force from 01.03.2019)

### **Publication of Information about the Contracts**

Art. 185. (amend. - SG 86/18, in force from 01.11.2019) The contracting authority sends for publication an notice according to a standard form within the term of 30 days form:

1. signing the contract – for a signed contract;
2. (amend. - SG 86/18, in force from 01.11.2019) signing an additional agreement – for amendment of a contract under **Art. 116, Para. 1**;
3. finalization of the contract – for fulfillment of the contracts or for its preterm termination.

## **Chapter twentysix.**

### **COLLECTING OFFERS WITH AN NOTICE. INVITATION OF CERTAIN PERSONS**

#### **Scope**

Art. 186. The provision of this Chapter shall apply with awarding public procurements at the value under Art. 20, Para. 3.

#### **Publication of an Notice**

Art. 187. (1) (amend. - SG 86/18, in force from 01.11.2019) The contracting authorities shall open awarding the procurement under Art. 20, Para. 3 with publication in PPR at an notice for collection of offers, which shall be drawn up according to a standard form and shall contain at least the information under

Annex No 20.

(2) (New - SG 107/20, in force from 01.01.2021) In the announcement under par. 1, the contracting authority may provide for an evaluation of the technical and price proposals of the participants before reviewing the documents for compliance with the selection criteria under condition, that the requirements under **Art. 104, para. 3** are met. In these cases, the verification of the grounds for removal and compliance with the selection criteria shall be carried out in a way that is not affected by the results of the evaluation of the technical and price proposals.

(3) (revoked - SG 86/18, in force from 01.11.2019, prev. para. 2 - SG 107/20, in force from 01.01.2021) Together with the publication of the notice, contracting authorities shall provide access to the technical specifications and any other information, related to fulfillment of the procurement, where applicable on the buyer`s profile.

(4) The contracting authority shall not be obliged to motivate in the notice the possibility for division of separate procurement positions.

### **Receiving Offers (title amend. - SG 86/18, in force from 01.03.2019)**

Art. 188. (1) (amend. - SG 86/18, in force from 01.11.2019) The term for receiving offers shall be coordinated with the volume and complexity of the procurement and shall not be shorter than 10 days form publication of the notice.

(2) (revoked - SG 86/18, in force from 01.11.2019)

(3) (revoked - SG 86/18, in force from 01.11.2019)

### **Explanations**

Art. 189. In a written request, made up to 3 days before expiry of the term for receiving offers, the contracting authority shall be obliged on the following working day latest to publish in the buyer`s profile written explanations about the conditions of the public procurement.

### **Change of the term**

Art. 189a. (New - SG 107/20, in force from 01.01.2021) (1) The contracting authority shall extend the term for receipt of offers, when timely explanations on the conditions of the public procurement have been requested and they cannot be submitted within the term under **Art. 189**.

(2) The contracting authority may set an additional term for receipt of offers, when no offers have been received within the initially set term or only one offer has been received.

(3) In the cases under par. 1 and 2 the contracting authority publishes a notice in the PPR.

### **Keeping Procurements with Collecting Offers with an Notice**

Art. 190. (revoked - SG 86/18, in force from 01.03.2019)

### **Invitation to Certain Persons**

Art. 191. (1) (Amend. – SG, 102/19, in force from 01.01.2020) The contracting authorities may not publish a notice, but public an invitation in the PPR and send it to a certain person/s where some of the following reasons are present:

1. (amend. - SG 86/18, in force from 01.11.2019) no offer has been received and the initial conditions of the procurement have not been changed;

2. awarding a public procurement to another person is impossible because of present copy, or other right of intellectual property, or exclusive rights, acquired under a law or administrative act, as well as

where the nature of the supply or service is restricted to an exactly determined contractor because of reasons, which are not due to the contracting authority;

3. an urgent awarding of the procurement is needed, because of exclusive circumstances and observation of terms under Art. 188, Para. 1 is not possible; the circumstances, which define presence of urgency, shall not be due to the contracting authority;

4. goods, subject to the supply, are produced in view to scientific and research activity, experiment, study or development activity and are in restricted quantity, which does not allow formation of market price or recovery of the costs on this activity;

5. additional supplies are needed from the same supplier, intended for partial change or for increasing the supplies, if the change of the supplier will make the contracting authority acquire goods of different technical characteristics, which will lead to incompatibility, or to technical difficulties in exploitation and maintenance;

6. subject of the procurement is supply of goods, which is traded at the stock exchange, according to a list, approved by the Council of Ministers, upon proposal of the Minister of Finance;

7. for a very short time, opportunity occurs to be received supplies or services in specially profitable conditions and at a price, substantially lower than the usual market prices.

(2) In the cases under Para. 1, p. 1, where offers have been received from persons, different from the ones, indicated in the invitation, the contracting authority shall consider them and classify them, if they meet the announced conditions and comply with the published technical specifications.

(3) In the cases under Para. 1, p. 6 the contracting authorities shall sign the public procurement contract under the rules of the relevant stock exchange.

### **Selecting Contractor**

Art. 192. (amend. - SG 86/18, in force from 01.03.2019) (1) The contracting authority shall remove a participant for whom one of the circumstances under **Art. 54, para. 1** is present and who does not meet the selection criteria set by the contracting authority, if any.

(2) (Repealed, - SG, 102/19, in force from 01.01.2020).

(3) (Amend. – SG, 102/19, in force from 01.01.2020) To the offer the participants shall submit declaration of absence of grounds for removal and compliance with the selection criteria, if any.

(4) (Suppl. – SG, 102/19, in force from 01.01.2020) The results of the examination and evaluation of the tenders and the ranking of the participants shall be reflected in a record. The contracting authority approves the record and then on the same day the record shall be sent to the participants and published in the PPR and in the buyer's profile.

### **Termination of Awarding Public Procurement**

Art. 193. (amend. - SG 86/18, in force from 01.11.2019, amend. and suppl. – SG, 102/19, in force from 01.01.2020) The contracting authority may terminate awarding of the procurement until signing the contract for awarding the public procurement. The termination shall be announced in the PPR through a notice under **Art. 36, Para. 1, item 7**, which shall also contain grounds for it.

### **Signing and Amendment of a Contract**

Art. 194. (1) The contracting authority shall sign a public procurement contract with the selected contractor within 30 day term from the date of selection of the contractor. In the cases under **Art. 191, Para. 1, p. 3**, the contract shall be signed not later than 5 working days from the date of selection of the contractor.

(2) The contracting authority may sign a contract with the following classified participant, where the selected participant for contractor refuses to sign a contract, or does not appear for its signing within the

set by the contracting authority term, without indicating objective reasons.

(3) (amend. - SG 86/18, in force from 01.03.2019) The Contracting Authority may amend a public procurement contract under the conditions of Art. 116.

(4) (new - SG 86/18, in force from 01.11.2019, amend. – SG, 102/19, in force from 01.01.2020) Within 5 days from the conclusion of the contract, the contracting authority shall send a notice under **Art. 36, Para. 1, item 7** for publication in the PPR.

### **Keeping Procurements with Collecting Offers with an Notice**

Art. 194a. (new - SG 86/18, in force from 01.03.2019) (1) Contracting authorities may apply the order under **Art. 187 - 189** for orders falling also within the scope of the list under **Art. 12, para. 1, item 1** and whose value requires an award by public competition, when the procurement is kept and assigned to specialized enterprises or cooperatives of people with disabilities or to economic subjects which main objective is the social and occupational integration of people with disabilities or disadvantaged people.

(2) In the cases under para. 1 the participant selected as contractor must prove that at least 70 per cent of its staff consists of disabled or disadvantaged persons and that they will be engaged in the performance of the contract and that the conditions of **Art. 12, para. 6** are met.

(3) In the cases under para. 1 the contracting authority shall state in the notice that the order is reserved for persons who meet the requirements of para. 1 and 2.

### **Subsidized Application**

Art. 195. for unsettled issue in this Chapter, the provision of Part One and Part Two shall apply.

## **Part six.**

### **REMOVAL VIOLATIONS IN THE PROCEDURES**

#### **Chapter twentyseven. PROCEDURE OF APPEAL**

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

#### **Acts, Subject to Appeal**

Art. 196. (1) Every decision of the contracting authorities shall be subject of appeal under this Chapter in a procedure for:

1. (amend. - SG 86/18, in force from 01.03.2019) awarding a public procurement, including under a framework agreement, dynamic system for purchases or qualification systems;
2. signing a framework agreement;
3. creating a dynamic system for purchases or qualification systems;
4. competition for a project.

(2) Decisions shall not be subject to appeal, about:

1. (amend. – SG, 102/19, in force from 01.01.2020) selecting a contractor of a public procurement by internal competition selection, where the total value of the procurements, awarded under the framework agreement by the relevant contracting authority is lower;
  - a) in case of construction – BGN 270 000;

b) in case of supplies and services, including the services under Annex N 2 – BGN 70 000;

2. opening in the part about the grounds for impossibility for division of the procurement subject to separate positions.

(3) The decisions under Para. 1 shall be appealed before the Competition Protection Commission about their legality, including for presence of discrimination, economic, financial, technical or qualification requirements in the notice, documentation or in every other document, related to the procedure.

(4) (suppl. - SG 49/18) The decisions under Art. 175, Para. 5 shall be subject to appeal under this Chapter and the announcement of voluntary transparency.

(5) To appeal under this Chapter shall also be subject actions or lack of actions of the contracting authority, which hinder the access or participation of persons in the procedure. The contracting authority's actions on issuing the decision under Para. 1 shall not be subject to independent appeal.

### **Good Fait**

Art. 196a. (new - SG 49/18) The parties involved and their representatives are required to exercise their procedural rights in good faith. Liability for damages in their unscrupulous exercise is realized in the general claim procedure.

### **Term for Submission an Appeal**

Art. 197. (1) An appeal may be submitted within 10 day term from:

1. (suppl. - SG 49/18) expiry of the term under Art. 100, Para. 3 – against the decision for opening of the procedure, decision for creation of a qualification system and/or the decision for approval of the notice for change or additional information;

2. expiry of the term under Art. 100, Para. 4 – against the decision for approval of the invitation for confirmation of interest and/or the decision for approval of the notice for change or additional information, which approve the changes in an invitation of confirmation of interest;

3. expiry of 5-day term under Art. 100, Para. 5 – against the decision for opening the procedure and/or decision for approval the notice for change or additional information;

4. expiry of the term under Art. 179 – against the decision for opening the procedure and/or the decision for approval of the notice for change or additional information;

5. (amend. - SG 49/18) publication of:

a) the decisions for conducting procedures of negotiation under Art. 18, Para. 1, item. 8 - 10 and 13;

b) the decisions under Art. 100, para. 7, 11 и 12;

6. (amend. - SG 86/18, in force from 01.11.2019) service the decision for preliminary selection or finalization of the dialogue;

7. (amend. - SG 49/18, amend. - SG 86/18, in force from 01.11.2019) service the decision for:

a) selection of contractor;

b) for grading the participants in a competition for a project;

c) inclusion or refusal to include in a qualification system or a dynamic purchasing system;

d) termination of participation in a qualification system or in a dynamic purchasing system;

e) or for termination of the procedure.

f) (new – SG, 102/19, in force from 01.01.2020) Opening the award of a public procurement by using a qualification system or a dynamic purchasing system;

g) (new - SG 107/20, in force from 01.01.2021) elimination of the violation in the cases under Art. 202, para. 2;

8. publication of the notice for voluntary transparency.

(2) (suppl. - SG 49/18) The appeal under Art. 196, Para. 5 shall be submitted within 10 day term from the notification about the relevant action, and if the person is not notified, as well as inactivity – from

the date on which the term for carrying out the relevant action has expired.

(3) (amend. - SG 49/18, revoked - SG 86/18, in force from 01.11.2019)

## **Right to Appeal**

Art. 198. (1) An appeal may be submitted by:

1. any interested person in the cases under Art. 197, Para. 1, p. 1 - 5 and 8 and Para. 2;
2. any interested applicant in the procedure – in the cases under Art. 197, Para. 1, p. 2, 6 and 7 and Para. 2;
3. any interested applicant or participant – in the cases under Art. 197, Para. 1, p. 5 and 7 and Para. 2.

(2) (Suppl. - SG 107/20, in force from 01.01.2021) In the term of **Art. 197, Para. 1, p. 1, 4 and 5, letter "a"** an appeal against the decision for opening the procedure and/or the decision of approval of changes in the conditions in an announced procedure may appeal also professional associations and organizations in the relevant branch for protection of the interests of their members.

(3) (revoked - SG 49/18)

## **Submission of an Appeal**

Art. 199. (1) An appeal shall be submitted to the Competition Protection Commission with a copy to the contracting authority, whose decision, action or lack of action is appealed.

(2) The appeal must be written in the Bulgarian language and shall contain:

1. the name of the body, to whom it is submitted;
2. (amend. - SG 49/18) the company of the trader or the name of the legal person – appellant, as well as the central office and the last management address, indicated in the relevant register, the electronic address or fax, if any; the full name and address, telephone N, and e-mail address or fax, if any, of the appellant – natural person;
3. name and address of the contracting authority;
4. (suppl. - SG 49/18) date about the public procurement, including its unique PPR number and the decision, action or lack of action, which is appealed;
5. (amend. - SG 49/18) the circumstances in which the complainant bases his status as an interested party, where applicable;
6. (new - SG 49/18) exhaustive and specific reference to all the objections and grounds of those objections, as well as the complainant's claims;
7. (prev. para. 6 - SG 49/18) signature of the person – appellant.

(3) The appeal to the Competition Protection Commission shall have attached:

1. (revoked - SG 107/20, in force from 01.01.2021)
  2. evidences on observation of the term under Art. 197, Para. 1 and 2;
  3. a document for a paid state fee;
  4. (suppl. - SG 107/20, in force from 01.01.2021) evidence for submission of the appeal to the contracting authority, when it is not sent through the platform under Art. 39a, para. 1;
  - 5 (new - SG 49/18) evidences of the circumstances under para. 2, item 5;
  6. (new - SG 49/18) evidence of representative power when the complaint is filed through a representative;
  7. (prev. para. 5 - SG 49/18) other evidence, if any.
- (4) (amend. - SG 49/18, amend. - SG 107/20, in force from 01.01.2021) If the appeal does not meet the requirements under Para. 2 and Para. 3, p. 2 - 3,5 and 6 the Competition Protection Commission shall

notify the appellant and shall give him 3 day term for removal of the irregularities.

## **Section II. Formation of Procedure**

### **Formation of Procedure**

Art. 200. (1) The chairperson of the Competition Protection Commission shall form a procedure with an order within 3 day term from receiving the appeal or from removal of the irregularities in it. The order shall select a Commission member, who shall observe studying the appeal and if needed, he shall give instructions. The contracting authority shall be notified about the formed procedure.

(2) (Amend. - SG 107/20, in force from 01.01.2021) The contracting authority shall submit an opinion on the appeal, supported – if needed – by an evidence, within 3 business days term from receiving the notification under Para. 1.

(3) After formation of the procedure, the Competition Protection Commission chairperson, by an order shall select officials of the Commission administration about carrying out study on the appeal.

(4) Where the procurement contains classified information or is in the area of defense and security, the officials under Para. 3 must have permit for access to classified information at the relevant level, under the requirements of the **Protection of Classified Information Act**.

### **Refusal from Formation of Procedure**

Art. 201. (1) The Competition Protection Commission chairperson shall not form a procedure, where:

1. the appeal has been submitted after expiry of the term under Art. 197, Para. 1 and 2;
2. the irregularities have not been removed within the term under Art. 199, Para. 4;
3. the appeal has been submitted before expiry of the relevant term under Art. 100, Para. 3, 4 or 5 and Art. 179, Para. 1;
4. the appeal has been withdrawn before its formation;
5. the act is not subject to appeal.

(2) (amend. - SG 86/18, in force from 18.10.2018) In the cases under Para. 1, the Competition Protection Commission chairperson shall return the appeal with an order.

### **Removal of the Violation by the Contracting Authority**

Art. 202. (1) (Prev. text of Art. 202 - SG 107/20, in force from 01.01.2021) The contracting authority may himself remove the violation by receiving the notice under **Art. 209, Para. 3** for finalization of the study on the appeal by the Competition Protection Commission.

(2) (new - SG 107/20, in force from 01.01.2021) The decision or action by which the violation is eliminated shall be subject to appeal by the order of this chapter, as the contracting authority may not take advantage of the possibility under para. 1.

## **Section III. Temporary Measure**

### **Termination of the Procedure**

Art. 203. (1) An appeal against a decision, action or lack of action of the contracting authority with the exception of the ones against the decision for selection of a contractor, shall not stop the awarding procedure of a public procurement, unless where a temporary measure of "termination of the procedure" has

been requested.

(2) Request for imposing a temporary measure shall be made together with submission of the appeal. It shall be impossible to make a request for a temporary measure, where a decision, action, or lack of action of the contracting authority is appealed, related to a procedure under Art. 79, Para. 1, p. 4, Art. 138, Para. 1, Art. 164, Para. 1, p. 3 or 4, or Art. 182, Para. 1, p. 1.

(3) (amend. - SG 49/18, amend. - SG 86/18, in force from 01.03.2019) Where with the appeal the temporary measure under Para. 1 is requested, the procedure for awarding the public procurement shall stop from the notification of the contracting authority for initiated proceedings under the Art. 200, para. 1 by the Commission for Protection of Competition by the enforcement of:

1. the determination, by which the request for a temporary measure is rejected, or
2. the decision on the appeal, if the temporary measure has been imposed.

(4) (suppl. - SG 86/18, in force from 01.03.2019) An appeal against the decision of selection of a contractor shall stop the procedure for awarding a public procurement from the moment of its submission to the final settlement of the dispute, unless where a preliminary fulfillment is admitted, or where the decision has been taken in a procedure, opened under **Art. 79, Para. 1, p. 4, Art. 138, Para. 1, Art. 164, Para. 1, p. 3 and 4, or Art. 182, Para. 1, p. 1.**

(5) (new - SG 86/18, in force from 01.03.2019) Where a public procurement is divided into separate positions, an appeal against a decision, action or idleness by the contracting authority including against the decision to designate a contractor does not suspend the procedure for the award of the public procurement for those separate positions which are not included in the subject-matter of the dispute.

(6) (New – SG, 102/19, in force from 01.01.2020) In the cases under Para. 3 on the day of receipt of the notice of initiation of the procedure, or at the latest on the next working day, the contracting authority shall declare suspension of the procurement through the platform under **Art. 39, Para. 1.**

### **Pronunciation on the Request for a Temporary Measure**

Art. 204. (1) Where in the appeals a request is made for imposing a temporary measure, the Competition Protection Commission shall pronounce on it in a closed meeting with a grounded determination within 7 day term from the formation of the procedure.

(2) Competition Protection Commission shall pronounce on the request after estimation of the possible consequences from the imposition of the temporary measure for all interests, which may be harmed, including for the public interest and the interests, related to defense and security, made on the basis of the statements on the appeal, the opinion of the contracting authority and the attached evidences by the parties.

(3) The Competition Protection Commission may not impose a temporary measure, where the negative consequences for all the interests, which may be harmed, exceed the use of its imposition.

(4) The pronouncement of the temporary measure shall not bound the Competition Protection Commission while settling the dispute in essence, as well as it shall not affect the other requests of the appellant.

(5) (revoked - SG 86/18, in force from 18.10.2018)

(6) The appeal of the determination for imposing a temporary measure shall not stop the procedure before the Competition Protection Commission.

### **Preliminary Fulfillment of the Decision for Selecting a Contractor**

Art. 205. (1) Where the decision for selecting a contractor is appealed, the contracting authority may within the term for production of the opinion under Art. 200, Para. 2, request from the Competition Protection Commission admission for preliminary fulfillment of the decision. A request for preliminary fulfillment, made after this term shall not be considered by the Competition Protection Commission

(2) The contracting authority shall motivate the request under Para. 1 and shall attach evidences in



support of his statement.

(3) The Competition Protection Commission shall pronounce upon the request for admission of preliminary fulfillment by a determination in a closed meeting within 3 day term from receiving the statement.

(4) The Competition Protection Commission shall admit preliminary fulfillment of the decision for selection of a contractor upon exception, where this is imposed in order to be secured the life and health of citizens, to be protected especially important state or public interests, including such, related to defense and security or if from the delay of the fulfillment a substantial or irreparable harm.

(5) Preliminary fulfillment under Para. 4 shall not be admitted, where it has been grounded by economic interests, related to costs for:

1. postponing the fulfillment of the contract;
2. conducting a new procedure for awarding the procurement.

(6) The Competition Protection Commission shall admit preliminary fulfillment of the decision for selection of a contractor in all cases, where fulfillment of a large programme would be threatened in the area of defense or security, which is of a substantial significance for the interests of the country.

(7) (amend. - SG 49/18, amend. - SG 86/18, in force from 18.10.2018) The private appeal stops the execution of the contested determination.

### **Termination of the Procedure before the Competition Protection Commission**

Art. 206. (1) Where a procedure is formed against a decision for selection of a contractor and no preliminary fulfillment has been admitted, the Competition Protection Commission shall officially check about presence of a pending procedure against another decision of the contracting authority on the same procedure.

(2) The Competition Protection Commission shall stop the procedure, formed upon an appeal against a decision for selection of a contractor, where it finds a pending procedure under Para. 1.

(3) The procedure shall be recovered officially or upon request of one of the parties after dropping of a reason for stopping.

### **Section IV. Procedure for Consideration of the Appeal**

#### **Studying**

Art. 207. studying the file shall be carried out by the determined officials under Art. 200, Para. 3 and shall cover the circumstances of the appeal.

#### **Evidences and Expert Opinions in the Procedure**

Art. 208. (1) In the procedure before the Competition Protection Commission written and oral evidences shall be admitted, including expert opinions. The Commission may refer to information, which is publicly accessible or officially known.

(2) (new - SG 86/18, in force from 01.11.2019, amend. - SG 107/20, in force from 01.01.2021) When the written evidences are electronic documents, including created or sent through the platform under **Art. 39a, para. 1**, they shall be submitted on electronic media.

(3) (prev. para. 2 - SG 86/18, in force from 01.11.2019) In use of expert opinions in the procedure before the Competition Protection Commission, the sums for remunerations for the experts shall be deposited preliminary by the party, which has requested the expertise. With appointment of an expertise

upon initiative of the Competition Protection Commission, the costs for expert remuneration shall be given to the appellant, if the appeal has been rejected or the procedure is terminated and to the contracting authority, in some of the cases under Art. 215, Para. 2, p. 2 - 6.

(4) (prev. para. 3 - SG 86/18, in force from 01.11.2019) All the evidence, collected for the procedure shall not be disclosed, if they are industrial, trade or other secret, protected by the law. Where in them there are data, which are classified information, the provisions of the **Protection of Classified Information Act** shall apply.

(5) (prev. para. 4 - SG 86/18, in force from 01.11.2019) The parties of the procedure, the state bodies and the officials shall be obliged to give assistance to the Competition Protection Commission while fulfilling its assigned duties by the law.

### **Finalization of the Study**

Art. 209. (1) After finalization of the study, the working team shall produce to the monitoring members of the Competition Protection Commission a report, which contains factual and legal analysis of the case, as well as a proposal for the way of finalization of the procedure.

(2) The monitoring members of the Competition Protection Commission shall notify the chairperson about the finalization of the study. The Competition Protection Commission chairperson shall appoint an open meeting by a resolution for consideration of the file.

(3) within 3 day term from receiving the notification for finalization of the study, the parties shall have the right to get to know the collected evidences of the file.

(4) The parties shall be obliged to produce all their evidences latest on the date before the meeting for consideration of the appeal.

### **Summoning and Servicing Notices**

Art. 210. (1) The parties shall be summoned at the addresses, indicated in the appeal, where the term for summoning shall not be shorter than 3 days before the meeting.

(2) (amend. - SG 49/18) The parties are deemed to be notified, the subpoenas and the notifications are served if they are sent to them via the indicated by them e-mail address or fax, if any. Where the parties do not provide a fax No or e-mail address for contact they shall be considered as notified by publishing the notice in the public register of the official internet site of the Competition Protection Commission.

(3) The parties may use lawyer's defense.

### **Meeting of the Competition Protection Commission**

Art. 211. (1) The meetings shall be regular, where at least 4 of the Competition Protection Commission members are present.

(2) Where the procurement contains or requires classified information, including with a site in the area of defense and security, the Competition Protection Commission members, who participate in the production of consideration of the file, must have permit for access to classified information to the relevant level under the requirements of the **Protection of Classified Information Act**.

(3) A member of the Competition Protection Commission shall not participate in a procedure of studying under this act, where he is interested in its resolution, or where there are reasonable doubts in his impartiality. The Competition Protection Commission member shall be led off upon his initiative, or upon requests of the parties.

(4) The meeting shall begin with resolving the preliminary issues about the regularity of the procedure. The parties in the procedure may be asked questions.

(5) Where it is considered that the circumstances of the appeal are clarified, the chairperson of the meeting shall give possibility to the parties for opinions.

(6) After settlement of the dispute of factual and legal side, the meeting shall be closed by the chairperson.

### **Terms for Pronunciation of the Appeal**

Art. 212. (1) The Competition Protection Commission shall pronounce on the appeal within 1 month term from formation of the procedure for public procurement at the value of Art. 20, Para. 1 and in the remaining cases – within 15 day term from formation of the procedure.

(2) The decision with the grounds shall be drawn up and shall be announced within 7 day term latest from pronouncement on the appeal.

### **Termination of the Procedure by the Competition Protection Commission**

Art. 213. (1) The Competition Protection Commission by a determination shall terminate the procedure:

1. (amend. - SG 49/18) in finding inadmissibility of the appeal, including where the complainant has not substantiated and proved his legal interest;

2. if the appellant – a natural person has died or the legal person has been terminated.

3. upon withdrawal of the appeal.

(2) (revoked - SG 86/18, in force from 18.10.2018)

### **Subsidized Application**

Art. 214. For all unsettled issues about the appealing procedure before the Competition Protection Commission, the appealing procedure of individual administrative acts under the Administrative Procedure Code shall apply.

## **Section V.**

### **Decisions of the Competition Protection Commission**

#### **Decrees of the Decisions**

Art. 215. (1) The Competition Protection Commission shall take decisions and decree determinations in an open voting with majority of 4 votes.

(2) The Competition Protection Commission at a closed meeting shall decree a decision, by which shall:

1. leave the appeal with not consideration;

2. repeal the unlawful decision for opening a procedure for awarding public procurement;

3. (suppl. - SG 107/20, in force from 01.01.2021) repeal the decision in whole or in part and return the file for continuation of the procedure for awarding public procurement of the last lawful decision or action or for termination of the procedure;

4. (amend. - SG 49/18) find unlawfulness of the decision and in cases under Para. 5 and 6 shall impose the sanctions provided;

5. declare null and void the contracting authority's decision;

6. repeal the unlawful action or establish the unlawful lack of action and shall return the file for continuation of the procedure for awarding public procurement of the last lawful decision or action or for termination of the procedure;

7. repeal the decision, where it finds that the contract has been signed in violation of Art. 112, Para. 6 or 8, and where it finds that the contract has been signed in violation, and where it finds violation of the act, affected the possibility the person, who has submitted the appeal to participate in the procedure or to be

selected for contractor.

(3) In the cases under Para. 2, p. 3 and 6, the Competition Protection Commission may give obligatory instructions on the procedure for awarding public procurement.

(4) (amend. - SG 49/18) Where before or during the procedure the contracting authority signs a contract, on the day of conclusion he shall notify the Competition Protection Commission by sending a copy of the contract.

(5) (Amend. - SG 107/20, in force from 01.01.2021) The Competition Protection Commission shall impose a sanction in the amount from 5% to 10% of the value of the signed contract, where there is a preliminary fulfillment admitted, but the decision of the contracting authority was issued in violation of the law, affected the possibility of the person, submitted the appeal to participate in the procedure or to be selected for contractor.

(6) (Suppl. - SG 107/20, in force from 01.01.2021) Where the contract has been signed in violation of **Art. 112, Para. 6 or 8**, but no violation of the law is found, affected the possibility the person, who has filed the appeal to participate in the procedure or to be selected for contractor, the Competition Protection Commission shall impose a sanction in the amount from 1% to 3% of the value of the signed contract.

(7) In the cases under par. 5 and 6, where the value of the contracts has not been indicated in them, the concrete amount of the sanction shall be imposed by the Competition Protection Commission on the basis of an appointed expertise for the expected value of the signed contract. In appointment of expertise, the costs for the remuneration of the expert shall be paid by the contracting authority.

(8) The Competition Protection Commission decision shall be in writing and shall contain:

1. date, place of decreeing and number;
2. factual and legal grounds for its decreeing;
3. the decision, which is appealed and name of the body, which has issued it;
4. names of the parties;
5. what is decreed;
6. in whose weight the costs are ordered;
7. before which body and in what term the decision may be appealed.

### **Appeal of the Competition Protection Commission Decisions before the Supreme Administrative Court**

Art. 216. (1) The Competition Protection Commission decision shall be subject to appeal before the 3 judge panel of the Supreme Administrative Court within 14 day term from its notification of the parties

(2) The term for removal of irregularities on the appeal, submitted before the Supreme Administrative Court shall be 3 days from receiving the notification.

(3) (New – SG, 102/19, in force from 01.01.2020) After accepting the complaint, the court shall send a copy of it, together with the annexes of the other parties, which may submit a reply within three days of receipt.

(4) (amend. - SG 86/18, in force from 01.03.2019, former Para. 3 – SG, 102/19, in force from 01.01.2020) The subpoenas and messages are served on the parties at the e-mail or fax address indicated by them. Where the parties have not provided an electronic address or fax, summoning and service of notifications on the case shall be carried out under **Art. 42, Para. 1 and 3** of the Civil Procedure Code.

(5) (former Para. 4 – SG, 102/19, in force from 01.01.2020) The parties shall be summoned for the first meeting not later than 3 days before the date of the meeting.

(6) (former Para. 5 – SG, 102/19, in force from 01.01.2020) The Supreme Administrative Court shall pronounce within the term of up to 1 month from receiving the appeal and its judgement shall be final.

(7) (former Para. 6 – SG, 102/19, in force from 01.01.2020) For unsettled issues about the appeal procedure, the provision of **Chapter Twelve of the Administrative Procedure Code** shall apply.

(8) (new - SG 86/18, in force from 01.03.2019, former Para. 7 – SG, 102/19, in force from 01.01.2020) The court decisions entered into force shall not be subject to revocation pursuant to **Art. 237-**

### **Appeal of orders and determinations of the Commission for Protection of Competition**

Art. 216a. (new - SG 86/18, in force from 18.10.2018) (1) The order under **Art. 201, para. 2** and the determinations under **Art. 204, para. 1**, Art. 205, para. 3 and **Art. 213, para. 1** shall be subject to appeal before a three-member panel of the Supreme Administrative Court within three days of their notification to the parties. The court shall adjudicate in a closed session within 14 days from the initiation of the proceedings in the private appeal.

(2) (Amend. – SG, 102/19, in force from 01.01.2020) The term for removal of the irregularity of the private complaint before the Supreme Administrative Court is three days from the receipt of the notification, served by the order of **Art. 216, Para. 4**.

(3) For unsettled issues regarding the proceedings on the private complaint, the provisions of **Chapter Thirteen of the Administrative Procedure Code** shall apply.

### **Section VI.**

### **Costs. Compensations. Payments**

#### **Costs**

Art. 217. (1) The Competition Protection Commission shall pronounce on the responsibility for the costs in compliance with the provisions of this Chapter and under the conditions of **Art. 143 of the Administrative Procedure Code**.

(2) (amend. - SG 49/18) At the request of the parties, made within the term for appeal, the Competition Protection Commission may add or amend the decreed decision in its part for the costs.

(3) The Competition Protection Commission shall announce to the opposite party about the required addition or amendment with an instruction for production of a reply within 3 day term.

(4) (Amend. – SG, 102/19, in force from 01.01.2020) The determination about the costs shall be decreed in a closed meeting and shall be delivered to the parties. It may be appealed under the procedure, in which the appeal of the decision is subject.

#### **Compensations**

Art. 218. Any interested person may pretend for compensation for harms, suffered as a result of violations during the procedure and signing a contract for public procurement under the conditions of **Art. 203, Para. 1, Art. 204, Para. 1, 3 and 4** and **Art. 205 of the Administrative Procedure Code**.

#### **Payment of Sanctions**

Art. 219. The sums in fulfillment of the sanctions under Art. 215, Para. 5 and 6 shall be paid from the budget of legal persons whose heads are contracting authorities – natural persons.

#### **State Fees**

Art. 220. (1) (amend. - SG 77/18, in force from 01.01.2019) For the procedures under this Chapter before the Competition Protection Commission and before the Supreme Administrative Court state fees and costs shall be due, defined in a tariff, approved by the Council of Ministers. State fees for cassation appeal before the Supreme Administrative Court are set at the amount of fees due for appeal proceedings before the Commission for the Protection of Competition. State fees for the revocation of judicial acts entered into force and for private appeals before the Supreme Administrative Court shall be determined by the order of the Administrative Procedure Code.

(2) (revoked - SG 77/18, in force from 01.01.2019)

## **Chapter twentyeight.**

### **VIOLATIONS, ESTABLISHED BY THE EUROPEAN COMMISSION**

#### **Procedure for Establishment and Removal of the Violations**

Art. 221. (1) The permanent representation of the Republic of Bulgaria in the European Union shall resend on the day of receiving or on the following day latest, to the administration of the Council of Ministers, the Ministry of Foreign Affairs, the Ministry of Finance and to the Public Procurement Agency the notification, received from the European Commission for found violations by it of the contracting authorities while conducting a procedure by signing the awarding contract for public procurement.

(2) The executive director of the Public Procurement Agency shall send the notification under Para. 1 to the relevant contracting authority, who within 5 day term from its receiving shall provide an answer.

(3) With the reply under Para. 2, the contracting authority shall notify the Public Procurement Agency and shall attach the relevant evidence, where:

1. he accepts as reasonable the statements of the European Commission and removes the violation,  
or

2. the indicated violation in the notification has already been subject to appeal.

(4) Apart from the cases under para. 3, where the contracting authority finds, that there is not violation, he shall send a grounded statement to the Public Procurement Agency and shall attach evidences.

(5) The contracting authority shall interrupt any actions, related to conducting the procedure, or signing a contract for public procurement, from the moment of receiving the notification under Para. 1 by the final settlement of the dispute.

(6) In the cases under Apra. 4, the executive director of the Public Procurement Agency within 10 day term from receiving the grounded statement, he shall:

1. submit an appeal before the Competition Protection Commission, where the violation, indicated in the notification under Para. 1 is as a result of an act of the contracting authority;

2. refer the competent state body, where the violation comprises from application of a normative act, which is not in compliance with the EU law.

(7) The body under Para. 6, p. 2, within 5 day term shall notify the Public Procurement Agency by a grounded statement and shall indicate the relevant measures, when he envisages such.

(8) The executive director of the Public Procurement Agency shall draw up an answer to the European Commission, which shall contain:

1. confirmation, that the violation has been removed – in the cases under Para. 3, p. 1;

2. information about presence of a procedure of appealing of the violation – in the cases under Para. 3, p. 2;

3. information about the undertaken measures – in the cases under Para. 6, p. 1 and Par. 7.

(9) The answer under Para. 8 with attached to it evidences shall be submitted to the Permanent representation of the Republic of Bulgaria to the European Union, the administration of the Council of Ministers, the Ministry of Foreign affairs and to the Ministry of Finance within the term of 17 days from receiving the notification under Para. 1 in the Public Procurement Agency.

(10) The permanent representation of the Republic of Bulgaria to the European Union shall produce to the European Commission the answer under Para. 8 not later than 21 days from the date of receiving the notification under Para. 1.

#### **Notification**

Art. 222. (1) The contracting authorities shall be obliged to notify the Public Procurement Agency:

about the result from the appeal in the cases under Art. 221, Para. 3, p. 2 – within 7 day term from the enforcement of the decision of the Competition Protection Commission;

2. where the procedure, to which the notification refers under Art. 221, Para. 1 has been terminated with an enforced decision and a new procedure has been opened, related thoroughly or partially with the same subject – within 3 day term from opening the procedure.

(2) In the cases under Para. 1 the executive director of the Public Procurement Agency, within 7 day term from receiving the notification shall notify the European Commission under Art. 221, Para. 9.

### **Exchange of Information**

Art. 223. The exchange of information under Art. 221 and 222 shall be carried out electronically, by electronic signature or by fax.

## **Chapter twenty-nine.**

### **ANNULATION OF CONTRACTS OR FRAMEWORK AGREEMENTS**

#### **Eligible Persons**

Art. 224. (1) Annulation of a signed contract or framework agreement in the cases under Art. 119 may require:

1. any interested person – for violation under Art. 119, Para. 1, p. 1 and 2;
2. any interested person and interested applicant - for violation under Art. 119, Para. 1, p. 3, letters "a" and "b";
3. interested applicant and/or interested participant – for violation under Art. 119, Para. 1, p. 3, letter "c".

(2) Annulation shall not be required, where:

1. there is an enforced decision of the Competition Protection Commission under Art. 215, Para. 5;
2. an notice for voluntary transparency has been published under Art. 28 and it has been enforced.

#### **Term and Procedure**

Art. 225. (1) Annulation of a contract or a framework agreement under Art. 119 may be required within the term of 2 months from publication of an notice for awarding procurement in PPR, and if no notice has been published – from the awareness, but not later than 1 year from signing.

(2) Where the contracting authority has signed a contract or framework agreement before finalization of an appealing procedure, the term for requirement of annulation under Art. 119, Para. 1, p. 3 shall be 2 months from the enforcement of the decision, which repeals the appealed act of the contracting authority.

(3) The claim for annulation of the contract or of the framework agreement shall be laid under the **Civil Procedure Code**.

#### **Consequences**

Art. 226. Where the contract or framework agreement is annulated, each of the parties must return to the other party everything, received from it. In case that this is impossible, the relations shall be steered through returning money equivalent to the received under the contract.

## **Part seven.**

### **MANAGEMENT AND CONTROL**

## **Chapter thirty.**

### **BODIES**

#### **Conducting State Policy in the Area of Public Procurements**

Art. 227. The Minister of Finance shall carry out the state policy in the area of public procurements through the Public Procurement Agency

#### **The Public Procurement Agency**

Art. 228. (1) Public Procurement Agency shall be a legal person at budgetary spending with central office in Sofia.

(2) The Public Procurement Agency shall be directed and represented by executive director, who shall be appointed by the Minister of Finance

(3) The activity, structure, organization of operation and the staff of the Public Procurement Agency shall be provided by Rules of Procedure, adopted by the Council of Ministers.

#### **Powers of the Agency**

Art. 229. (1) The executive director of the Public Procurement Agency shall:

1. develop projects of normative acts in the area of the public procurements;
2. (amend. - SG 86/18, in force from 01.03.2019) give methodical assistance to the contracting authorities through:
  - a) issuance of general methodical instruction on the basis of monitoring and summarizing of the practice;
  - b) (amend. - SG 86/18, in force from 01.03.2019) providing clarifications on the application of the Act;
  - c) direct consultation;
  - d) (new - SG 86/18, in force from 01.03.2019) control through random selection of public procurement procedures;
  - e) (new - SG 86/18, in force from 01.03.2019) control of negotiating procedures;
  - f) (new - SG 86/18, in force from 01.03.2019) control of amendments to public procurement contracts based on Art. 116, para. 1, item 2;
3. popularize the good practices with awarding public procurements, including related to application of ecological, social, innovation requirements, etc;
4. (amend. - SG 86/18, in force from 01.03.2019) coordinates the process of preparing and publishing standardized requirements and documents;
5. (revoked - SG 86/18, in force from 01.03.2019)
6. (revoked - SG 86/18, in force from 01.03.2019)
7. (revoked - SG 86/18, in force from 01.03.2019)
8. (revoked - SG 86/18, in force from 01.03.2019)
9. refer the competent bodies for exercising a follow up control on the observation of the act;
10. appeal before the Competition Protection Commission the decisions of contracting authorities, with whom there are violations in conducting a procedure for awarding public procurement, established by the European Commission by signing of the contract and indicated in the notification under Art. 221, Para. 1;
11. (amend. - SG 86/18, in force from 01.03.2019) maintain and manage the platform under the Art. 39a, para. 1;
12. (amend. - SG 86/18, in force from 01.03.2019) develop and confirm standard documents and



rules for use of platform under the Art. 39a, para. 1;

13. (revoked - SG 86/18, in force from 01.03.2019)

14. (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020)

carry out monitoring of public procurements by aggregating and analyzing information:

a) from the platform under **Art. 39a, Para. 1;**

b) from the activity under item 2;

c) from the contracting authorities and from the competent bodies, including the bodies under Chapter Twenty-Seven and under **Art. 238, Para. 1;**

d) received in the Public Procurement Agency from other sources;

15. issue a monthly bulletin with indicators, which characterize the basic elements of the public procurement market;

16. maintain lists of the contracting authorities of the act and shall notify the European Commission about changes in the lists;

17. draw up, maintain and update a list of external experts with professional competence, related to the public procurement subjects, which the contracting authorities may use in the preparation and conducting procedures for awarding public procurements;

18. maintain and update a list under **Art. 57, Para. 4;**

19. carry out cooperation in the area of public procurements with other bodies, as well as with branch and other organizations;

20. (revoked - SG 86/18, in force from 01.03.2019)

21. participate in the international cooperation of the Republic or Bulgaria with organizations in the area of public procurement from other countries;

22. (amend. - SG 86/18, in force from 01.03.2019, amend. -SG. 102/19, in force from 01.01.2020)

Appoint the representatives of the Public Procurement Agency to participate in the work of the Expert Cooperation Council;

23. carry out cooperation with the European Commission, including sending information to it, related to:

a) (amend. - SG 107/20, in force from 01.01.2021) the cases of applying **Art. 13, para. 1, item 1 and item 13, letter "b", Art. 15, para. 1, items 1, 2, 5 and 6**, where it is requested by the European Commission;

b) legal or factual problems in participation of Bulgarian persons in procedure for awarding public procurements for services in third countries;

c) legal or factual problems in participation of Bulgarian persons in procedures for awarding public procurements in third countries, which are due to failure to observe the provision of international labour law;

24. (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020, amend. - SG 107/20, in force from 01.01.2021) prepare and send to the European Commission a report from the monitoring of the public procurement in the country on the basis of the information under items 14, as well as entered into force decisions imposing a sanction under **Art. 215, para. 5;**

25. maintain updated information, which shall collect and store in the electronic data base of the European Commission (e-Certis), established by the European Commission; upon request shall provide to other Member States explanations on the information in e-Certis;

26. (amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) upon request shall produce to other Member States information, related to the application of Art. 48, 51, 52, 54 - 59, Art. 64, Para. 3 - 7 and Art. 72, Para. 9;

27. produce to the Minister of Finance annual report on the Agency activity.

(2) (amend. - SG 86/18, in force from 01.03.2019) The control under para. 1, item 2, letters "d" and "e" shall cover procurement procedures with a estimated value equal to or greater than:

1. BGN 1 000 000 - for construction;

2. BGN 200,000 - for supplies and services.

(3) (new - SG 86/18, in force from 01.03.2019) The control under para. 1, item 2, letter "e" shall include public procurement contracts of value under para. 2, when the value of the change is equal to or higher than 20 per cent of the value of the contract. Where the value of the contracts is not specified in them, the amount of the change shall be calculated based on the estimated value of the contract.

(4) (prev. para. 3 - SG 86/18, in force from 01.03.2019, suppl. – SG, 102/19, in force from 01.01.2020, suppl. - SG 107/20, in force from 01.01.2021) The executive director of the Public Procurement Agency shall have the right to request from the contracting authorities and from the competent bodies or persons the needed information, related to realization of his powers under this act, including in relation to drawing up standardized requirements and documents under Para. 1, p. 4 and of the report under Para. 1, p. 24. The information shall be sent within the term and in the manner determined by the Executive Director of the Public Procurement Agency.

(5) (prev. para. 4, amend. - SG 86/18, in force from 01.03.2019, amend. - SG 107/20, in force from 01.01.2021) Annually, by January 31, the Commission for Protection of Competition shall send to the Public Procurement Agency the entered into force decisions under para. 1, item 24 in the previous year.

(6) (Prev. para. 5 amend. and suppl. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) The standard forms of decisions under **Art. 22, Para. 1, p. 1, 2, 9 and 12**, the notices, which are sent to PPR, including under **Art. 29, Para. 3**, and **Art. 156, Para. 1, p. 3**, and the information under **Art. 36, para. 1, item 5 and 6** and **Art. 230, Para. 4** shall be confirmed by the executive director of the Public Procurement Agency.

(7) (prev. para. 6, amend. - SG 86/18, in force from 01.03.2019) The Public Procurement Portal publishes:

1. the information under Para. 1, p. 2, letter "a". p. 16, 17 and 18 and the bulletin under Para. 1. p. 15;
2. (amend. - SG 86/18, in force from 01.03.2019) the confirmed standard forms under Para. 6;
3. The Common terminological dictionary;
4. (amend. - SG 86/18, in force from 01.03.2019) other information specified by an order of the Executive Director of the Public Procurement Agency.

(8) (prev. para. 7 - SG 86/18, in force from 01.03.2019) The state experts in the Public Procurement Agency, which participate in conducting the policies in the area of public procurements, must have Master educational-qualification degree.

(9) (prev. para. 8 - SG 86/18, in force from 01.03.2019, suppl. – SG, 102/19, in force from 01.01.2020) The conditions and procedure for issuance of standardized requirements and documents under Para. 1, p. 4 for conducting the monitoring under Para. 1, p. 14 and for drawing up and maintaining the list under Para. 1, p. 17 shall be determined by the Rules on the application of the Act.

### **Verification of technical specifications**

Art. 229a. (new - SG 63/17, in force from 01.01.2018, amend. - SG 86/18, in force from 01.03.2019)

### **Obligations of the Contracting authorities**

Art. 230. (1) The contracting authorities shall be obliged to notify the Public Procurement Agency about:

1. (amend. - SG 86/18, in force from 01.03.2019, revoked - SG 107/20, in force from 01.01.2021)
2. (revoked - SG 107/20, in force from 01.01.2021)
3. (revoked - SG 107/20, in force from 01.01.2021)
4. (amend. - SG 86/18, in force from 01.03.2019, revoked - SG 107/20, in force from 01.01.2021)
5. (revoked - SG 107/20, in force from 01.01.2021)
6. (amend. - SG 86/18, in force from 01.03.2019, amend. - SG. 102/19, in force from 01.01.2020)

operators, who are subject to entry in the list under **Art. 57, Para. 4**;

7. (amend. - SG 86/18, in force from 01.11.2019, amend. - SG. 102/19, in force from 01.01.2020) all the spent means for public procurements at the value of Art. 20, Para. 4, 6 and 8.

(2) (Amend. - SG 107/20, in force from 01.01.2021) Contracting authorities shall provide evidence of compliance with the requirements under Art. 15, Para. 1, item 5 and 6 after receiving a written request from the Public Procurement Agency and in the term, determined by it.

(3) (amend. - SG 86/18, in force from 01.03.2019, suppl. -SG. 102/19, in force from 01.01.2020) Information under Para. 1, item 6 shall be drawn up in a form, approved by the Executive Director of the Public Procurement Agency and shall be forwarded within one month of the entry into force of the act, by which the infringement has been proved.

(4) The information under Para. 1, p. 7 shall be drawn up according to a standard form and shall be sent within the term of up to 31 March every year, following the accounted one.

(5) (new - SG 86/18, in force from 01.03.2019, revoked - SG 107/20, in force from 01.01.2021)

### **Implementation of standardized requirements and documents (title amend. - SG 86/18, in force from 01.03.2019)**

Art. 231. (amend. - SG 86/18, in force from 01.03.2019) (1) Draft standardized requirements and documents under Art. 229, para. 1, item 4 shall be developed upon a proposal of a contracting authority or a group of contracting authorities.

(2) The projects under para. 1 shall be coordinated with the competent authorities and the relevant branch organizations and shall be published for discussion on the Public Procurement Portal.

(3) Standardized requirements and documents are approved by the Minister of Finance and the Minister responsible for the respective sector.

(4) Contracting authorities are obliged to apply standardized requirements and documents under para. 3.

(5) (Amend. - SG 107/20, in force from 01.01.2021) Contracting authorities may not apply standardized requirements and documents under para. 3 in whole or in part, where this arises from the nature of the procurement, but are required to state the written reasons which are attached to the contract dossier.

## **Chapter thirtyone.**

### **CONTROL**

#### **Section I.**

#### **External Control, Carried out by the Public Procurement Agency**

#### **Control by random selection (title amend. - SG 86/18, in force from 01.03.2019)**

Art. 232. (In force from 01.09.2016, amend. - SG 86/18, in force from 01.03.2019) (1) (Amend. – SG, 102/19, in force from 01.01.2020) The control under **Art. 229, Para. 1, item 2, letter "d"** shall be applied on the procedures which notices for the announcement of their opening, shall be published in PPR, with the exception of those, which are conducted under **Art. 84, 86, 141, 142 and 148 – 175**.

(2) The procedures under Para. 1 shall be defined through random selection in methods, which accounts for the level of risk.

(3) The control under Para. 1 shall be carried out at 2 stages:

1. before notice of opening the procedure – over the draft decisions, notice, technical specifications, and where it is applicable – over the draft methods for evaluation;

2. after notice the opening of the procedure – over the approved documents under item 1.

(4) Where the opening of the procedure is announced with a preliminary notice, the control under Para. 1 shall also cover the invitation for confirmation of interest before and after its sending to the persons, shown interest.

(5) Verification of technical specifications shall cover compliance with the requirements of Art. 49, para. 2 and, where applicable, compliance with the specifications standardized according to Art. 231.

(6) The control under para. 3, item 1 ends with drawing up a preliminary opinion, which is sent to the contracting authority.

(7) (Amend. – SG, 102/19, in force from 01.01.2020) If the contracting authority fails to comply with the recommendations in the opinion under Para. 6, he shall send written reasons to the Public Procurement Agency on the following work day latest, after the publication in the PPR the opening decision and the notice, which announces the opening of the procedure.

(8) The control under para. 3, item 2 shall conclude with a final opinion, the preparation of which shall also address the reasons given under para. 7

(9) The control ends after the implementation of the stage under par. 3, item 1 in the cases:

1. under Art. 74, Para. 2 or Art. 133, Para. 2;

2. to an emergency assignment under Art. 74, para. 4, Art. 75, para. 7, Art. 76, para. 6, Art. 133, para. 4, Art. 134, para. 3, Art. 135, para. 3, Art. 136, para. 3 and Art. 137, para. 4;

3. of procedures under Art. 18, para. 1, item 12.

(10) The assignor shall attach written motives to the file under Art. 121 when it fails to take into account the findings of the final opinion, and in the cases under para. 9 - from the preliminary opinion.

(11) The conditions and procedure for realization of preliminary control under Para. 1 shall be provided by the Rules on the application of the act.

### **External Expert Assistance**

Art. 232a. (New - SG 86/18, in force from 01.03.2019, revoked - SG 107/20, in force from 01.01.2021)

### **Control over Negotiation procedure**

Art. 233. (1) (amend. - SG 86/18, in force from 01.03.2019) The Public Procurement Agency shall carry out control under Art. 229, Para. 1, item 2, letter "e" over negotiation procedures, which are opened by public and sector contracting authorities under the provision of Art. 79, Para. 1, p. 3, 4, 6, 9 and 10 and Art. 182, Para. 1, p. 1 and 4.

(2) (amend. - SG 86/18, in force from 01.03.2019) The control under para. 1 does not apply to delivery procedures or services for access, transmission and distribution of natural gas, heat or electricity or drinking water to companies holding special or exclusive rights.

(3) (amend. - SG 86/18, in force from 01.03.2019) The control under para. 1 is held after publication of the decision to initiate the procedure in PPR and includes verification of the compliance of indicated legal basis with the reasoning in the opening decision and the evidence submitted by the contracting authority.

(4) (amend. - SG 86/18, in force from 01.11.2019) The Public Procurement Agency shall draw up a statement about the result from the control, which shall be sent to the contracting authority.

(5) The conditions and procedure for carrying out the control under Para. 1 shall be provided by the Rules on the application of the act.

### **Control over some Exceptions from the Act Applicable Field**

Art. 234. (revoked - SG 86/18, in force from 01.03.2019)

## **Control in Amendment of Public Procurement Contract**

Art. 235. (1) (amend. - SG 86/18, in force from 01.03.2019) The control under Art. 229, Para. 1, p. 2, letter "f" shall cover check for presence of the conditions for application of the ground under **Art. 116, Para. 1, p. 2.**

(2) (amend. - SG 86/18, in force from 01.03.2019) For carrying out the control, the contracting authority before signing the additional agreement, shall send substantiated grounds about the reasons, which impose the amendment of the contract.

(3) (Amend. – SG, 102/19, in force from 01.01.2020) For the realized control under Para. 1, the Public Procurement Agency shall prepare an opinion about lawfulness, which shall be sent to the contracting authority.

(4) The conditions and procedure for realization of the control under Para. 1 shall be provided by the Rules on the application of the act.

## **Obligations of the Contracting Authorities, Related to Realization of Control by the Public Procurement Agency**

Art. 236. (amend. - SG 86/18, in force from 01.03.2019) For realization of the control under Art. 232, 233 and 235, the contracting authorities shall be obliged to send to the Public Procurement Agency:

1. the draft documents under Art. 232, Para. 3, p. 1;
2. the evidence to the grounds of the decision – in the cases under Art. 233;
3. (amend. - SG 86/18, in force from 01.03.2019) grounds and evidence – in the cases under Art. 235.

## **Exchange of Information**

Art. 237. The exchange of information, related to realization of control by the Public Procurement Agency shall be realized thoroughly by electronic media in a procedure, provided by the Rules on the application of the act and rules, confirmed by the executive director of the Public Procurement Agency.

## **Section II.**

### **Follow up External Control, Realized by the National Audit Office and the Public Financial Inspection Agency**

#### **Scope**

Art. 238. (1) The follow-up external control on the implementation of this act, including the control of fulfillment of the public procurement contracts and of the framework agreements shall be realized by the National Audit Office (NAO) and by the bodies of the Public Financial Inspection Agency (PFIA).

(2) To control by the NAO shall be subject the contracting authorities, who fall in the scope of the **Act on the Bulgarian National Audit Office.**

(3) The contracting authorities, which fall in the scope of the **Public Financial Inspection Act** shall be checked by the bodies of the PFIA for observation of this act within the frames of financial inspection.

(4) The PFIA bodies shall carry out periodical follow – up checks about the observation of the regime of the public procurements by contracting authorities, who do not fall in the scope of the **Public Financial Inspection Act** based on an approved annual plan.

(5) The orders for carrying out checks by the PFIA bodies shall be issued by the director of the PFIA or by authorized by him officials.

(6) The orders under Para. 5 shall not be subject to appeal.

(7) The Public Procurement Agency director may require from the bodies of the PFIA to realize their powers in a concrete case.

### **Rules on Carrying out Checks by the Public Financial Inspection Agency (PFIA)**

Art. 239. (amend. - SG 86/18, in force from 01.03.2019) (1) In carrying out checks under Art. 238, the bodies of the Public Financial Inspection Agency are entitled to:

1. free access to all information, including classified information, according to their level of access respecting the need-to-know principle, as well as to all documents, including electronically stored, in the audited entity;
2. free access to the office premises and to all employees in the audited entity;
3. check assets and liabilities, the accounting system in place and all documents, including on an electronic medium;
4. require within the terms specified by them from the officials in the audited entity documents, certified copies of documents, information and references and other documents relevant to the checks carried out;
5. require within the terms specified by them from the officials in the audited entity declarations for all bank accounts in the country and abroad;
6. require within the terms specified by them from the officials in the audited entity written explanations on matters relating to the checks carried out;
7. require within the terms specified by them to familiarize themselves with the reports of internal auditors and other control bodies that are kept in the audited organization or person;
8. require certified copies of documents, information and references from legal persons and sole traders outside the audited entity relating to the conduct of checks;
9. carry out counter checks in legal entities and sole traders outside the audited entity whenever necessary in carrying out an check;
10. get acquainted with the materials gathered in legal proceedings as well as with judgments relevant to the activity being audited;
11. search premises, vehicles, and other places as well as other places where documents of the audited entity are kept and to seize documents, records of computer data and computer information data carriers to provide evidence with the assistance of the authorities of the Ministry of the Interior after receiving permission from the court.

(2) The persons in the audited entity are obliged to cooperate with the bodies of the Public Financial Inspection Agency and to provide the necessary documents, information and references related to public procurement.

### **Obligations during Carrying out Checks**

Art. 240. During carrying out checks under **Art. 238**, the control bodies shall be obliged to:

1. to identify themselves with their official card and an order for the check;
2. to reflect exactly the results from the control activity;
3. not to disclose and disseminate information, become known to them while carrying out the checks.

### **Results from the Control**

Art. 241. (1) For the results from the carried out check, the control bodies of the PFIA shall draw up a report, contained the findings, supported by evidence.

(2) (amend. - SG 86/18, in force from 01.03.2019) The report under Para. 1 shall be delivered to the

contracting authority. After handing the report, the head of the audited entity may give a written opinion within 14 days of handing the report.

(3) About the found violations, the control bodies shall draw up acts for administrative violations.

(4) In case of perpetrated crimes, the materials from the check shall be sent to the prosecution.

(5) Where there are violations found of the procedures for awarding public procurements, the relevant parts of the report for the carried out financial inspection, or from the report under Para. 1 for the found violation of the procedures shall be timely sent to the director of the Public Procurement Agency.

(6) Information about the results from carried out control on the observation of this act may be provided only by the director of the PFIA or by authorized by him officials, as well as by the executive director of the Public Procurement Agency in the cases under Para. 5.

### **Interrelations among the Bodies for Appeal and Control**

Art. 242. Where in carrying out their powers under the law, the bodies under Art. 238, Para. 1 shall establish failure to fulfill enforced decisions and/or determination of the Competition Protection Commission, they shall send their findings to the Competition Protection Commission.

### **Section III.**

#### **Other Bodies, Carrying out External Control**

##### **Scope**

Art. 243. Preliminary, current and follow up control over the public procurement of the contracting authorities may also carry out other bodies in the frames of their authorizations.

### **Section IV.**

#### **Management of the Public Procurement in Public Contracting Authorities**

##### **Internal Rules**

Art. 244. (1) The public contracting authorities shall adopt internal rules for management of the cycle of the public procurements, where they spend the annual budget, including with the funds, provided through various European funds and programmes, equal, or larger than BGN 5 mln.

(2) The minimal contents of the rules under Para. 1 shall be provided by the Rules on the application of the act.

##### **Administrative Provision**

Art. 245. (1) The public contracting authorities shall build up internal specialized unit as a part of the administration, responsible for management of the cycle of the public procurements, if the following conditions are present at the same time:

1. the annual budget, including the funds, provided through various EU funds and programmes is at the value above BGN 20 mln.;

2. the average annual number of conducted procedure for awarding public procurements during the previous 3 years exceeds 20.

(2) The number and staff of the unit under Para. 1 shall be determined, depending on the volume and complexity of public procurement management.

### **Section V.**

## **Coordination of the Control Practices**

### **Expert Cooperation Council (title. amend. - SG 86/18, in force from 01.03.2019)**

Art. 246. (amend. - SG 86/18, in force from 01.03.2019) (1) A permanent cooperative expert council is established with the participation of representatives of the National Audit Office, the Public Procurement Agency and the Public Financial Inspection Agency.

(2) The Expert Council shall adopt guidelines for the implementation of the Act in connection with the control activities of the institutions under para. 1.

(3) The Expert Council shall include at least three employees appointed by the heads of the institutions referred to in para. 1, at least one of the representatives being in a senior position.

(4) The Council shall be led by a chairperson elected from among its members for a term of two years. The chairperson may not be a representative of the same institution in two consecutive terms.

(5) The activity of the council shall be assisted by the administration of the Public Procurement Agency.

(6) The preparation, updating or cancellation of the guidelines shall be carried out at the request of the heads of the institutions under para. 1.

(7) The guidelines are published on the websites of the institutions under para. 1.

(8) If necessary in the work of the council under para. 1 representatives of other institutions can be invited.

(9) The activity of the council shall be carried out according to rules, approved by the heads of the institutions under par. 1.

### **Part eight.**

#### **ADMINISTRATIVE PENAL PROVISIONS**

Art. 247. (1) (amend. - SG 86/18, in force from 01.03.2019) Contracting authority, who violated the prohibition under Art. 2, Para. 2, Art. 11, para. 5, Art. 16, Art. 21, Para. 14, 15 or 17, Art. 149, Para. 8, or Art. 150, para. 4 shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included, but not more than BGN 10 000.

(2) The punishment under Para. 1 shall also be imposed on a contracting authority, who violates the prohibition under Art. 7, Para. 3.

Art. 248. (1) (new - SG 86/18, in force from 01.03.2019) Contracting authority who signs a contract without fulfilling the requirements of Art. 14, para. 1, items 5 - 8, Art. 15, para. 1, items 5 and 6 and Art. 149, para. 1, item 13 shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included, but not more than BGN 50 000

(2) (prev. text of Art. 248 - SG 86/18, in force from 01.03.2019) Contracting authority, who fails to fulfill his obligation under Art. 14, Para. 7, Art. 15, Para. 6 or Art. 149, Para. 7, shall be punished by a fine of BGN 1000 to 5000.

Art. 249. Contracting authority, who violates Art. 12, Para. 3, shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included, but not more than BGN 10 000.

Art. 250. Contracting authority, who conducts a procedure under Art. 18, Para. 1, p. 3 - 10 or p. 13, without present conditions, indicated in the act, shall be punished by a fine of 5% of the signed contract value with VAT included, but not more than BGN 10 000.

Art. 251. Contracting authority, who determines a technical specification in violation of Art. 49, Para. 2, shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included, but not more than BGN 10000.



Art. 252. Contracting authority, who violates the prohibition under Art. 174, Para. 5, shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included, but not more than BGN 10 000.

Art. 253. (1) (amend. - SG 86/18, in force from 01.03.2019) Contracting authority, who confirms assessment methods for the offers in violation of Art. 70, Para. 7, 9 or 10, shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included, but not more than BGN 5000.

(2) The punishment under Para. 1 shall also be imposed to a contracting authority, who violates the prohibition under Art. 70, Para. 12.

Art. 254. (1) (prev. text of Art. 254, suppl. - SG 86/18, in force from 01.03.2019) Contracting authority, who signs a public procurement contract in violation of Art. 112, Para. 1, p. 2 or 4 or para. 4, shall be punished by a fine of 2% of the value of the signed contract with VAT included, but not more than BGN 5000.

(2) (new - SG 86/18, in force from 01.03.2019) The punishment under para. 1 shall also be imposed on a contracting authority which has concluded a contract before the end of the 14-day period under Art. 112, para. 6 or in violation of the prohibition under Art. 112, para. 8.

Art. 255. (1) Contracting authority, who signs a framework for a term, longer than the provided by Art. 81, Para. 3 or Art. 169, Para. 2 without present conditions of Art. 81, Para. 4 or Art. 169, Para. 3 shall be punished by a fine in the amount of BGN 1000 to 5000.

(2) Contracting authority, who signs a contract for a term, longer than the one, provided in Art. 113, Para. 1, without some of the conditions, present under Art. 113, Para. 2 or 3, shall be punished by a fine in the amount of BGN 1000 to 5000.

(3) Contracting authority, who amends a public procurement contract or a framework agreement, without present grounds under Art. 116, Para. 1, shall be punished by a fine in the amount of 1% of the value of the signed contract or framework agreement with VAT included, but not more than BGN 10 000.

(4) Contracting authority, who on the basis of a framework agreement sign a contract, in which the conditions differ substantially from the ones, determined by the framework agreement, shall be punished by a fine in the amount of 1% of the value of the signed contract with VAT included, but not more than BGN 10 000.

Art. 255a. (new - SG 86/18, in force from 01.03.2019) Contracting authority who terminates the procedure without the grounds under Art. 110, para. 1 or does not terminate a proceeding where these grounds are present, shall be punished by a fine of BGN 1 000 to BGN 5 000.

Art. 256. (1) (amend. - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) Contracting authority, who concludes a contract or incur costs or undertake to incur costs which reaches or exceeds the minimum threshold under **Art. 20, para. 1 or 2**, without applying the procedure under **Art. 18, Para. 1** depending on the value of the procurement, if there are reasons to do so, shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included and when there is no written contract - from the incurred cost or from the accepted obligation to make an expense but not more than BGN 50,000.

(2) (new - SG 86/18, in force from 01.03.2019, amend. – SG, 102/19, in force from 01.01.2020) Contracting authority, who concludes a contract or incur costs or undertake to incur costs which reaches or exceeds the minimum threshold under **Art. 20, para. 3** without applying the procedure for awarding the public procurement provided for by the law in accordance with the value of the contract if there are grounds to do so, shall be punished by a fine in the amount of 1% of the value of the signed contract with VAT included and when there is no written contract - from the incurred cost or from the accepted obligation to make an expense but not more than BGN 10 000.

(3) (Prev. para. 2 - SG 86/18, in force from 01.03.2019, repealed – SG, 102/19, in force from 01.01.2020)

Art. 256a. (new - SG 86/18, in force from 01.03.2019) Contracting authority who signs a contract without conducting a procedure for awarding a public procurement if there are grounds to do so or fails to

comply with the requirement under Art. 99 shall be punished by a fine in the amount of 10% of the value of the signed contract with VAT included but not more than BGN 50 000.

Art. 256b. (new - SG 86/18, in force from 01.03.2019) Contracting authority who replaced the selected contractor in violation of Art. 116, para. 1, item 4 or 5 or allows replacement or inclusion of a new subcontractor in performance of a public procurement contract in violation of Art. 66, para. 14, shall be punished by a fine in the amount of 2% of the value of the signed contract with VAT included but not more than BGN 5 000.

Art. 256c. (new - SG 86/18, in force from 01.11.2019) Contracting authority who fails to fulfill his obligation under Art. 122, para. 2, shall be punished by a fine in the amount of BGN 1 000 to BGN 3 000.

Art. 257. (amend. - SG 86/18, in force from 01.03.2019) In the cases under Art. 247, 249 - 255 and 256 - 256b, where the contract does not indicate a total value, or it cannot be defined, the amount of the fine shall be determined on the basis of the estimated value specified in the public procurement notice of the incurred cost or of the accepted obligation to incur a contract expense, and if there are not any, from the funds for the respective activity provided in the budget of the contracting authority.

Art. 257a. (new - SG 86/18, in force from 01.11.2019) When the violations under this law are repeated, a double fine shall be imposed.

Art. 258. (1) (amend. and suppl. - SG 86/18, in force from 01.03.2019) In failure to be fulfilled enforced decisions and/or determinations the Competition Protection Commission, or the obligation under Art. 208, Para. 5, a fine shall be imposed to natural persons in the amount of BGN 1000 to BGN 5000, or property sanction to legal persons and sole traders in the amount of BGN 2000 to 10 000.

(2) The Competition Protection Commission shall establish the perpetrated violation and shall impose the punishments under Para. 1 with a decision, which shall be subject to appeal before the Supreme Administrative Court.

(3) The property sanctions and fines on enforced decisions, the Competition Protection Commission shall be subject to collection under the **Tax-Insurance Procedure Code**.

Art. 259. In the cases under Art. 7, Para. 1 and 2, the punishments under Art. 247 - 256 shall be imposed to a certain official.

Art. 260. (1) The acts of finding violations under this act, found by bodies of the NAO shall be drawn up by authorized auditors within the term up to 6 months from the day, on which the violator is found, but not later than 3 years from the violation.

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

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

Art. 261. (1) The acts for found violations under this act shall be drawn up by officials of the PFIA within the term of 6 months from the day, in which the violator has been found by bodies of the Agency while carrying out financial inspection or check, 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 carried out under the **Administrative Violations and Penalties Act**.

### **Additional provisions**

§ 1. All the values in relation to which taxation by VAT is applicable have been indicated in the act without VAT included.

§ 2. In the meaning of this act:

1. "Lawyer" is a person in the meaning of Art. 3, Para. 2 or Art. 11 of the **Lawyers Act**, as well as a person, acquired lawyer's legal right in a third country, where he has the right to exercise procedure representation in an arbitration or conciliation procedure or in procedure under Art. 13, Para. 1, p. 7, letter "a".

2. "Military equipment" is equipment, specially designed or adapted for military purposes and

intended for use as weapon, ammunitions or material with military purpose.

3. (amend. - SG 86/18, in force from 01.03.2019) "Civil procurements" are all procurements, which are not indicated in Art. 148, Para. 1, covering non-military goods and public works, as well as services with logistic purpose, signed in compliance with the conditions under Art. 151.

4. "Public procurement contract" is paid under the act among one or more contracting authorities and one or more contractors with subject public works, supplies and goods or provision of services.

5. "Subcontracting contract" is a paid written contract, signed between the contractor and one or more persons with subject of fulfillment of one or more activities of an awarded public procurement with subject public works, supply of goods or provision of services.

6. "Supply of media service" is a person, under Art. 4 Of the Radio and Television Act.

7. "Member State" is any EU Member State, as well as any state – party of the EEAA.

8. "European technical assessment" is the documented assessment of the exploitation indicators of a public works product in relation to its substantial characteristics under the relevant European document for assessment, as it is defined in Art. 2, p. 12 of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of public works products and repealing Council Directive 89/106/EEC (OJ, L 88/5 of 4 April 2011).

9. "European technical approval" is a positive technical assessment for the validity of the product for a given purpose, which is based on the fulfillment of the substantial requirements to the public workss through the characteristics of the product and the defined conditions for application and use. The European technical approvals are issued by bodies determined by the Member State for this purpose.

10. "Electronic media" are electric equipment for processing (including figure compression) and storage of data, which are transferred, massaged and received by cable, through radio waves, on optical way or through other electric magnetic media.

10a. (new - SG 86/18, in force from 01.11.2019) "Electronic invoice" means an invoice issued, provided and received in a structured electronic format that allows its automatic electronic processing.

11. "Life cycle" are all successive and inter-related stages, including conducting scientific and research and development activities, production, trade activity and conditions for its fulfillment, carriage, use and maintenance during the whole period of existence of the product or public works, of provision of the service – from acquiring the raw material or generation of resources to disposal, cleaning and the end of the exploitation or use.

12. "Interested applicant" is an applicant, who has not been removed from participation at the stage of preliminary selection, as he is not notified about the removal or procedure of appeal of the decision, by which he is removed.

13. "Interested participant" is participant, who has not been removed finally from the procedure. The removal is final, where the participant is notified about the decision, by which he is removed, and this decision is enforced. Interested participant is the one, who has been selected but not selected for contractor.

14. "Interested person " is any person, who has interest in receiving a certain public procurement and who has been harmed, or may be harmed by the alleged violation.

15. "Legislation of the state in which the applicant or participant is established, is:

a) for the natural persons – their native law in the meaning of **Art. 48** of the Code of Private International Law;

b) for the legal persons – the law of the state, provided under **Art. 56 of the Code of Private International Law**;

c) for partnerships or other formations, which are not legal persons – the law of the state where they are registered or established.

16. "requirements for marking" are the requirements, which must meet the public works, goods, services, processes or procedures in order to receive the relevant marking.

17. "Exclusive circumstances" are circumstances, because of unforeseen by the contracting authority events, as natural disaster, incident or accident, as well as other, which harm, threaten or may lead

to follow up occurrence of danger for life or health of people, environment, public order, national security, defense of the country or may make difficult or violate the normal fulfillment of the normatively established activities of the contracting authority.

18. "Innovation" is the application of a new or improved product, service or process, including – but not only production or public works processes, of a new marketing approach or ne organization method of the economic activities, work place or external relations.

19. "Applicant" is an economic subject, who has submitted and application for participation in a restricted procedure, competition procedure with negotiations, negotiation with preliminary invitation for participation, with publication of an notice, competition dialogue, partnership for innovation or participates in a completion for a project.

20. "Classified information" is any information or material, notwithstanding of the form, nature or way of transmission, for which a level of classification or protection for security is defined and which in the interest of national security and under the legal, legislative and administrative provision in force in the relevant Member State require protection against violations, destruction, removal, disclosure, loss or knowing by unauthorized person or any other type of harm.

21. (amend. - SG ) "Conflict of interests" is where the contracting authority, his employees or fired persons outside his structure, who participate in the preparation or awarding the public procurement or may influence the result of it, have interest, which any lead to benefit in the meaning of Art. 54 of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property and for which could be accepted that influences their impartiality and independence in relation to awarding the public procurement.

22. "Crisis" is any situation in a Member State or third country, where a harmful event has occurred, which in its scale increases the harmful events of the everyday life and which threatens substantially life and health of people, has substantial consequences over the property and requires measures for provision of the population with goods of first need. Crisis is present also where the occurrence of such a harmful event is considered as imminent. Crises are also the armed conflicts and wars.

23. "Marking" is any document, certificate, which confirm that the public works, products, services, processes or procedures meet certain requirements.

24. (amend. - SG 86/18, in force from 01.03.2019) "Scientific and research and development activity" are all the activities, which cover fundamental scientific researches, applicable scientific studies and experimental development activity.

Fundamental research includes experimental and theoretical work aimed primarily at gaining new knowledge about the nature of phenomena and subjectable to monitoring facts, regardless of any specific application or use.

Applied research is an original work undertaken to acquire new knowledge. These studies are primarily aimed at achieving a certain practical goal.

Experimental development includes developments that build on existing knowledge gained in research or practical experience and which are made to start the production of new materials, goods or devices, establishing new processes, systems and services, or significantly improving existing ones. Experimental development may include creation of prototypes, ex. facilities for demonstration of achievements of a new concept or new technology in a certain or representative environment.

25. "Unsuitable offer" is the one, which fails to meet the technical specification and of the requirements for fulfillment of the procurement or is submitted by a participant, who fails to meet the selection criteria or for whom some of the indicated reasons for removal are present.

26. "Unsuitable participation application" is the one, which is submitted by an applicant, who fails to meet the selection criteria or for whom some of the indicated in the procedure reasons for removal are present.

27. "Unforeseen circumstance" are the ones, which has occurred after signing the contract, they could not be foreseen while laying the due care, and are not as a result of an action or lack of action on behalf of the parties, bit make it impossible the fulfillment of the agreed conditions.

28. "Objectively insuperable parts" are those of the subject of the public procurement, which because of its nature cannot be awarded to more than one contractor.

29. "Separate position" is the part of the subject of the public procurement, which although it may be an independent subject of a public procurement, it has been systematically connected to the other positions of the public procurement subject.

30. "CPV - Common Procurement Vocabulary" is hierarchal structure nomenclature for classification, divided to sections, groups, classes, categories and sub-categories and applicable to the public procurements in view to be unified various references, used by the contracting authorities for description of the subject of the conducted procedures for awarding public procurement.

31. "Common technical specification" is the one in the area of the information and communication technologies, drawn up in compliance with Art. 13 and 14 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ, L 316/12 of 14 November 2012).

32. "Body for assessment of compliance" is a body, which fulfills activities on assessment of compliance, including calibration, testing, certification and check and is accredited under Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ, L 218/30 of 13 August 2008).

32a. (new - SG 86/18, in force from 01.03.2019) "Ensuring the use of airports" to carry out activities on: maintaining the flight field and developing the airport infrastructure; limiting and removing obstacles; maintaining visual signaling devices; emergency and rescue and fire safety of flights on the territory of the airport and its vicinity; airport security; flight security.

32b. (new - SG 86/18, in force from 01.03.2019) "Ensuring the use of ports" is carrying out the following activities: maintaining the adjacent water area of ports for public transport, the navigational and approach channels; carrying out measuring and dredging activities; maintenance of quay walls, drainage facilities, industrial docking tracks and crane roads, fire, water and sewerage network, power grid - high and low voltage, pavements for public transport within the ports; port security.

33. "Written" or "in writing" is every expression, containing words or figures, which may be read, repeated and then announced, including information, which is transferred and stored by electronic media.

33a. (new - SG 86/18, in force from 01.03.2019) "Repeated" is the violation committed within one year of the entry into force of the penal provision by which the person has been punished for the same type of offense.

34. (amend. - SG 86/18, in force from 01.03.2019) "Subcontractor" is a third person, who has given consent to fulfill a certain share of the subject of the public procurement.

35. "Assisting activities of buying" are activities, assisting buying, more specially the following forms:

a) technical infrastructure, giving possibility to the contracting authorities to award public procurements or sign framework agreements for public works, supplies or services;

b) consultations of conducting or development of the procedure for awarding the public procurement;

c) preparation and direction of the procedures for awarding public procurement on behalf and on the account of the relevant contracting authority.

36. "Post consignment" is addressed consignment in the final form, in which it is transported, notwithstanding of the weight. Apart from the correspondent consignment, these consignments may include books, catalogues, periodicals, post parcels, containing goods with, or without trade value, notwithstanding of the weight.

37. "Postal money orders" are services in the meaning of § 1, p. 9 of the Additional Provision of the Postal Services Act.

38. "Postal services" are services, which contain collecting, sorting, transfer or supply of postal consignments, notwithstanding whether they fall in the scope of the universal post service in the meaning of the Postal Services Act or outside its scope.

39. "Government" is any national, regional or local government of a Member State of a third country.

40. "Transmission" is audio-visual transmission under Art. 2, Para. 3 of the Radio and Television Act or radio transmission under Art. 2, Para. 4 of the Radio and Television Act.

41. "Professional competence" is presence of knowledge, received through education or additional qualification and/or of skills, acquired in the process of exercising a certain position or position fulfilling employment, civil or part time legal relations. Dominant influence on behalf of

42. "Public undertaking" is any undertaking, on which the public contracting authorities under Art. 5, Para. 2, p. 1 – 14 may exercise dominant influence. Dominant influence on behalf of a public contracting authority under Art. 5, Para. 2, p. 1 – 14 shall be offered in any of the following cases, where the contracting authority directly or indirectly:

- a) possesses the major share of the written capital of the undertaking;
- b) controls the majority of votes, related to assets/shares, issued by the undertaking;
- c) may appoint more than half of the members of the management or supervision body of the undertaking.

43. "Public legal organization" is a legal person, for which the following conditions are fulfilled:

a) it has been established with a concrete purpose to satisfy needs of common interest, which are of no industrial or commercial nature;

b) funding is by more than 50 % of state territorial or local bodies or of other public legal organization or is a subject of management control on behalf of these bodies; or has management or supervision body, more than half of its members are appointed by a public contracting authority under Art. 5, Para. 2, p. 1 – 14. The needs of common interest are of industrial or commercial nature, where the person acts in normal market conditions, aims at realizing profit, where independently bears losses from its activity.

A medical establishment – legal person, whose capital is at least 2 thirds private ownership, funded by more than 50% of state, regional or local bodies or other public legal organizations, or is subject to managerial control on behalf of these bodies; or has administrative, management or supervision body, more of the half of its members are appointed by the state, regional or local bodies or by other public legal organizations and which has industrial or commercial nature, although it satisfies the needs of common interest, is not a public legal organization in the meaning of the Public Procurement Act.

43a. (new - SG 86/18, in force from 01.03.2019) "Public funds" are those within the meaning of § 1, item 1 of the additional provision of the Act on the Financial Management and Control in the Public Sector.

43b. (new - SG 86/18, in force from 01.03.2019) "Syntax" means a machine-readable language or dialect used to represent the data elements contained in the electronic invoice.

44. "Related undertaking" is undertaking, whose annual reports are consolidated with those of the contracting authority in compliance with the Accountancy Act or any undertaking, which:

a) may be directly or indirectly under dominating influence on behalf of the contracting authority, or

b) may manage dominating influence over the contracting authority, or

c) together with the contracting authority falls under dominating influence of another undertaking because of ownership. Financial participation or the rules, which are applied to it.

45. "Related persons" are the ones in the meaning of § 1, p. 13 and 14 of the Additional Provision of the Public Offering of Securities Act.

46. (amend. - SG 105/18, in force from 01.01.2019) "Specialized undertakings or cooperation of

disabled people" are those in the meaning of Art. 48, Para. 1 of the People with Disabilities Act or their equivalent under the legislation of a Member State.

47. "Special or exclusive rights" are rights, provided by a competent body under a legal legislative or administrative act, under which exercising of sector activities is kept for one or more subjects, because of which the possibility of other subjects to carry out such an activity is affected. Special or exclusive right shall not be the ones, which have been provided by a procedure, in which sufficient publicity has been provided and which have been:

a) (suppl. - SG 96/17, in force from 02.01.2018) provided under this act or under the Concessions Act or the Underground Natural Resources Act, or

b) procedures in other legal acts of the EU upon Annex No 12, which provide sufficient preliminary transparency for provision of permits on the basis of objective criteria.

48. "Standard" is a technical specification, adopted by a recognized body of standardization for multiple or permanent application, and which may be:

a) (amend. - SG 86/18, in force from 01.03.2019) "international standard" – standard within the meaning of Art. 2 (1) (a) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council;

b) (amend. - SG 86/18, in force from 01.03.2019) "European standard" – standard within the meaning of Art. 2 (1) (a) of Regulation (EU) No 1025/2012;

c) "national standard" – adopted by a national standardization organization and accessible for the wide public.

49. "Standard in the area of defense" is a technical specification, compliance with which is not obligatory and which is approved by standardization organization, specialized in drawing up technical specifications for multiple or permanent application in the defense area.

50. "Economic subject" is any natural, or legal person or formation, or partnership by such persons and/or formations, which offer on the market implementation of public works and/or works, supply of goods or provision of services.

51. "Public works" is the result of public works works or activities in the area of public works, which is sufficient for itself to fulfill economic or technical function.

52. "Joint venture" is an agreement partnership of sector contracting authorities for public works activities under Art. 123.

53. "Technical standard" is any result, created by the European bodies of standardization, different from the European standards, according to procedures, adapted to the development of the market needs.

54. "Technical specifications" are:

a) in public procurement for public works – all technical recommendations, which are contained in the public procurement documentation, defining the required characteristics of materials, goods or consummative, so that they should meet the provided by the contracting authority use; these characteristics must include level of fulfillment according to the requirements for environment protection and the climate, design, which meet all the requirements (including access for disabled people) and compliance assessment, work characteristics, safety or dimensions, including the procedures for provision of quality, terminology, symbols, testing and testing methods, packing, marking and labelling, instructions for use and production processes and methods of each stage of the life cycle of public works; the characteristics also include rules for design and price formation, conditions for testing, inspection and accepting the public works and methods or technologies of public works, as well as all other technical conditions, which the contracting authority may impose according to general or special normative acts in relation to finished public works and the materials of parts, included in it;

b) in public procurement for supply or services – specification in type of a document, in which the

required characteristics of the product are defined, or the service, as a level of quality, level of fulfillment to the requirements for environment and climate protection, design, which meets all the requirements (including access for disabled people) and compliance assessment, work characteristics, application of the product, safety and dimensions, including comparable to the product requirements in relation to the name, in which it is sold, terminology, symbols, testing and testing methods, packing, marking and labelling, instructions for use and production processes and methods of each stage of the life cycle of the supply or service and compliance assessment procedures;

55. "Third country" is a country, which is not a Member State.

55a. (new - SG 86/18, in force from 01.03.2019) "Third person" means any person other than the applicant or the participant.

56. "Management of the system of a single account and fiscal reserve" includes:

a) centralization of means, receipts and payments through transit accounts and CEBRA and related to its services, activities, programme and resource provision under the Act on Public Finances;

b) management of liquidity of the system of a single account and investment of temporary free funds in financial instruments under the Act on Public Finances;

c) management of assets of the State fund for guaranteeing sustainability of the state pension system under the Act on the State Fund for Guaranteeing Sustainability of the state pension system;

d) management of the other accounts and assets, included in the fiscal reserve.

57. "Services, different from postal services" are services, which are provided in the following areas:

a) services of post (as well as the services, which precede, so the services, which are for sending, including "distribution services in the post office");

b) services of postal consignment, which are not covered by letter "a", as direct correspondence without indicated address.

58. "Conditions for fulfillment of the procurement" are defined by the contracting authority concrete and objective requirements, related to processes of its implementation, apart from the criteria for awarding the procurement. The conditions for fulfillment of the procurement shall not be subject to comparable assessment and do not influence the offer classification.

59. (amend. - SG 86/18, in force from 01.03.2019) "Participant" is an economic subject, who has produced and offer or conceptual design or has been invited to participate in negotiations.

60. "Fixed networks for public services" are:

a) transferable and distribution networks in the meaning of the Energy Sector Act – for the activities under Art. 124 and 125;

b) water supply system and sewage system in the meaning of § 1, Para. 1, p. 32 and 33 of the Additional Provisions of the Act on Waters – for the activities under Art. 124.

61. "Financial instruments" are financial instruments in the meaning of the Markets in Financial Instruments Act.

62. "People in disadvantage position" are people in the meaning of Art. 2 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Art. 107 and 108 of the Treaty (OJ, L 187/1 of 26 June 2014).

63. "Central purchase body" is a contracting authority, carrying out centralized activities of purchasing and eventually assistance activities on purchasing. For procurements in the area of defense and/or security central body of purchases may be contracting authority, who carries out centralized activities of purchasing or European public body, which:

a) acquired supplies and/or services, intended for contracting authorities, or

b) signs contracts or framework agreements for public works, supplies or services, intended for contracting authorities.

64. "Centralized activities of purchasing" are activities, which are carried out permanently in one of the following forms:



- a) acquiring supplies and/or services, intended for the contracting authorities;
- b) Awarding public procurements or signing framework agreements for public works, supplies or services, intended for contracting authorities.

65. "Sensitive equipment, public works or service" is equipment, public works or service for security, which include, require and/or contain classified information.

66. (suppl. - SG 86/18, in force from 01.03.2019) "Annual Total Turnover" is the sum of net sales revenue within the meaning of the **Accountancy Act**.

67. "Turnover in the area, falling in the scope of the procurement" is a sum equal to the part of net revenues from sales, realized by an activity, falling in the scope of the public procurement.

§ 3. This act introduces the provisions of:

1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ, L 94/65 of 28 March 2014);

2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ, L 94/375 of 28 March 2014);

3. Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ, L 216/76 of 20 August 2009);

4. Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ, L 335/31 of 20 December 2007);

5. Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts

6. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

7. (new - SG 86/18, in force from 01.03.2019) Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles;

8. (new - SG 86/18, in force from 01.03.2019) Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement.

### **Transitional and concluding provisions**

§ 4. This act shall repeal the Public Procurement Act (publ., SG, 28/2004; amend., 53/2004, 31, 34 and 105/2005, 18, 33, 37 and 79/2006, 59/2007, 94, 98 and 102/ 2008, 24 and 82/2009, 52, 54, 97, 98 and 99/2010, 19, 43, 73 and 93/2011, 33, 38 and 82/ 2012, 15/2013, 35 and 40/2014 and 8, 12, 14, 17, 35 and 79/2015).

§ 19. The framework agreement contracts, signed by the enforcement of this act shall be awarded under the procedure, in force on the date of the decision for opening a procedure for signing a framework agreement.

§ 20. The dynamic systems for supplies and the systems for preliminary selection, created by the enforcement of this act, shall keep their force by 30 June 2016.

§ 21. Where by the enforcement of this act and complaint has been submitted to the Competition Protection Commission, or before the Supreme Administrative Court, the procedure of the complaint shall be formed and finished under the current procedure.

§ 22. The preliminary control of the documents, entered the Public Procurement Agency by the enforcement of this act shall be carried out under the current procedure.

§ 23. To public procurement contracts or framework agreements, signed by the enforcement of this

act, the provisions of Art. 116, and 118 shall apply.

§ 24. (revoked - SG 86/18, in force from 18.10.2018)

§ 25. (1) The contracting authorities shall build the units under Art. 245, Para. 1 within the term by 31 December 2016.

(2) The executive administrations under Art/ 36 of the Administration Act shall establish the units within the frames of established in compliance with rules of procedure number of their staff.

§ 26. (1) (In force from 16.02.2016) The Council of Ministers shall adopt the Rules on the implementation of the act, the Ordinance under Art. 13, Para. 2 and the tariff under Art. 220, Para. 1 within the term of 15 April 2016.

(2) Within 3-month term from the enforcement of the act, the Council of Ministers, upon proposal of the Minister of Labour and Social Policy shall determine by a decision a list of the goods and service under the Common terminological dictionary under Art. 12, Para. 1, p. 1.

§ 27. (In force from 16.02.2016) The Minister of Transport, IT and Communications shall issue the Ordinance under Art. 71, Para. 5 within the term of 15 April 2016.

§ 28. (amend. - SG 63/17, in force from 30.06.2017, revoked - SG 86/18, in force from 18.10.2018)

§ 29. The act shall come into force from 15 April 2016, with the exception of:

1. (amend. - SG 63/17, in force from 30.06.2017, amend. - SG 86/18, in force from 18.10.2018) Art 39, which shall come into force in relation to the central bodies for purchases – from 1 January 2017;

2. (revoked - SG 86/18, in force from 18.10.2018)

3. (amend. - SG 63/17, in force from 30.06.2017, revoked - SG 86/18, in force from 18.10.2018)

4. Art. 59, Para. 4, which shall come into force from 1 July 2018;

5. Art. 67:

a) Para. 4 – on the obligatory provision of ESPD in electronic mode, which shall come into force from 1 April 2018;

b) Para. 8, p. 2, which shall come into force from 1 June 2018;

6. Art. 97, which shall come into force from 1 January 2017;

7. Art. 232, which shall come into force from 1 September 2016;

8. §. 26, Para. 1 and § 27, which shall come into force from the day of publication in the State Gazette.

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The act has been adopted by the 43rd National Assembly on 2 February 2016 and has been sealed by the official stamp to the National Assembly.

### **Transitional and concluding provisions**

## **TO THE ACT AMENDING AND SUPPLEMENTING THE TAX-INSURANCE PROCEDURE CODE**

(PROM. - SG 63/17, IN FORCE FROM 04.08.2017)

§ 83. (1) The Act shall enter into force on the day of its promulgation in the State Gazette with the exception of:

1. § 64, which shall enter into force on 1 January 2022;

2. § 68, item 1, which shall enter into force on 1 January 2018;

3. § 68, item 2, which shall enter into force on 30 June 2017;

4. § 69, which shall enter into force on 1 January 2018;

5. § 71, Para. 1, which shall enter into force on 26 April 2017;

6. § 6 and § 72 - § 82, which shall enter into force on 1 January 2018.

(2) Within 6 months from the entering into force of this Act, the secondary legislation acts containing the obligation to present a certificate of the presence or absence of obligations of the persons, shall be brought into compliance with it.

**Transitional and concluding provisions  
TO THE CONCESSIONS ACT**

(PROM. - SG 96/17, IN FORCE FROM 02.01.2018)

§ 41. The Act shall enter into force within one month from its promulgation in the State Gazette with the exception of:

1. Article 45, Para. 5, which enters into force within 12 months of the promulgation of the Act in the State Gazette;
2. Article 191, Para. 2-5, Art. 192 and 193, which shall enter into force on 31 January 2019.

**Concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE LABOUR CODE**

(PROM. - SG 102/17, IN FORCE FROM 22.12.2017)

§ 9. The Act shall enter into force on the day of its promulgation in the State Gazette with the exception of § 2, item 2 and § 6, items 3, 4 and 5, which shall enter into force on 31 March 2018.

**Transitional and concluding provisions  
TO THE ACT ON COUNTERACTING CORRUPTION AND ON SEIZURE OF ILLEGALLY  
ACQUIRED PROPERTY**

(PROM. - SG 7/18)

§ 28. In the Public Procurement Act everywhere the words "Art. 2, Para. 3 of the Act on Prevention and Findings of Conflict of Interests" are replaced by the words "Art. 54 of the Act on Counteracting Corruption and on Seizure of Illegally Acquired Property".

**Transitional and concluding provisions  
TO THE MARKETS IN FINANCIAL INSTRUMENTS ACT**

(PROM. – SG 15 OF 2018, IN FORCE FROM 16.02.2018)

§ 26. (1) When awarding public procurement contracts and concluding framework agreements and conducting competitions for projects, for which after the entry into force of this Act it has been decided to initiate a procedure, and an advertisement is published under Art. 187, Para. 1 of the Public Procurement Act, or an invitation has been sent under Art. 82, Para. 4, item 1 and Art. 191 of the Public Procurement Act, the removal under Art. 54, Para. 1, item 6 of the Public Procurement Act for violations under Art. 61, Para. 1, Art. 62, Para. 1 or 3, Art. 63, Para. 1 or 2 and Art. 228, Para. 3 of the Labour Code shall apply only when the violations have been committed after its entry into force.

(2) When awarding public procurement contracts and concluding framework agreements and conducting competitions for projects, for which prior to the entry into force of this Act it has been decided to initiate a procedure, and an advertisement is published under Art. 187, Para. 1 of the Public Procurement Act, or an invitation is sent under Art. 82, Para. 4, item 1 and Art. 191 of the Public Procurement Act, the removal under Art. 54, Para. 1, item 6 of the Public Procurement Act for violations under Art. 61, Para. 1, Art. 62, Para. 1 or 3, Art. 63, Para. 1 or 2 and Art. 228, Para. 3 of the Labour Code shall not apply to offenses committed prior to its entry into force, unless the act of the contracting authority, with which the person has been removed, has entered into force.

§ 27. Awarding of public procurement contracts, conclusion of framework agreements and conducting competitions for projects, for which prior to the entry into force of this Act a decision has been taken to open procedure, an announcement is published under Art. 187, Para. 1 of the Public Procurement Act, or an invitation is sent under Art. 191 of the Public Procurement Act, with the exception of the cases under § 26, shall be completed according to the procedure so far.

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§ 42. This Act shall enter into force on the day of its promulgation in the State Gazette, with the exception of:

1. Article 222, Para. 1-3, which shall enter into force on 3 September 2019;
2. paragraph 13, item 12, letter a, which shall enter into force on 1 January 2018;
3. paragraph 13, item 12, letter b, which shall enter into force on 21 November 2017;
4. paragraph 17, item 37 concerning Art. 264a and item 39 regarding Art. 273b, which shall enter into force on 1 January 2020.

**Transitional and concluding provisions  
TO THE ACT SUPPLEMENTING THE PUBLIC PROCUREMENT ACT**

(PROM. - SG 17/18, IN FORCE FROM 23.02.2018)

§ 2. The Act shall enter into force on the day of its promulgation in the State Gazette.

**Concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE LABOUR MIGRATION AND  
LABOUR MOBILITY ACT**

(PROM. - SG 24/18, IN FORCE FROM 23.05.2018)

§ 55. The Act shall enter into force on 23 May 2018.

**Transitional and concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT**

(PROM. - SG 49/18)

§ 12. Any complaints submitted to the Commission for Protection of Competition prior to the entry into force of this Act shall apply to the present order.

**Transitional and concluding provisions  
TO THE ACT AMENDING AND SUPPLEMENTING THE ADMINISTRATIVE PROCEDURE  
CODE**

(PROM. - SG 77/18, IN FORCE FROM 01.01.2019)

§ 156. The Act shall enter into force on 1 January 2019, with the exception of:

1. paragraphs 4, 11, 14, 16, 20, 30, 31, 74 and § 105 item 1 on the first sentence, and item 2 which shall enter into force on 10 October 2019;
2. paragraphs 38 and 77, which shall enter into force two months after the promulgation of this Act in the State Gazette;
3. paragraph 79, items 1, 2, 3, 5, 6 and 7, § 150 and 153, which shall enter into force on the day of the promulgation of this Act in the State Gazette.

**Transitional and concluding provisions**  
**TO THE ACT AMENDING AND SUPPLEMENTING THE ROADS ACT**

(PROM. - SG 80, IN FORCE FROM 28.09.2018)

§ 33. The Act shall enter into force on the day of its promulgation in the State Gazette, except for:

1. paragraph 1, items 1, 3 and 16, which shall enter into force on 16 August 2019;

2. paragraph 2, which shall enter into force:

a) from 1 January 2019 - regarding road vehicles with a total technically permissible maximum laden mass of up to or equal to 3,5 tonnes, and

b) from 16 August 2019 - regarding road vehicles with a total technically permissible maximum laden mass exceeding 3,5 tonnes;

3. paragraph 32, which enters into force within 9 months of the promulgation of the Act in the State Gazette, with the exception of item 1, letter "a" - regarding Art. 7b, para. 2 for mobile video surveillance devices and Art. 7b, para. 4, and 5 - regarding Art. 95a, para. 2, Art. 95b, item 2 and Art. 95c, which shall enter into force within 18 months of the promulgation of the Act in the State Gazette.

**Transitional and concluding provisions**  
**TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT**

(PROM. - SG 86/18, IN FORCE FROM 01.03.2019, AMEND. AND SUPPL. - SG 83/19, IN FORCE FROM 01.11.2019, AMEND. AND SUPPL. – SG, 102/19, IN FORCE FROM 01.01.2020, AMEND. - SG 107/20, IN FORCE FROM 01.01.2021)

§ 131. (amend. - SG 83/19, in force from 01.11.2019) (1) The contracting authorities shall start to fulfill the obligation to use the centralized electronic platform under Art. 39a, Para. 1 according to a schedule adopted by a decree of the Council of Ministers by 15 January 2020.

(2) (Amend. - SG 83/19, in force from 01.11.2019) For public procurement, the award of which has been commenced by 31 December, 2019, included, the award procedure shall be applied, effective until November 1, 2019. This order shall also apply to the conclusion and implementation of framework agreements and contracts, including the transmission of the information required.

(3) (New, SG, 102/19, in force as of 01.01.2020) For public procurements, the award of which commenced after 31 December 2019, but up to the date, specified in the schedule under Para. 1, the award procedure shall apply until 1 November 2019, where the provisions of Art. 6, Para. 1, Art. 14, Para. 1, item 5 and 7, Art. 20, Para. 1, Art. 21, Para. 2, Art. 54, Para. 1, item 5, letter „a", Art. 100, Para. 3 and 12, Art. 107, items 5 and 6, Art. 112, Para. 9 and 10, Art. 112a and Art. 149, Para. 1, item 13 shall apply in the version from 1 January 2020. This procedure shall also apply to the conclusion and implementation of framework agreements and contracts, including the forwarding of the required information.

(4) (New – SG, 102/19, in force from 01.01.2020) Paragraphs 2 and 3 shall also apply to design contests, opened by the date, specified in the schedule under Para. 1.

§ 132. The preliminary control of the documents, received by the Public Procurement Agency before the entry into force of this Act, shall be carried out according to the existing procedure.

§ 133. (1) Para. 66 also applies to public procurement contracts or framework agreements concluded prior to the entry into force of this Act.

(2) Para. 77 also applies to public procurement contracts or framework agreements in the areas of defense and security concluded prior to the entry into force of this Act.

§ 134. (Amend. – SG, 102/19, in force from 01.01.2020) The contracting authorities shall maintain the profiles, created by them, outside the platform under Art. 39, Para. 1, and publish in them the necessary information about the procurements, opened by the date, specified in the schedule under § 131, Para. 1. The profile shall be maintained until one year has elapsed from:

1. finalization of the contract fulfillment;
2. termination of awarding the procurements;
3. completion of the implementation of the last contract, concluded on the basis of a framework agreement or a qualification system.

§ 135. The external experts, who are included in the list under Art. 229a, para. 2 until the entry into force of this Act shall be entered ex officio in the list under Art. 232a, para. 2.

§ 136. (In force from 18.10.2018) By 1 March 2019, the competent authorities shall bring into line with this Act with the secondary legislation for its implementation.

§ 137. (In force from 18.10.2018, amend. - SG 83/19, in force from 01.11.2019, amend. -SG. 102/19, in force from 01.01.2020) (1) (Amend. - SG 107/20, in force from 01.01.2021) By 1 January 2023, the central purchasing body in the "Health" sector and the central purchasing body for municipalities shall conduct public procurement procedures and the conclusion of framework agreements through the platforms, used by them, provided that they meet the requirements of Art. 39a, para. 7, with the exception of the creation and publication of decisions under Art. 22, Para. 1, items 1 and 2, and notices under Art. 35 and Art. 36, Para. 1, item 3 and 6, which is done through the platform under Art. 39, Para. 1. The decisions under Art. 22, para. 1, items 3 - 6 and 8 and para. 8 shall be served through the platforms used by the central authorities.

(2) In the cases under Para. 1, the contracting authorities, which conduct an internal competitive selection, on the basis of framework agreements, concluded by the central purchasing body in the sector "Health" and the central purchasing body for the municipalities, shall award the contracts through platforms, used by those bodies.

(3) The procurement award notices, amending and concluding contracts, concluded after an internal competitive selection under Para. 2 shall be entered respectively on the central purchasing body's file in the sector "Health" and the central purchasing body for the municipalities in the platform under Art. 39a, Para. 1.

(4) (Amend. - SG 107/20, in force from 01.01.2021) Until January 1, 2023, the documents on procedures for concluding framework agreements, as well as for the contracts awarded on the basis thereof, shall be separated in individual electronic files on the platforms of the central purchasing bodies under para. 1.

§ 138. (In force from 18.10.2018) Proceedings filed before the Supreme Administrative Court in private appeals, submitted prior to the promulgation of this Act, shall be finished according to the existing procedure.

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§ 141. The Act shall enter into force on 1 March 2019, with the exception of:

1. paragraphs 95, 97, 98, 100, 102, 136 and 138, which shall enter into force on the day of the promulgation of this Act in the State Gazette;

2. paragraph 14, item 3, § 22, § 24 on the revocation of Art. 40 and 41, § 42, item 2, § 43, item 2, § 44, item 2, § 47, 51, 52, 53, § 69, item 2, § 127 and 137, which will enter into force on 18 October 2018;

3. Paragraph 10, item 4, § 12, § 14, items 1 and 2, § 16, 17, 18, 20, 21, § 23 concerning Art. 39a, para. 1, para. 2, items 1-4, 8, 10 and 11 and para. 4 - 11, § 24 on the revocation of Art. 43 § 25, § 39, item 1, § 42, item 1, § 43, item 1, § 44, item 1, § 65, 67, 68, § 69, item 1, § 70, 73, 76, § 81, item 2, § 84, 85, § 86, item 3, § 88, 90, § 91, item 2, § 94, 99, § 105, item 1, letter "d", § 109, item 3, § 122 concerning Art. 256c and § 130, which shall enter into force on 1 November 2019;

4. (amend. – SG, 102/19, in force from 01.01.2020) Para. 19 on Art. 36a, para. 5, which shall come into force from 1 January 2020 and § 23 concerning Art. 39a, para. 2, items 5 - 7 and 9 and para. 3, which shall enter into force on 1 January 2021.

### **Transitional and concluding provisions**

#### **TO THE ACT ON BUDGET OF THE NATIONAL HEALTH INSURANCE FUND FOR 2019**

(PROM. - SG 102/18, IN FORCE FROM 01.01.2019)

§ 43. The Act shall enter into force on 1 January 2019, with the exception of:

1. paragraph 29, item 13, letter "b", items 14 and 15, § 30 and § 42 item 2, which shall enter into force on the day of promulgation of the Act in the State Gazette;

2. paragraph 28, items 6 - 12 and items 14 - 19, § 35, item 3 with the exception of Art. 7a, Para. 4 and Art. 7c, Para. 4, item 5 and 6, item 8 - 22 and items 36 - 40, § 41, items 2 - 8, item 9, letters "a" and "c" and item 10 which shall enter into force on 1 April 2019;

3. paragraph 29, item 5, letter "a" on the words "through the budget of the Ministry of Health for the payment of medical devices, aids, devices and facilities for people with disabilities", item 9, letter "a" on the words "as well as medical devices, aids, devices and facilities for people with disabilities", item 9, letter "d" on the words "aids, devices and facilities for people with disabilities" and on the words "as well as with the persons carrying out activities related to delivery and repair of medical devices, aids, devices and facilities for people with disabilities, registered as traders and entered in the register of persons, performing activities related to delivery and repair of medical devices, aids, devices and facilities for people with disabilities", and item 9, letter "e" regarding Para. 15, item 3 and Para. 16 on the words "as well as persons carrying out activities related to delivery and repair of medical devices, aids, devices and facilities for people with disabilities, registered as traders and entered in the register of persons performing activities related to delivery and repair of medical devices, aids, devices and facilities for people with disabilities - for the payment of medical devices, aids, devices and facilities for people with disabilities", item 25, letter "a" - Para. 1, item 13 on the words "aids, devices and facilities for people with disabilities" and item 25 concerning Para. 4 on the words "persons carrying out activities related to delivery and repair of medical devices, aids, devices and facilities for people with disabilities, registered as traders and entered in the register of persons, performing activities related to delivery and repair of medical devices" and "and aids, devices and facilities for people with disabilities", § 36 and § 37 concerning Art. 14, Para. 8, item 2, letter "b", which shall enter into force from 1 January 2020.

### **Transitional and concluding provisions**

#### **TO THE PEOPLE WITH DISABILITIES ACT**

(PROM. - SG 105/18, IN FORCE FROM 01.01.2019)

§ 28. The Act shall enter into force on 1 January 2019, with the exception of:

1. Article 73, para. 3 and § 16 and 18, which shall enter into force on 1 January 2020;

2. Paragraph 7, para. 6, which shall enter into force on the day of the promulgation of the law in the State Gazette;

3. Paragraphs 12 and 13, which shall enter into force on 1 January 2021.

#### **Transitional and concluding provisions**

### **TO THE ACT AMENDING AND SUPPLEMENTING THE MARKETS IN FINANCIAL INSTRUMENTS ACT**

(PROM. - SG 83/19, IN FORCE FROM 01.11.2019)

§ 82. This Act shall enter into force on the day of its promulgation in the State Gazette, except for:

1. paragraph 60, which enters into force 6 months after the promulgation of the Act in the State Gazette;

2. paragraph 67, items 6 and 7, which enter into force on the day on which starts to apply the decision of the European Central Bank for close cooperation pursuant to Art. 7 of Council Regulation (EU) № 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;

3. paragraph 77, which enters into force on 1 November 2019.

#### **Transitional and concluding provisions**

### **TO THE ACT, AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT**

(PUBL. – SG, 102/19, IN FORCE FROM 01.01.2020)

§ 58. (1) Qualification systems, established until the entry into force of the obligation to use the platform under Art. 39a, Para. 1 shall remain in force until 31 December 2020.

(2) Contracts, based on qualification systems under Para. 1 shall be awarded in the procedure, in which the system is established. The required information, relating to the award and performance of contracts shall also be forwarded in that procedure.

§ 59. Within one month after the entry into force of this Act, contracting authorities shall terminate contracts, which do not comply with the provisions of Art. 14, Para. 1, item 5, 6 and 7 and Art. 149, Para. 1, item 13.

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§ 63. The Act shall enter into force from 1 January, 2020, with the exception of:

1. Para. 61, which shall enter into force from 29 November, 2019;

2. Para. 62, which shall enter into force on the day of its promulgation in the State Gazette.

#### **Concluding provisions**

### **TO THE ACT AMENDING AND SUPPLEMENTING THE HEALTH ACT**

(PROM. - SG 23/20, IN FORCE FROM 14.03.2020)

§ 4. The Act shall enter into force on the day of its promulgation in the State Gazette.

#### **Transitional and concluding provisions**

### **TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT**

(PROM. - SG 107/20, IN FORCE FROM 01.01.2021)

§ 40. Paragraph 15, item 1 shall not apply to internal competitive elections, the holding of which began before the entry into force of this Act.

§ 41. Paragraph 19 shall also apply to public procurement contracts or framework agreements concluded before the entry into force of this Act.

42. The framework agreements concluded by the sectoral contracting authorities under the repealed



Public Procurement Act (prom., SG, 28 of 2004; amend. 53 of 2004, 31, 34 and 105 of 2005, 18, 33, 37 and 79 of 2006, 59 of 2007, 94, 98 and 102 of 2008, 24 and 82 of 2009, 52, 54, 97, 98 and 99 of 2010, 19, 43, 73 and 93 of 2011, 33, 38 and 82 of 2012, 15 of 2013, 35 and 40 of 2014, 8, 12, 14, 17, 35 and 79 of 2015; revoked 13 of 2016), shall remain in force until 30 June 2021.

§ 43. The control of random selection under Art. 232 of the draft documents, submitted to the Public Procurement Agency before the entry into force of this Act, shall be carried out according to the existing procedure with the participation of external experts.

§ 44. Within three months from the entry into force of this law, the Council of Ministers shall bring into compliance with it the normative acts on its implementation.

§ 45. The Act shall enter into force on January 1, 2021, with the exception of § 9, item 3 regarding Art. 39a, para. 6, which shall enter into force on 1 January 2023.

**Transitional and concluding provisions  
TO THE ACT SUPPLEMENTING THE PUBLIC PROCUREMENT ACT**

(PROM. - SG 62/22, IN FORCE FROM 05.08.2022)

§ 2. The methodology under Art. 117a, para. 1 also applies to amendments to public procurement contracts or framework agreements on the basis of Art. 116, para. 1, items 2 and 3, concluded before the entry into force of this Act.

§ 3. The Act enters into force on the day of its promulgation in the State Gazette.

**Annex № 1 to Art. 3, Para. 1, p. 1, letter "a"**

NACE, Rev. 1 <sup>(1)</sup>					
SECTION E			PUBLIC WORKS		
Sub Section	Group	Class	Subject	Notes	
45			Public works	This section includes: -construction of new buildings and facilities, reconstruction and general repair works	45000000
	45.1		Preparation of the construction site		45100000
		45.11	Works of destruction and cleaning buildings, ground works	This class includes: - destruction of buildings and other constructions; - cleaning construction sites	45110000

				<ul style="list-style-type: none"> <li>- ground works: digging works, removal of filthy layer of the soil, leveling of construction sites, work on digging ditches, cleaning from stones, blasting, etc.</li> <li>- works on preparation of sites for mining;</li> <li>- removing silts and other preparation for mining.</li> </ul> <p>This class also includes:</p> <ul style="list-style-type: none"> <li>- drainage of a construction site;</li> <li>- drying farm land and forests</li> </ul>	
		45.12	Drilling and boring works	<p>This call includes:</p> <ul style="list-style-type: none"> <li>- drilling, boring works and taking samples for construction, geophysical, geological and similar purposes.</li> </ul> <p>This class includes:</p> <ul style="list-style-type: none"> <li>- drilling for petrol or gas rigs, see 11.20;</li> <li>- drilling for water wells, see 45.25;</li> <li>- digging shafts, see 45.25;</li> <li>- testing petrol and gas fields, geo-physical, geological and seismic studies, see 74.20.</li> </ul>	45120000
	45.2		Construction and mounting works of buildings and construction facilities or parts of them; civil construction		45200000
		45.21	Construction and mounting works of general building of buildings and construction facilities	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- building all kinds of buildings, construction and mounting works of general building;</li> <li>- bridges, including viaducts, tunnels and subways;</li> <li>- pipelines, communication lines and electro-wires;</li> <li>- civil wires, civil communication lines and</li> </ul>	<p>45210000</p> <p>With exception of:</p> <ul style="list-style-type: none"> <li>- 45213316</li> <li>45220000</li> <li>45231000</li> <li>45232000</li> </ul>

				<p>electrical lines;</p> <ul style="list-style-type: none"> <li>- assistance civil construction;</li> <li>- mounting and installation of pre-fabricated constructions on site.</li> </ul> <p>This class includes:</p> <ul style="list-style-type: none"> <li>- services, related to drilling for oil and gas, see 11.20;</li> </ul>	
				<ul style="list-style-type: none"> <li>- installing complete pre-fabricated constructions from parts – own production, not from concrete, see 20, 26, 28;</li> <li>- construction works, not buildings, stadiums, swimming pools, sport sites, tennis courts, golf courses etc. see 45.23;</li> <li>- construction mounting works of installations, see 45.3;</li> <li>- finishing construction works, see 45.4;</li> <li>- architecture and engineering services, see 74.20;</li> <li>- services of project management, related to construction, see 74.20.</li> </ul>	
		45.22	Roof and hydro-isolation works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- construction and mounting works of roof constructions;</li> <li>- works on roof coverage;</li> <li>- hydro-isolation works.</li> </ul>	45261000
		45.23	Construction and mounting works of highways, roads, airplane runway and sport terrains	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- construction and mounting works of highways, streets, roads, other transport and walking areas;</li> <li>- construction of railways;</li> <li>- construction of airplane runways;</li> <li>- construction works, not buildings, stadiums, swimming pools, sport sites, tennis courts, golf courses and other sport facilities;</li> </ul>	<p>45212212 DA03</p> <p>45230000</p> <p>With exception of:</p> <ul style="list-style-type: none"> <li>- 45231000</li> <li>- 45232000</li> <li>- 45234115</li> </ul>

				<ul style="list-style-type: none"> <li>- works on marking of road coverage and parking lots.</li> </ul> <p>This class includes:</p> <ul style="list-style-type: none"> <li>- preliminary ground works, see 45.11.</li> </ul>	
		45.24	Construction and mounting works of hydro-technical facilities	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- construction and mounting works of:</li> <li>- water pipes, port and river bank facilities, yacht ports (yacht clubs), sluice, etc.;</li> <li>- dams and dykes;</li> <li>- dredging works;</li> <li>- construction and mounting works under water.</li> </ul>	45240000
		45.25	Other specialized construction and mounting works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- construction and mounting works, specialized for one activity, common for different constructions, requiring Special skills or equipment;</li> <li>- foundation, including strengthening through pilots;</li> <li>- construction-drilling works of wells for water, digging shafts;</li> <li>- mounting works of steel elements – external production;</li> <li>- pouring concrete;</li> <li>- building works;</li> <li>- mounting and demounting of scaffolding and platforms, including renting them;</li> <li>- building chimneys and production furnaces.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>- renting scaffolds without building and demounting, see 71.32</li> </ul>	45250000 45262000
	45.3		construction and mounting works of		45300000

			installations		
		45.31	construction and mounting works of electric installations	<p>This class includes:</p> <p>Installing in buildings or in other construction facilities of:</p> <ul style="list-style-type: none"> <li>- electric installations;</li> <li>- communication systems;</li> <li>- electric heating systems;</li> <li>- antennas for houses;</li> <li>- fire alarm systems;</li> <li>- signal-security systems;</li> <li>- lifts and escalators;</li> <li>- lightning rods etc.</li> </ul>	<p>45213316</p> <p>45310000</p> <p>With exception of:</p> <p>- 45316000</p>
		45.32	Isolation public works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- installation in buildings or in other construction facilities of heat isolation, sound isolation and isolation from vibrations.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>- hydro-isolation, see 45.22.</li> </ul>	45320000
		45.33	Water pipe works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- installation in buildings or other construction facilities of:</li> <li>- water supply and sewage installation;</li> <li>- gas installation;</li> <li>- heating, air conditioning, cooling installation and pipelines;</li> <li>- sprinkler systems.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>- mounting systems for electric heating, see 45.31.</li> </ul>	45330000
		45.34	Construction and mounting works of	<p>This class includes:</p>	45234115

			other installations	<ul style="list-style-type: none"> <li>- mounting works of lighting and signal systems for roads, railways, airports and ports;</li> <li>- mounting works in buildings or in other construction facilities of other installations.</li> </ul>	<p>45316000</p> <p>45340000</p>
	45.4		Finishing public works		45400000
		45.41	Works on laying coats	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- laying in buildings or other facilities internal and external coats or other materials.</li> </ul>	45410000
		45.42	Mounting finishing elements	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- mounting works of doors, windows, fitted kitchens, staircases, interior elements for shops and other elements of wood or other materials – external production;</li> <li>-</li> </ul> <p>Finishing works of interior, ceilings, wooden paneling, movable bars, etc.</p> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>- laying parquet and other wooden floors see 45.43.</li> </ul>	45420000
		45.43	Works on laying floors and wall coverages	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- works on laying in buildings or in other facilities of:</li> <li>- ceramic, concrete or stone floors and wall coverages;</li> <li>- parquet and other floor coverages, fitted carpets, linoleum;</li> </ul>	45430000
				<ul style="list-style-type: none"> <li>- including rubber or plastic;</li> <li>- mosaic, marble, granite or file floors or wall coverages</li> <li>- wall papers.</li> </ul>	

		45.44	Painting and glass work	<p>This class includes:</p> <ul style="list-style-type: none"> <li>-interior and exterior painting of buildings;</li> <li>- painting and other construction facilities;</li> <li>- glass, mirrors, etc.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>- placing windows, see 45.42.</li> </ul>	45440000
		45.45	Other finishing works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>- mounting private swimming pools;</li> </ul> <p>Cleaning, sand cleaning and other exterior cleaning of buildings;</p> <ul style="list-style-type: none"> <li>- other finishing construction works.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>- interior cleaning of buildings and other facilities, see 74.70.</li> </ul>	45212212 DA04 45450000
	45.5		Services of letting construction machines and equipment with operator		45500000
		45.50	Services of letting construction machines and equipment with operator	<p>This class excludes:</p> <ul style="list-style-type: none"> <li>- letting construction machines and equipment without operator, see 71.32.</li> </ul>	45500000

**Annex № 2 to Art. 11, Para. 3**

**LIST OF SOCIAL AND OTHER SPECIFIC SERVICES**

CVP Code	
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 (brokerage services of provision of persons for work in households) 79624000-4 (brokerage services of provision paramedic staff and	Services, related to healthcare, social and other similar activities

<p>79625000-1 (brokerage services of provision of doctors)</p> <p>from 85000000-9 to 85323000-9; 98133100-5, 98133000-4, 98200000-5, 98500000-8 (private households with hired staff) and from</p> <p>98513000-2 to 98514000-9 (services of provision of working force for households, services of provision through agencies for temporary staff for households, services of provision official staff for households,</p> <p>Services for provision temporary staff for households, provision of help for households, services provided by persons, employed in households)</p>	
<p>85321000-5 and 85322000-2, 75000000-6 (services of the state governance and defense; services of obligatory public security)</p> <p>, 75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4, educational and training services to</p> <p>80660000-8; from 92000000-1 to 92700000-8</p> <p>79950000-8 (services of organization of exhibitions, fairs and congresses)</p> <p>79951000-5 (services for organization of seminars), 79952000-2 (services for organization of events), 79952100-3 (services of organization of cultural events), 79953000-9 (services for organization of festivals), 79954000-6 (services of organization of holidays), 79955000-3 (services for organization of fashion shows), 79956000-0 (services for organization of fairs and exhibitions)</p>	<p>Administrative, social, educational, health and cultural services</p>
<p>75300000-9</p>	<p>Services of obligatory public security with the exception of services of obligatory social security</p>
<p>75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1</p>	<p>Services, related to social protection</p>
<p>98000000-3; 98120000-0; 98132000-7; 98133110-8, 98130000-3</p>	<p>Other public, social and personal services, including provided by syndical organizations, political organizations, youth associations and other membership organizations</p>
<p>98131000-0</p>	<p>Religious services</p>



<p>55100000-1, 55410000-7; 55521000-8, 55521200-0 (55521000-8 Preparation and supply of food for households, 55521100-9 services of supply of food at home (food on wheels), 55521200-0 services, related to supply of food) 55520000-1 services of establishments for preparation and supply of food, 55522000-5 preparation and supply of food for transport undertakings, 55523000-2 preparation and supply of food for other undertakings and institutions, 55524000-9 preparation and supply of food for school canteens and buffets 55510000-8 services for canteens, 55511000-5 services for canteens and buffets, offering service of a limited number of clients, related predominantly professionally, 55512000-2 services of management of canteens, 55523100-3 services, related to the food for school canteens and buffets</p>	<p>Hotel and restaurant services</p>
<p>from 79100000-5 to 79140000-7; 75231100-5;</p>	<p>Legal services unless excluded under Art. 13, Para. 1, p.7</p>
<p>from 75100000-7 to 75120000-3; 75123000-4; from 75125000-8 to 75131000-3</p>	<p>Other administrative services and services of state governance</p>
<p>from 75200000-8 to 75231000-4</p>	<p>Services of state governance for society on the whole</p>
<p>from 75231210-9 to 75231230-5; from 75240000-0 to 75252000-7; 794300000-7; 98113100-9</p>	<p>Services, related to prisons, observation of public security and incident safety, unless excluded under Art. 14, Para. 1, p.5</p>
<p>from 79700000-1 to 79721000-4 (detective and security services, safety, through signal security systems, security services, monitoring search; search of refugees, patrol, issuance of official passes, investigation and private investigation) 79722000-1 (services in graphology), 79723000-8 (services for analysis of wastes)</p>	<p>Detective and security services</p>
<p>98900000-2 (services of extraterritorial organizations and offices) and 98910000-5 (specific services of international organizations and</p>	<p>International services</p>

offices)	
64000000-6 (services of post and communications), 64100000-7 (services of national post, courier services), 64110000-0 (services of national post), 64111000-7 (post services, related to newspapers and periodic newsreels, 64112000-4 (post services related to letters), 64113000-1 (post services with post parcels), 64114000-8 (post services at a desk) 64115000-5 (renting post boxes), 64116000-2 (services for post consignments "at request"), 64122000-7 (inter-institutional currier services)	Post services
50116510-9 (services of mounting car tires), 71550000-8 (blacksmith services)	Other services for the population

**Annex № 3 to Art. 20, Para. 1, p. 2, letter "b"**

**LIST OF GOODS, RELATED TO PROCUREMENTS, AWARDED BY PUBLIC CONTRACTING AUTHORITIES ON THE DEFENSE AREA**

Chapter 25:	Salt, sulfur, soil and stones, lime, plaster and cement
Chapter 26:	Metal ores, slag and dross
Chapter 27:	Mineral fuels, mineral oils and products of their distillation; bituminize materials, mineral waxes  With exception of: ex ex 27.10: special motor fuels
Chapter 28:	Inorganic chemical products; inorganic or organic compounds of precious metals, of radioactive elements, of rare metals and isotopes  With exception of: ex ex 28.09: explosives ex ex 28.13: explosives ex ex 28.14: tear gas ex ex 28.28: explosives ex ex 28.32: explosives

	<p>ex ex 28.39: explosives</p> <p>ex ex 28.50: toxic products</p> <p>ex ex 28.51: toxic products</p> <p>ex ex 28.54: explosives</p>
Chapter 29:	<p>Organic chemical products</p> <p>With the exception of:</p> <p>ex ex 29.03: explosives</p> <p>ex ex 29.04: explosives</p> <p>ex ex 29.07: explosives</p> <p>ex ex 29.08: explosives</p> <p>ex ex 29.11: explosives</p> <p>ex ex 29.12: explosives</p> <p>ex ex 29.13: toxic products</p> <p>ex ex 29.14: toxic products</p> <p>ex ex 29.15: toxic products</p> <p>ex ex 29.21: toxic products</p> <p>ex ex 29.22: toxic products</p> <p>ex ex 29.23: toxic products</p> <p>ex ex 29.26: explosives</p> <p>ex ex 29.27: toxic products</p> <p>ex ex 29.29: explosives</p>
Chapter 30:	Pharmaceutical products
Chapter 31:	Fertilizers
Chapter 32:	Tanning and coloring extracts, tannins and their derivatives, pigments and other coloring substances, dyes and varnishes, mastic, fillings and fixates, inks
Chapter 33:	Ether oils and resinoids, ready perfume or toiletries and cosmetic preparations

Chapter 34:	Soaps, surface active organic products, preparations for washing, lubricants, artificial waxes, wax preparations, preparations for polishing and cleaning, candles and similar articles, modeling pastes and dentist waxes
Chapter 35:	Protein substances, glues, enzymes
Chapter 37:	Photographic and cinema products
Chapter 38:	Various types of products of chemical industry with the exception of: ex ex 38.19: toxic products
Chapter 39:	Artificial resins and plastics, cellulose esters and ethers and items of these materials with the exception of: ex ex 39.03: explosives
Chapter 40:	Rubber, synthetic rubber, factice and items of these materials, with the exception of: ex ex 40.11: bulletproof tires
Chapter 41:	leather (different from furs)
Chapter 42:	Leather items, saddler and harness articles, travelling articles, hand bags and other similar articles form guts
Chapter 43:	Furs and clothes from them, artificial furs
Chapter 44:	Wood and articles from wood, charcoals
Chapter 45:	Cork and cork items
Chapter 46:	Reed and basket items
Chapter	Materials for production of paper
Chapter 48:	Papers and cardboards, items from cellulose pulp of paper or cardboard

Chapter 49:	Printed books, newspapers, pictures and other printed works of publishing houses of the press or of the other graphic industry, handwritten or printed texts and designs
Chapter 65:	Hats and parts for hats
Chapter 66:	Umbrellas, shades, parasol, walking sticks, whips, scourges and their parts
Chapter 67:	Prepared feathers and down and articles form feathers and down, artificial flowers; articles from human bones
Chapter	Articles from stones, gypsum, cement, asbestos, mica and similar materials
Chapter 69:	Ceramic products
Chapter	Glass and glass articles
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, clad of precious metals and items of these materials; jewelry imitation
Chapter 73:	Cast iron, iron and steel and items from them
Chapter 74:	Copper and items from copper
Chapter 75:	Nickel and items from nickel
Chapter 76:	Aluminum and items from aluminum
Chapter 77:	Magnesium and beryllium and items from them
Chapter 78:	lead and items from lead
Chapter 79:	zinc and items form zinc
Chapter 80:	Potassium and items from potassium

Chapter 81:	Other non-precious metals, used in metallurgy and items from them
Chapter 82:	Instruments, tools, knife articles and cutlery from non-precious metals and parts of them with the exception of:  ex ex 82.05: instrumentes  ex ex 82.07: instrumentes, parts
Chapter 83:	Various items from non-precious metals
Chapter 84:	Boilers, machines, apparatus and mechanisms and parts for these machines, with the exception of of  ex ex 84.06: motors  ex ex 84.08: other motors  ex ex 84.45: machines  ex ex 84.53: machines for automatic processing of data  ex ex 84.55: parts for the machines of position № 84.53  ex ex 84.59: nuclear reactors
Chapter 85:	Electric machines and apparatus and parts form them, with the exception of:  ex ex 85.13: telecommunication equipment  ex ex 85.15: radio and TV apparatus
Chapter 86:	Vehicles and equipment for railway or similar lines and their parts, mechanic signal facilities for communication roads (without electric power) with the exception of :  ex ex 86.02: armored electric locomotives  ex ex 86.03: other armored locomotives  ex ex 86.05: armored railway cars  ex ex 86.06: repairing railway cars  ex ex 86.07: railway cars
Chapter 87:	Automobile vehicles, tractors, motorcycles and bicycles and other road vehicles and their parts with the exception of:  ex ex 87.08: tanks and other armored vehicles

	<p>ex ex 87.01: tractors</p> <p>ex ex 87.02: military transport vehicles</p> <p>ex ex 87.03: automobiles for technical help</p> <p>ex ex 87.09: motorcycles</p> <p>ex ex 87.14: trailers</p>
Chapter 89:	<p>Maritime and river navigation</p> <p>With the exception of:</p> <p>ex ex 89.01A: military ships</p>
Chapter 90:	<p>Optical, photographic or cinematographic, measure, controlling or précising instruments and apparatus, medical and surgery instruments and apparatus, parts for these instruments or apparatus with the exception of:</p> <p>ex ex 90.05: binoculars</p> <p>ex ex 90.13: various instruments, lasers</p> <p>ex ex 90.14: telemeters</p> <p>ex ex 90.28: electric or electronic measurement instruments</p> <p>ex ex 90.11: microscopes</p> <p>ex ex 90.17: medical instruments</p> <p>ex ex 90.18: articles for mechanic therapy</p> <p>ex ex 90.19: orthopedic articles</p> <p>ex ex 90.20: Xray equipment</p>
Chapter 91:	<p>Clock and watches</p>
Chapter 92:	<p>Musical instruments, equipment for recording and sound reproduction, recording and reproduction equipment of TV image and sound, parts for this equipment</p>
Chapter 93	<p>Furniture and parts for them, bedroom articles and similar, with the exception of:</p> <p>ex ex 94.01A: airplane seats</p>
Chapter 95:	<p>Processed materials for modeling or fisheries, items of them</p>

Chapter 96:	Brooms, brushes and filters
Chapter 98:	Various types items

**Annex № 4 to Art. 23, Para 5 p. 2, letter "a"**

**NOTICES OF PUBLIC CONTRACTING AUTHORITIES**

**PART A**

**INFORMATION, RELATED TO THE NOTICES FOR PRELIMINARY INFORMATION**

**Section I**

**The least Information to be included in Notices for  
Preliminary Information**

1. Name, identification number (EIC, BULSTAT), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication that the contracting authority is a centralised purchasing body; or that any other form of joint procurement is or may be involved.
4. CPV codes.
5. Internet address of the 'buyer profile' (URL).
6. Date of dispatch of the notice of the publication of the prior information notice on the buyer profile.

**PART B**

**Information to be included in prior information notices**

**I. Information to be included in all cases**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available for the reasons set out in the second and third subparagraph of Article 53(1), an indication of how the procurement documents can be accessed.



3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication that the contracting authority is a centralised purchasing body or that any other form of joint procurement is or may be involved.
5. CPV codes; where the contract is divided into lots, this information shall be provided for each lot.
6. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts; where the contract is divided into lots, this information shall be provided for each lot.
7. Brief description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services.
8. Where this notice is not used as a means of calling for competition, estimated date(s) for publication of a contract notice or contract notices in respect of the contract(s) referred to in this prior information notice.
9. Date of dispatch of the notice.
10. Any other relevant information.
11. Indication whether the contract is covered by the GPA.

## **II. Additional information to be supplied where the notice is used as a means of calling for competition**

1. A reference to the fact that interested economic operators shall advise the authority of their interest in the contract or contracts.
2. Type of award procedure (restricted procedures, whether or not involving a dynamic purchasing system, or competitive procedures with negotiation).
3. Where appropriate, indication whether:
  - (a) a framework agreement is involved,
  - (b) a dynamic purchasing system is involved.
4. As far as already known, time-frame for delivery or provision of products, works or services and duration of the contract.
5. As far as already known, conditions for participation, including:
  - (a) where appropriate, indication whether the public contract is restricted to sheltered workshops, or

whether its execution is restricted to the framework of protected job programmes,

- (b) where appropriate, indication whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession,
  - (c) brief description of selection criteria.
6. As far as already known, brief description of criteria to be used for award of the contract.
  7. As far as already known, estimated total magnitude for contract(s); where the contract is divided into lots, this information shall be provided for each lot.
  8. Time limits for receipt of expressions of interest.
  9. Address where expressions of interest shall be transmitted.
  10. Language or languages authorised for the presentation of candidatures or tenders.
  11. Where appropriate, indication whether:
    - (a) electronic submission of tenders or requests to participate will be required/accepted,
    - (b) electronic ordering will be used,
    - (c) electronic invoicing will be used,
    - (d) electronic payment will be accepted.
  12. Information whether the contract is related to a project and /or programme financed by Union funds.
  13. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning time limits for review procedures, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

## PART C

### **Information to be included in contract notice**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.

2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available for the reasons set out in the second and third subparagraphs of Article 53(1), an indication of how the procurement documents can be accessed.

3. Type of contracting authority and main activity exercised.

4. Where appropriate, indication that the contracting authority is a central purchasing body or that any other form of joint procurement is involved.

5. CPV codes; where the contract is divided into lots, this information shall be provided for each lot.

6. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts; where the contract is divided into lots, this information shall be provided for each lot.

7. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.

8. Estimated total order of magnitude of contract(s); where the contract is divided into lots, this information shall be provided for each lot.

9. Admission or prohibition of variants.

10. Time-frame for delivery or provision of supplies, works or services and, as far as possible, duration of the contract.

(a) In the case of a framework agreement, indication of the planned duration of the framework agreement, stating, where appropriate, the reasons for any duration exceeding four years; as far as possible, indication of value or order of magnitude and frequency of contracts to be awarded, number and, where appropriate, proposed maximum number of economic operators to participate.

(b) In the case of a dynamic purchasing system, indication of the planned duration of that system; as far as possible, indication of value or order of magnitude and frequency of contracts to be awarded.

11. Conditions for participation, including:

(a) where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,

(b) where appropriate, indication whether the provision of the service is reserved by law, regulation or

administrative provision to a particular profession; reference to the relevant law, regulation or administrative provision,

(c) a list and brief description of criteria regarding the personal situation of economic operators that may lead to their exclusion and of selection criteria; minimum level(s) of standards possibly required; indication of required information (self-declarations, documentation).

12. Type of award procedure; where appropriate, reasons for use of an accelerated procedure (in open and restricted procedures and competitive procedures with negotiation);

13. Where appropriate, indication whether:

(a) a framework agreement is involved,

(b) a dynamic purchasing system is involved,

(c) an electronic auction is involved (in the event of open or restricted procedures or competitive procedures with negotiation).

14. Where the contract is to be subdivided into lots, indication of the possibility of tendering for one, for several or for all of the lots; indication of any possible limitation of the number of lots that may be awarded to any one tenderer. Where the contract is not subdivided into lots, indication of the reasons therefor, unless this information is provided in the individual report.

15. In the case of a restricted procedure, a competitive procedure with negotiation, a competitive dialogue or an innovation partnership, where recourse is made to the option of reducing the number of candidates to be invited to submit tenders, to negotiate or to engage in dialogue: minimum and, where appropriate, proposed maximum number of candidates and objective criteria to be used to choose the candidates in question.

16. In the case of a competitive procedure with negotiation, a competitive dialogue or an innovation partnership, indication, where appropriate, of recourse to a staged procedure in order gradually to reduce the number of tenders to be negotiated or solutions to be discussed.

17. Where appropriate, particular conditions to which performance of the contract is subject.

18. Criteria to be used for award of the contract or contracts. Except where the most economically advantageous offer is identified on the basis of price alone, criteria representing the most economically advantageous tender as well as their weighting shall be indicated where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document.

19. Time limit for receipt of tenders (open procedures) or requests to participate (restricted procedures, competitive procedures with negotiation, dynamic purchasing systems, competitive dialogues, innovation partnerships).

20. Address to which tenders or requests to participate shall be transmitted.
21. In the case of open procedures:
  - (a) time frame during which the tenderer must maintain its tender,
  - (b) date, time and place for the opening of tenders,
  - (c) persons authorised to be present at such opening.
22. Language or languages in which tenders or requests to participate must be drawn up.
23. Where appropriate, indication whether:
  - (a) electronic submission of tenders or requests to participate will be accepted,
  - (b) electronic ordering will be used,
  - (c) electronic invoicing will be accepted,
  - (d) electronic payment will be used.
24. Information whether the contract is related to a project and/or programme financed by Union funds.
25. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning deadlines for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
26. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) advertised in this notice.
27. In the case of recurrent procurement, estimated timing for further notices to be published.
28. Date of dispatch of the notice.
29. Indication whether the contract is covered by the GPA.
30. Any other relevant information.

#### PART D

#### **Information to be included in contract award notices**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
4. CPV codes.
5. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts.
6. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.
7. Type of award procedure; in the case of negotiated procedure without prior publication, justification.
8. Where appropriate, indication whether:
  - (a) a framework agreement was involved,
  - (b) a dynamic purchasing system was involved.
9. Criteria referred to in Article 67 which were used for award of the contract or contracts. Where appropriate, indication whether the holding of an electronic auction was involved (in the event of open or restricted procedures or competitive procedures with negotiation).
10. Date of the conclusion of the contract(s) or of the framework agreement(s) following the decision to award or conclude it/them.
11. Number of tenders received with respect of each award, including:
  - (a) number of tenders received from economic operators which are small and medium enterprises,
  - (b) number of tenders received from another Member State or from a third country,
  - (c) number of tenders received electronically.
12. For each award, name, address including NUTS code, telephone, fax number, email address and internet address of the successful tenderer(s) including

- (a) information whether the successful tenderer is small and medium enterprise,
  - (b) information whether the contract was awarded to a group of economic operators (joint venture, consortium or other).
13. Value of the successful tender (tenders) or the highest tender and lowest tender taken into consideration for the contract award or awards.
  14. Where appropriate, for each award, value and proportion of contract likely to be subcontracted to third parties.
  15. Information whether the contract is related to a project and /or programme financed by Union funds.
  16. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
  17. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) advertised in this notice.
  18. Date of dispatch of the notice.
  19. Any other relevant information.

## PART E

### **Information to be included in design contest notices**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.  
  
Where unrestricted and full direct access, free of charge, is not available for the reasons set out in the second and third subparagraphs of Article 53(1), an indication of how the procurement documents can be accessed.
3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
5. CPV codes; where the contract is divided into lots, this information shall be provided for each lot.

6. Description of the principal characteristics of the project.
7. Number and value of any prizes.
8. Type of design contest (open or restricted).
9. In the event of an open design contest, time limit for the submission of projects.
10. In the event of a restricted design contest:
  - (a) number of participants contemplated,
  - (b) names of the participants already selected, if any,
  - (c) criteria for the selection of participants,
  - (d) Time limit for requests to participate.
11. Where appropriate, indication that the participation is restricted to a specified profession.
12. Criteria to be applied in the evaluation of the projects.
13. Indication whether the jury's decision is binding on the contracting authority.
14. Payments to be made to all participants, if any.
15. Indication whether any contracts following the design contest will or will not be awarded to the winner or winners of the design contest.
16. Date of dispatch of the notice.
17. Any other relevant information.

## PART F

### **Information to be included in notices of the results of a contest**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.



4. CPV codes.
5. Description of the principal characteristics of the project.
6. Value of the prizes.
7. Type of design contest (open or restricted).
8. Criteria which were applied in the evaluation of the projects.
9. Date of the jury decision.
10. Number of participants.
  - (a) Number of participants who are SMEs.
  - (b) Number of participants from abroad.
11. Name, address including NUTS code, telephone, fax number, email address and internet address of the winner(s) of the contest and indication whether the winner(s) are small and medium enterprises.
12. Information whether the design contest is related to a project or programme financed by Union funds.
13. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the project(s) concerned by this notice.
14. Date of dispatch of the notice.
15. Any other relevant information.

#### PART G

#### **Information to be included in notices of modifications of a contract during its term**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. CPV codes.
3. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts;
4. Description of the procurement before and after the modification: nature and extent of the works, nature and quantity or value of supplies, nature and extent of services.

5. Where applicable, increase in price caused by the modification.
6. Description of the circumstances which have rendered necessary the modification.
7. Date of contract award decision.
8. Where applicable, the name, address including NUTS code, telephone, fax number, email address and internet address of the new economic operator or operators.
9. Information whether the contract is related to a project and /or programme financed by Union funds.
10. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
11. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) concerned by this notice.
12. Date of dispatch of the notice.
13. Any other relevant information.

#### PART H

### **Information to be included in contract notices concerning contracts for social and other specific services**

1. Name, identification number (where provided for in national legislation), address including NUTS code, email and internet address of the contracting authority.
2. NUTS code for the main location of works in the case of works or NUTS code for the main place of delivery or performance in the case of supplies and services.
3. Brief description of the contract in question including CPV codes.
4. Conditions for participation, including
  - where appropriate, indication whether the contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
5. Time limit(s) for contacting the contracting authority in view of participation.

6. Brief description of the main features of the award procedure to be applied.

#### PART I

### **Information to be included in prior information notices for social and other specific services**

1. Name, identification number (where provided for in national legislation), address including NUTS code, email and internet address of the contracting authority.
2. Brief description of the contract in question including the estimated total value of the contract and CPV codes.
3. As far as already known:
  - (a) NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services
  - (b) time-frame for delivery or provision of supplies, works or services and duration of the contract.
  - (c) conditions for participation, including:
    - where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
    - where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession,
  - (d) brief description of the main features of the award procedure to be applied.
4. A reference to the fact that interested economic operators shall advise the contracting authority of their interest in the contract or contracts and time limits for receipt of expressions of interest and address to which expressions of interest shall be transmitted.

#### PART J

### **Information to be included in contract award notices concerning contracts for social and other specific service**

1. Name, identification number (where provided for in national legislation), address including NUTS code, email and internet address of the contracting authority.
2. Brief description of the contract in question including CPV codes.
3. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services.

4. Number of tenders received.
5. Price or range of prices (maximum/minimum) paid.
6. For each award, name, address including NUTS code, email address and internet address of the successful economic operator or operators.
7. Any other relevant information.

**Annex No 5 to Art. 23, Para. 5, p. 2, letter "b"**

**NOTICES OF SECTOR CONTRACTING AUTHORITIES**

**PART A**

**INFORMATION WHICH AT LEAST MUST CONTAIN THE PERIODIC INDICATIVE NOTICE**

**Section I**

**Information, which is Included in All Cases**

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. E-mail address, or internet address, which will be offered unlimited and complete free direct access to the documentation of the procurement. Where there is not unlimited access and complete free access, instruction about the way, in which access may be received to the procurement documentation.

3. Basic exercised activity. Where appropriate, it is indicated, that the sector contracting authority is a central body for purchases, or joint awarding of public procurements is present.

4. Depending on the subject of the public procurements:

a) in procurements for supplies: nature and quantity or value of the services or goods, subject of the procurement (code of CPV);

b) in procurements for construction: nature and volume of the provided services, general characteristics of the construction works or of the separate positions to the construction works (code of CPV);

c) in procurements for services: planned general volume of the procurement for each of the provided categories services (code of CPV). In case that the public procurement is separated in positions, this information shall be provided for each separate position.

5. Code of administrative-territorial unit on NUTS for the basic location of the construction works in construction or code on NUTS for the major place of supply or fulfillment in supplies and services: in case that the procurement is divided in separate positions, this information is presented for each position.

6. Nature and quantity of goods, general nature of construction or category of the service – subject of the procurement and description, where it is pointed out whether a framework agreement is envisaged or agreements, including an option for further procurements and the prognosis schedule for use of these options, as well as a number of renovations, of any. In repeated procurements, also a prognosis schedule of the following participation invitations in procedures. It is indicated, whether a supply by purchase, leasing, rent or financial leasing, or combination of them is envisaged.

7. Where this notice is not used for announcing the opening of a procedure – a prognosis data for

start of the procedure for awarding the procurement/s.

8. Date of sending the notice.
9. any other significant information.

## Section II

### **Additional Information, which at least Must be Provided, where the Notice is Used for Announcement of the Opening of the Procedure**

1. Indication of the fact, that the interested persons must declare before the contracting authority their interest to the procurement/s.
2. Where applicable, it is indicated if the public procurement is intended only for specialized undertakings or cooperation of disabled people or people in disadvantaged position, or will be fulfilled on programmes for creating protected jobs.
3. Terms for receiving invitation for production of offers or for participation in the negotiations.
4. Term for supply or closure or term of the procurement for services and - if possible – initial date.
5. Address to which the interested persons send their written announces for expressed interest.
6. Term of receiving applications of interest.
7. Language or languages, admissible for provision of applications or offers.
8. Economic and technical conditions and financial and technical guarantees, required from the suppliers.
9. Type of the procedure for awarding procurement (restricted procedures, notwithstanding that in them a dynamic system has been included for purchases or negotiation procedures).
10. Where applicable, the special conditions, applicable to fulfillment of the procurement contract.
11. Where applicable, indicate whether:
  - a) electronic submission of offers or participation application sill be required/admitted;
  - b) electronic procurement will be applied;
  - c) electronic voicing will be used;
  - d) electronic payment will be accepted.
12. name and address of the body, responsible for the appeal, and where applicable, for the mediation procedures. Exact information about the terms for submission of an appeal and the e-mail address of the office, from where such information may be received.
13. The criterion, which will be applied for awarding the procurement. Apart from the cases, in which the economically most profitable offer is determined only on the basis of the price, indications for the “economically most profitable offer”, as well as their reference weight, or – where applicable – their sequence in meaning, where they will not be contained in the invitation for confirmation of interest.

## PART B

### INFORMATION, WHICH AT LEAST MUST BE CONTAINED IN THE PROCUREMENT NOTICE

#### *A. Open Procedure*

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.
2. Major activity.
3. Where applicable, it is indicated if the public procurement is intended only for specialized undertakings or cooperation of disabled people; for persons, whose major purpose is the social and professional integration of disabled people, or people in disadvantaged position, or will be fulfilled on

programmes for creating protected jobs.

4. Object of the procurement (for supplies, construction or services; where applicable – indicate whether it is a framework agreement or dynamic system for purchases), description (codes on CPV). Where applicable, it is indicated whether supply offers are required for purchase, leasing, rent or financial leasing or combination of them.

5. Code of administrative-territorial unit on NUTS for the major location of the construction works in construction or code of administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.

6. For supplies and construction:

a) nature and quantity of goods – subject to the procurement (codes on CPV), including all the options for further procurements and if possible, the prognosis schedule for use of these options, as well as the number of renewals, if such are envisaged; in repeated procurements, as far as possible – also prognosis schedule of the follow up participation invitations in procedure for the goods or nature and scope of the services and total nature of the construction – subject of a procurement (codes on CPV);

b) it is indicated if the suppliers may submit offers for some and/or for all required goods.

If in procurements for construction the construction works or the procurement are divided into several separate positions, they shall be arranged in value and the possibility shall be indicated to send offers for one or for several, or for all the positions;

c) for construction procurements: information about the purpose of the construction or the procurement, where the last includes drawing up designs.

7. For services:

a) nature and volume of the services – subject of the procurement, including all the options for further procurements and if possible – the prognosis schedule for use of these option, as well as number of the renewals, if such are envisaged; in repeated procurements, if possible and a prognosis schedule of further participation invitations in procedures for the services – subject to the procurement;

b) it is indicated whether the fulfillment of the service has been kept for a certain profession under legal, legislative or administrative provisions;

c) reference to the relevant legal, legislative or administrative provision;

d) it is indicated whether the legal persons must indicate the names and the professional qualification of the staff, who will be responsible for the fulfillment of the service;

e) it is indicated whether the suppliers of services may submit offers for a part of the relevant services.

8. Where possible, it is indicated if there is a permit for submission of variants.

9. Term for supply or finish or term of the procurement for services and if possible – the initial date.

10. E-mail address or internet address, at which unlimited and complete free direct access shall be provided to the procurement documentation. Where there is no unlimited and complete direct free access – an instruction how access to the procurement documentation may be received.

11. Information about the offers:

a) final term for receiving offers or initial offers in the cases, where a dynamic system for purchases is introduced;

b) address, to which they are to be sent;

c) language/s in which they must be drawn.

d) where appropriate, persons, who are authorized to be present at the offer opening;

e) date, time and place of opening.

12. Where applicable – all required deposits and guarantees.

13. Basic conditions in relation to financing and payment and/or reference to the provisions, containing them.

14. Where appropriate, a requirement for establishing a legal person by a partnership – participant,

who has been awarded with the procurement.

15. Minimal economic and technical conditions, which the participant, who will be awarded with the procurement, must meet.

16. Term within the frames of which the participant is bound with his offer.

17. Where applicable, special conditions, applicable to the fulfillment of the procurement.

18. Criterion, which will be applied for awarding the procurement. Apart from the cases, in which the economically best offer is determined only on the basis of the price, the indicators for economically best offers shall be indicated, as well as their relevant weight or, where appropriate, their sequence in significance.

19. Where appropriate – date/s and reference information about previous publications in the EU Official Journal of the periodic indicative notice.

20. Name and address of the body, responsible for the appeal, and where applicable, about the mediation procedures. Exact information about the terms for submission of appeals or if needed – the name, address, tel., No and fax No and the e-mail address of the department, where such information may be received.

21. Date of submission of the notice by the sector contracting authority.

22. Any other significant information.

### *B. Restricted Procedures*

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. major activity.

3. Where applicable, it is indicated if the public procurement is intended only for specialized undertakings or cooperation of disabled people; for persons, whose major purpose is the social and professional integration of disabled people, or people in disadvantaged position, or will be fulfilled on programmes for creating protected jobs.

4. Object of the procurement (supplies, construction or services, where applicable, indicate if it is a framework agreement), description (codes on CPV). Also it is indicated if offers for supply through purchase, leasing, rent or financial leasing is required, or combination of them.

5. Code of administrative-territorial unit on NUTS for the major location of the construction works in construction or code of administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.

6. For supplies and construction:

a) nature and quantity of goods – subject to the procurement (codes on CPV), including all the options for further procurements and if possible, the prognosis schedule for use of these options, as well as the number of renewals, if such are envisaged; in repeated procurements, as far as possible – also prognosis schedule of the follow up participation invitations in procedure for the goods or nature and scope of the services and total nature of the construction – subject of a procurement (codes on CPV);

b) it is indicated if the supplies may submit offers for some and/or for all required goods. If in procurements for construction the construction works or the procurement are divided into several separate positions, they shall be arranged in value and the possibility shall be indicated to send offers for one or for several, or for all the positions;

c) for construction procurements: information about the purpose of the construction or the procurement, where the last includes drawing up designs.

7. For services:

a) nature and volume of the services – subject of the procurement, including all the options for further procurements and if possible – the prognosis schedule for use of these option, as well as number of the renewals, if such are envisaged; in repeated procurements, if possible and a prognosis schedule of further

participation invitations in procedures for the services – subject to the procurement;

b) it is indicated whether the fulfillment of the service has been kept for a certain profession under legal, legislative or administrative provisions;

c) reference to the relevant legal, legislative or administrative provision;

d) it is indicated whether the legal persons must indicate the names and the professional qualification of the staff, who will be responsible for the fulfillment of the service;

e) it is indicated whether the suppliers of services may submit offers for a part of the relevant services.

8. Where possible, it is indicated if there is a permit for submission of variants.

9. Term for supply or finish or term of the procurement for services and if possible – the initial date.

10. Where appropriate, a requirement for establishment of a legal person by a partnership participant, who has been awarded with the procurement.

11. Information about the participation applications:

a) dead line for receiving the participation applications;

b) address, at which they are sent;

c) language/s in which they are to be drawn.

12. Deadline for submission of the invitation for provision of offers.

13. Where applicable – all required deposits and guarantees.

14. Basic conditions in relation to financing and payment and/or reference to the provisions, containing them

15. Information about the current condition of the interested person and the minimal economic and technical conditions, which must be met.

16. Criterion, which will be applied with awarding the procurement. Apart from the cases, in which the economically best offer is defined only on the basis of the price, the indicators for the economically best offer are to be indicated, as well as their reference weight or where applicable, their sequence in significance.

17. Where applicable – the special conditions, applicable to fulfillment of the procurement.

18. Where applicable – date/s and reference information about previous publications in the EU Official Journal of the periodic indicative notice.

19. Name and address of the body, responsible for the appeal, and eventually, the mediation procedures. Exact information about the terms for appeal or, the name, address, tel.N, fax No and the e-mail address of the office, which may give such information.

20. Date of submission of the notice by the sector contracting authorities.

21. any other significant information.

### *C. Negotiation Procedures*

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. Major activity.

3. Where applicable, it is indicated if the public procurement is intended only for specialized undertakings or cooperation of disabled people; for persons, whose major purpose is the social and professional integration of disabled people, or people in disadvantaged position, or will be fulfilled on programmes for creating protected jobs.

4. The nature of the procurement (supplies, construction or services; where applicable, indicate if it is a framework agreement), description (codes on CPV). Where applicable, it is indicated if offers are required for supply through purchase, leasing, rent or financial leasing or combination of them.

5. Code of the administrative-territorial unit on NUTS for the basic location of the construction



works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies of services.

6. For supplies and construction:

a) nature and quantity of the goods – subject of the procurement (CPV), including all options for further procurements and if possible, prognosis schedule for use of these options, as well as number of renewals, if such are envisaged; with repeated procurements, as far as possible – and prognosis schedule of the following participation invitations in a procedure for supply or nature and scope of the services and general nature of the construction - subject to procurement (CPV);

b) it is indicated if the supplies may submit offers for some and/or for all required goods. If in procurements for construction the construction works or the procurement are divided into several separate positions, they shall be arranged in value and the possibility shall be indicated to send offers for one or for several, or for all the positions;

c) for procurement for construction: information about the purpose of the construction or of the procurement, where the latter also includes drawing up designs.

7. For services:

a) nature and volume of the services – subject of the procurement, including all the options for further procurements and if possible – the prognosis schedule for use of these option, as well as number of the renewals, if such are envisaged; in repeated procurements, if possible and a prognosis schedule of further participation invitations in procedures for the services – subject to the procurement;

b) it is indicated whether the fulfillment of the service has been kept for a certain profession under legal, legislative or administrative provisions;

c) reference to the relevant legal, legislative or administrative provision;

d) it is indicated whether the legal persons must indicate the names and the professional qualification of the staff, who will be responsible for the fulfillment of the service;

e) it is indicated whether the suppliers of services may submit offers for a part of the relevant services.

8. Where possible, it is indicated if there is a permit for submission of variants.

9. Term for supply or finish or term of the procurement for services and if possible – the initial date.

10. Where appropriate, a requirement for establishment of a legal person by a partnership participant, who has been awarded with the procurement.

11. Information about the participation applications:

11. Information about the participation applications:

a) dead line for receiving the participation applications;

b) address, at which they are sent;

c) language/s in which they are to be drawn.

12. Where applicable – all required deposits and guarantees.

13. Basic conditions in relation to financing and payment and/or reference to the relevant provisions.

14. Information about the current state of the interested person and minimal economic and technical conditions, which must be met

15. Criterion, which will be applied in awarding the procurement. Apart from the cases, in which economically the best offer is determined only on the basis of the price, the indicators for the economically best offer, as well as their relevant weight or where applicable – their sequence in significance.

16. Where applicable – the names and addresses of already chosen participants by the contracting authority.

17. Where applicable – the special conditions, applicable to the fulfillment of the procurement.

18. Where applicable – dates and reference information for previous publications in EU Official Journal of the periodical indicative notice.

19. Name and address of the body, responsible for the appeal, and eventually, the mediation procedures. Exact information about the terms for appeal or, the name, address, tel.N, fax No and the e-mail address of the office, which may give such information.

20. Date of submission of the notice by the sector contracting authorities.

21. Any other significant information.

## PART C

### INFORMATION, WHICH AT LEAST MUST CONTAIN THE NOTICE FOR AWARDING THE PROCUREMENT

#### Section I

#### **Information for Publication in the EU Official Journal**

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. Major activity.

3. Object of the procurement (for supplies, construction or services with codes on CPV; where applicable, indicate if it is a framework agreement).

4. The least summary of the nature and quantity of the goods, construction or services, subject of the procurement.

5. a) form of the participation invitation in a procedure (notice for existence of qualification system, periodical notice, invitation for production of offers);

b) date or other date and information for publication of the notice in EU Official Journal;

c) in procurements, awarded through conducting a negotiation procedure without preliminary participation invitation, indicate the relevant reason for its conducting.

6. Procedure for awarding the procurement (open, restricted or negotiation).

7. Number of received offers, indicating:

a) number of offers, submitted by the participants – SMEs;

b) number of offers, submitted by foreign participants;

c) number of received offers electronically.

In multiple awarded procurements (separate positions, framework agreements with multiple contractors) this information is provided for each awarded procurement.

8. Date of signing the contract/s or of the framework agreement/s after taking the decision for awarding the procurement/s or signing an agreement.

9. Price, paid for profitable purchases under Art. 138, Para. 1, p. 2.

10. For each awarded procurement – name, address, including code of the administrative – territorial unit on NUTS, of tel. and fax N, e-mail address and internet address of the awarded participants, including:

a) information, if the awarded participant is a small or medium enterprise;

b) information if the procurement is awarded to a partnership participant. Name of the partnership, as well as its members.

11. Where applicable, the date of the awarded procurement is indicated or may be awarded to subcontractors.

12. The paid price/s under the lowest and highest offer, accounted with awarding the procurement.

13. Information for termination of the procedure, where applicable.

14. Name and address of the body, responsible for the appeal and where applicable – for the mediation procedures. Exact information about the terms for submission of an appeal or in case of need –

the name, address, tel. and fax No and the e-mail address of the office, where such information may be received.

15. Non-obligatory information:

- a) value and part of the procurement, which is awarded to subcontractors or may be awarded to third persons;
- b) awarding criteria.

## Section II

### **Information, not Intended for Publication**

1. Number of awarded procurements (in case that one procurement is divided among several contractors).
2. Value of each of the awarded procurements.
3. State of origin of the goods or service (in the Community or outside the Community; if the latter – distributed in third countries).
4. Which awarding criteria has been applied?
5. Is the procurement awarded to a participant, proposed a variant?
6. Were there removed offers under exceptionally low price?
7. Date of sending the announcement by the sector contracting authority.

## PART D

### INFORMATION TO BE CONTAINED AT LEAST IN THE NOTICE FOR AMENDMENT OF A PUBLIC PROCUREMENT CONTRACT

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.
2. Major activity.
3. Codes on CPV.
4. Code of the administrative-territorial unit on NUTS for the basic location of the construction works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.
5. Description of the public procurement before and after the amendment: nature and volume of the construction, nature and quantity or value of the supplies, nature and volume of the services.
6. Where applicable – increasing the price as a result of the amendment.
7. Description of the circumstances, lead to the need of amendment.
8. Date of the decision for awarding the procurement.
9. Where applicable – name, address, including code of the administrative – territorial unit on NUTS, tel. and fax N, e-mail address and internet address of the new contractor/s.
10. Information of the public procurement, related to a project and/or programme, financed by EU funds.
11. Name and address of the body, responsible for the appeal and where applicable – for the mediation procedures. Exact information about the terms for submission of an appeal or in case of need – the name, address, tel. and fax No and the e-mail address of the office, where such information may be received.

## PART E

## THE LEAST INFORMATION TO BE CONTAINED IN THE NOTICE FOR VOLUNTARY TRANSPARENCY

1. Name and data of the contracting authority.
2. Description of the contract subject, which is to be signed by the contracting authority.
3. Reason, under which the contract is signed and grounds for its application.
4. Name and data of the selected contractor.

## PART F

### THE LEAST INFORMATION TO BE CONTAINED IN THE NOTICE FOR A PROJECT COMPETITION

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.
2. Major activity.
3. Codes on CPV.
4. Type of the competition – open or restricted.
5. In case of an open competition – the deadline for receiving the projects.
6. In a restricted competition:
  - a) planned number of participants;
  - b) where applicable – the names of already selected participants;
  - c) selection criteria of the participants;
  - d) term for receiving participation applications.
7. Where applicable – indicate if the participation is kept for a certain profession.
8. Criteria, to be applied in assessment of the projects.
9. Where applicable – the names of the selected panel members.
10. It is indicated if the panel decision is obligatory of the body.
11. Where applicable, number and value of the awards.
12. Where applicable, data about the payment for all participants.
13. It is indicated if the awarded participants may award follow up procurements.
14. Name and address of the body, responsible for the appeal and where applicable – for the mediation procedures. Exact information about the terms for submission of an appeal or in case of need – the name, address, tel. and fax No and the e-mail address of the office, where such information may be received.
15. Date of submission of the notice.
16. Any other significant information.

## PART G

### THE LEAST INFORMATION TO BE CONTAINED IN THE NOTICE FOR RESULTS FROM PROJECT COMPETITION

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.
2. Basic activity.
3. Description of the project ( CPV codes).
4. Total No of participants.

5. Number of foreign participants.
6. The ones, won the competition.
7. Where applicable, awards.
8. Other information.
9. reference to the project competition notice.
10. Name and address of the body, responsible for the appeal and where applicable – for the mediation procedures. Exact information about the terms for submission of an appeal or in case of need – the name, address, tel. and fax No and the e-mail address of the office, where such information may be received.
15. Date of submission of the notice.

**Annex No 6 to Art. 23, Para. 7, p. 2, letter "a"**

**PART A**

**THE LEAST INFORMATION TO BE CONTAINED IN THE PUBLIC PROCUREMENT NOTICE FOR SOCIAL AND OTHER SPECIFIC SERVICES**

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No e-mail address and internet address of the public contracting authority.
2. Code of the administrative-territorial unit on NUTS for the basic location of the construction works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.
3. Short description of the public procurement, CPV codes.
4. Conditions for participation, including:
  - a) where applicable, indicate if the procurement is intended only for specialized enterprises or cooperation of disabled people, for persons, whose basic purpose if the social and professional integration of disabled people, or people in disadvantaged position or will be fulfilled on programmes for creating protected jobs;
  - b) where applicable, indicate if the service fulfillment is kept for a certain profession under legal, legislative or administrative provisions.
5. term/s for establishing relation with the public contracting authority in view to participation.
6. Short description of the basic characteristics of the awarding public procurement procedure, which will be applied.

**PART B**

**THE LEAST INFORMATION TO BE CONTAINED IN THE NOTICE FOR PRELIMINARY INFORMATION ABOUT SOCIAL AND OTHER SPECIFIC SERVICES**

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, e-mail address and internet address of the public contracting authority.
2. Short description of the public procurement, including prognosis for total value of the procurement and CPV codes.
3. As far as known:
  - a) Code of the administrative-territorial unit on NUTS for the basic location of the construction works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.
  - b) schedule for supply or provision of supplies, construction or services and term of action of the public procurement contract;
  - c) participation conditions, including:

aa) where applicable, indicate if the procurement is intended only for specialized enterprises or cooperation of disabled people, for persons, whose basic purpose is the social and professional integration of disabled people, or people in disadvantaged position or will be fulfilled on programmes for creating protected jobs;

bb) where applicable, indicate if the service fulfillment is kept for a certain profession under legal, legislative or administrative provisions.

c) short description of the basic characteristics of the procedure for awarding public procurement, which will be applied.

4. Indication of a fact, that the interested persons must declare before the public contracting authority their interest in the procurement/s and the term for receiving the notices for confirmation of interest, as well as an address, at which the notices are sent for confirmation of interest.

## PART C

### THE LEAST INFORMATION TO BE CONTAINED IN THE NOTICE FOR AWARDING A PROCUREMENT FOR SOCIAL OR OTHER SPECIFIC SERVICES

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, e-mail address and internet address of the public contracting authority.

2. Short description of the public procurement, including prognosis for total value of the procurement and CPV codes.

3. Code of the administrative-territorial unit on NUTS for the basic location of the construction works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.

4. No of received offers.

5. Paid price or the highest or lowest offered price.

6. For each awarded public procurement – name and address, including the NUTS code of administrative-territorial unit, address of the e-mail and internet address of the won participant/s.

7. Any other relevant information.

#### **Annex No 7 to Art. 23, Para. 7, p. 2, letter "b"**

### THE LEAST INFORMATION TO BE CONTAINED IN THE PROCUREMENT NOTICES FOR SOCIAL AND OTHER SPECIFIC SERVICES, AWARDED BY SECTOR CONTRACTING AUTHORITIES

## PART A

### NOTICE FOR PROCUREMENT

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. Basic activity.

3. Description of the services, or categories of services, of additional construction and supplies, which are awarded, by indicating the quantities or their values and CPV codes

4. Code of the administrative-territorial unit on NUTS for the basic location of the provided services.

5. Where applicable, indicate if the procurement is intended only for specialized enterprises or cooperation of disabled people, for persons, whose basic purpose is the social and professional integration of disabled people, or people in disadvantaged position or will be fulfilled on programmes for creating

protected jobs.

6. Basic conditions, which must be fulfilled by the interested persons in view to their participation, or where applicable, e-mail address where detailed information may be received.
7. Term for establishing contacts with the contracting authority in view to participation.
8. Any other relevant information.

## PART B

### PERIODIC INDICATIVE NOTICE

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, e-mail address and internet address of the sector contracting authority.
2. Short description of the procurement, including CPV codes.
3. As far as they are known:
  - a) Code of the administrative-territorial unit on NUTS for the basic location of the construction works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.
  - b) schedule for supply or provision of goods, construction or the services and contract term;
  - c) participation conditions, including:
    - aa) where applicable, indicate if the procurement is intended only for specialized enterprises or cooperation of disabled people, for persons, whose basic purpose if the social and professional integration of disabled people, or people in disadvantaged position or will be fulfilled on programmes for creating protected jobs.
    - bb) where applicable, indicate if the fulfillment of the service is kept for a certain profession under legal, legislative or administrative provisions;
4. Indicate the fact, that the interested persons must declare before the contracting authority their interest to the procurement/s and the terms for receiving the notices for expressing interest, as well as address, where the notices for expressing interest are to be sent.

## PART C

### NOTICE FOR EXISTING OF QUALIFIED SYSTEM

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, e-mail address and internet address of the sector contracting authority.
2. Short description of the public procurement, including the CPV codes.
3. As far as already known:
  - a) code of the administrative-territorial unit on NUTS for the basic location of the construction works in construction or code of the administrative-territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.
  - b) supply schedule or provision of supplies, construction or services and contract term;
  - c) participation conditions, including:
    - aa) where applicable, indicate if the procurement is intended only for specialized enterprises or cooperation of disabled people, for persons, whose basic purpose if the social and professional integration of disabled people, or people in disadvantaged position or will be fulfilled on programmes for creating protected jobs.
    - bb) where applicable, indicate if the fulfillment of the service is kept for a certain profession under legal, legislative or administrative provisions;

d) short description of the major characteristics of the procurement awarding procedure, which will be applied.

4. Indicate the fact, that the interested persons must declare before the contracting authority their interest to the procurement/s and the terms for receiving the notices for expressing interest, as well as address, where the notices for expressing interest are to be sent.

5. term of action of the qualification system and procedure for its renewal.

## PART D

### NOTICE FOR AWARDING PROCUREMENT

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. Basic activity.

3. Short description of the nature and the quantity of services and where applicable – of the provided additional construction and supplies.

4. Reference information about the publication of the notice in the EU Official Journal.

5. Number of received offers.

6. Name and address of the selected participant/s.

7. Any other relevant information.

**Annex No 8 to Art. 34, Para. 1, p. 1**

## **INVITATIONS, SENT BY PUBLIC CONTRACTING AUTHORITIES FOR PRODUCTION OF OFFERS, FOR PARTICIPATION IN A DIALOGUE, FOR NEGOTIATION OR FOR CONFIRMATION OF INTEREST**

### *Section I*

#### **Minimal Contents of the Invitations, Sent by Public Contracting Authorities for submission of Offers or for Participation in Negotiations or Dialogue**

1. Reference to the published notice.

2. Deadline for receiving offers, address to be sent the offers and language/s, in which the offers must be drawn up.

3. In competition dialogue – date and address, determined for start of the consultation and the language/s which will be used.

4. indication of the documents, including certificates, which must be produced for proving and adding the indicated in EEDOP circumstances and information.

5. The criteria for awarding the procurement and the assessment indicators, their relevant weight or – these indicators, arranged in significance in a descending order, if they are not indicated in the notice for public procurement, the invitation for confirmation of interest, the technical specification or the description document. In public procurements, awarded by competition dialogue or partnership for innovations, the information under p. 2 shall be placed in the invitation for production of the offer.

### *Section II*

#### **Minimal Contents of the Invitations for Confirmation of Interest**

1. Nature and quantity, including any options for additional procurements and if possible, the prognosis schedule for use of these options for renewal of the procurements; nature and quantity and



prognosis data for publication of further notices for competition procedures for construction, supplies or services, which will be proposed for provision of offers.

2. Type of procedure: restricted procedure or competition procedure with negotiation.

3. Where applicable- the date at which must begin or finish provision of supplies or fulfillment of construction or services.

4. If it is impossible to provide electronic access – the address and the deadline for submission of requests for receiving the public procurement documentation and the language/s, in which they must be drawn.

5. The address of the public contracting authority, which will award the public procurement.

6. The economic and technical requirements, guarantees and information, which is required by the interested persons.

7. In supply procurements – the way of acquiring or using the goods by purchase, leasing, rent or financial leasing with or without the right to buying.

8. The awarding criterion of the public procurement, assessment indicators of the offers, their weight or where applicable – the sequence of these indicators in significance, if this information is not contained in the notice for preliminary information, the documentation of the invitation of provision of offers or for negotiations.

### **Annex No 9 to Art. 34, Para. 1, p. 2**

## **INVITATIONS, SENT BY THE SECTOR CONTRACTING AUTHORITIES FOR PRODUCTION OF OFFERS, FOR PARTICIPATION IN A DIALOGUE, FOR NEGOTIATION OR CONFIRMATION OF INTEREST**

### *Section I*

The minimal contents of the invitation for producing an offer for participation in dialogues or for negotiation must contain at least:

a) deadline for receiving the offers, address, to which they must be sent and the language/s in which they must be drawn up;

In procurements, awarded through a competition dialogue or partnership for innovations, this information shall be included in the invitation for provision of offers.

b) in a competition dialogue – the date and address, defined for the beginning of the consultations and the language/s which will be used;

c) reference to published invitation for participation in a procedure;

d) indication of the documents, which are to be attached;

e) criterion for awarding the procurement, where they are not indicated in the notice for qualification system, which is used for announcement the opening of the procedure;

f) the criteria for awarding the procurement, and where applicable – the assessment indicators, their relevant weight or where applicable – the sequence of these criteria, if this information is not contained in the procurement notice, for the qualification system or documentation.

### *Section II*

The invitation for confirmation of interest contain at least the following information:

a) the nature and quantity, including all the options for additional procurements and if possible, prognosis schedule for the use of these option for renewal of the procurements; nature and quantity, the prognosis data for publication of future notices for competition procedures for construction, supplies or services, which will be proposed for provision of offers;

b) type of procedure for awarding the procurement (restricted or negotiation);

- c) where applicable, the date, on which the supplies must begin or finish or fulfillment of construction or services;
- d) if not electronically – address and deadline for submission of application for the documentation of the procurement and the language/s, in which they must be drawn up;
- e) the address of the sector contracting authority;
- f) the economic and technical conditions, financial guaranties and information, which is required by the interested persons;
- g) the form of the procurement contract, which is subject of the invitation for provision of offers: purchase, financial leasing, rent or leasing or combination of them; as well as
- h) the criteria for awarding of the procurement, and where applicable – the assessment indicators, their weight or – the sequence of these indicators in significance, if this information does not contain in the indicative notice, the specifications or the invitation for provision of offers or participation in the negotiations.

**Annex No 10 to Art. 72, Para. 4**

**LIST OF CONVENTIONS IN THE SOCIAL AREA AND IN THE AREA OF ENVIRONMENT**

(prev. Annex no 10 to Art. 115, amend. - SG 86/18, in force from 01.03.2019)

1. Convention concerning Freedom of Association and Protection of the Right to Organise, adopted in San Francisco on 17 June 1948 (ratified by Decree – SG, 19/1959 (SG, 35/1997).
2. Right to Organise and Collective Bargaining Convention, adopted in Geneva on 8 June 1949 (ratified by Decree – SG, 19/1959) (SG, 35/1997)
3. Convention concerning Forced or Compulsory Labour, adopted in Geneva on 28 June 1930 (ratified by Decree and published in SG, 91/1932).
4. Convention No 105, concerning the Abolition of Forced Labour, adopted in Geneva on 25 June 1957 (ratified by a law – SG, 79/1998) (SG, 37/2000)
5. Convention concerning Minimum Age for Admission to Employment, adopted in Geneva on 26 June 1973 (ratified by a Decree – SG, 13/1980) (SG, 38/1997)
6. Convention concerning Discrimination in Respect of Employment and Occupation, adopted in Geneva on 25 June 1958 (ratified by a Decree – except, No of 1960) (SG, 35/1997).
7. Equal Remuneration Convention No 100, adopted in Geneva on 29 June 1951 (ratified by a Decree – except. No 54/1955) (SG, 35/1997).
8. Convention No. 182 on the Worst Forms of Child Labour, adopted in Geneva on 17 June 1999, (ratified by a law – SG, 54/2000) (SG, 68/2001).
9. Vienna Convention for the Protection of the Ozone Layer, signed in Vienna on 22 March 1985 (ratified by a decree – SG, 82/1989) (SG, 71/1999) and Montreal Protocol on Substances that Deplete the Ozone Layer, signed in Monreal on 16 September 1987 (ratified by a Decree – SG, No 82/1989) (SG, 71/1999).
10. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, signed in Basel on 22 March 1989 (ratified by a law – SG, 8/1996) (SG, 1/1997).
11. Stockholm Convention on Persistent Organic Pollutants, drawn up in Stockholm on 22 May 2001 (ratified by a law – SG, 89/2004) (SG, 34/2005).
12. Rotterdam Convention on the prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, drawn up in Roterdam on 10 September 1998 and its 3 regional Protocols (ratified by a law – SG, 7/2000) (publ. – SG, 33/2004; amend, No 88/2005 and No 21/2009).
13. Convention concerning the Protection of Wages, adopted in Geneva on 1 July 1949 (ratified by

a Decree – excep. No 54/1955) (SG, No 37/1997).

**Annex No 11 to Art. 71, Para. 5**

(revoked - SG 86/18, in force from 01.03.2019)

**Annex No 12 to Art. 130, Para. 3**

**LIST OF EU LEGAL ACTS**

*A. Transfer or distribution of gas or heating energy*

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ, L 211/94 of 14 August 2009)

*B. Production, transfer or distribution of electric energy*

Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, (OJ, L 211/55 of 14 August 2009)

*C. Production, transfer or distribution of drinking water*

*D.. Contracting authorities in the area of the railway transport services*

1. Freight transport

Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ, L 343/32 of 14 december 2012).

1. International railway transport

Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area

3. National railway transport

*E. Contracting authorities in the area of civil railways, tram, trolleybus and bus lines*

*F. Contracting authorities in the area of postal services*

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service

*G. Oil or gas production*

Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons

*H. Study and production of coal and other solid fuels*

*I. Contracting authorities in the area of equipment for marine or river port or for other terminals*

*J. Contracting authorities in the area of airport facilities*

**Annex No 13 to Art. 35, Para. 2, item 2**

(Prev. Annex No 13 to Art. 141, para. 1 - SG, 102/19, in force from 01.01.2020)

**THE LEAST INFORMATION, TO BE CONTAINED IN THE NOTICE FOR  
QUALIFICATION SYSTEM**

1. Name, identity N, (UIC/BULSTAT) address, including code of administrative-territorial unit of

NUTS, No of telephone, e-mail address and internet address of the sector contracting authority, and where different – data for the office, from which additional information may be received.

2. Basic activity.

3. Where applicable, indicate if the public procurement is intended only for specialized undertakings or cooperation of disabled people; for persons, whose basic purpose is the social professional integration of disabled people or people in disadvantage position or will be fulfilled on programmed for creating protected jobs.

4. Purpose of the qualification system (description of goods, services or construction or categories of them, for which procurements will be awarded by the system- CPV codes). Code of the administrative territorial unit NUTS for the major location of the construction works in construction or code of administrative – territorial unit on NUTS for the basic place of supply or fulfillment in supplies and services.

5. Conditions, which must be met by the interested persons for their qualification in compliance with the system and methods for check of the fulfillment of each condition. In case that the description of these conditions and methods for check is a volume one and is based on documents, accessible for the interested persons, it is enough to produce a summary of the basic conditions and methods with reference to the relevant documents.

6. Term of action of the qualification system and procedure for its renewal.

7. Indication of the fact, that the notice is used for announcing the opening of the procedure.

8. Address, at which additional information and documentation about the qualification system may be received and (in case, that is different from the addresses in p. 1.).

9. Name and address of the body, responsible for the appeal, and for the mediation procedures. Correct information about the terms for submitting an appeal or – the name, address, tel. and fax No and the e-mail address of the office, where such information may be received.

10. Criteria, which will be applied with awarding the procurement. Apart from the cases, where the best economical offer is determined on the basis of the price, the indicators of the economically the best offer are indicated, as well as their reference weight or their sequence in significance, where not specifications are indicated or they will not be in the invitation for production of offers or for negotiation participation.

11. Where applicable it is indicated:

a) if it is required/admitted electronically submission of offers or participation applications.

b) if electronic procurement will be applied,

c) if electronic invoicing will be used,

d) if electronic payment will be accepted.

12. Any other relevant information.

#### **Annex No 14 to Art. 151**

N of category	Subject	Reference CPV No
1	Maintenance and repair services	50000000-5, from 50100000-6 to 50884000-5 (with exception of 50310000-1 to 50324200-4 and 50116510-9, 50190000-3, 50229000-6, 50243000-0) and from 51000000-9, 51900000-1

2	Services related to external military assistance	75211300-1
3	Defence services military-defence services and in the area of civil defence	75220000-4, 75221000-1, 75222000-8
4	Detective and security services	from 79700000-1 to 79720000-7
5	Road transport services	60000000-8, from 60100000-9 to 60183000-4 (with exception of 60160000-7, 60161000-4) and from 64120000-3, 64121200-2
6	Air transport services, transport of passengers and freights without transportation of post	60400000-2, from 60410000-5 to 60424120-3 (without 60411000-2, 60421000-5), from 60440000-4 to 60445000-9 and 60500000-3
7	Transport of post on land and air	60160000-7, 60161000-4, 60411000-2, 60421000-5
8	Railway carriage services	from 60200000-0 to 60220000-6
9	Water transport services	from 60600000-4 to 60653000-0, and from 63727000-1 to 63727200-3
10	Additional and assistance transport services	from 63100000-0 to 63111000-0, from 63120000-6 to 63121100-4, 63122000-0, 63512000-1 and from 63520000-0 to 6370000-6
11	Communication services	from 64200000-8 to 64228200-2, 72318000-7, and from 72700000-7 to 72720000-3
12	Financial services: insurance services	from 66500000-5 to 66720000-3
13	IT services and related services	from 50310000-1 to 50324200-

		4, from 72000000-5 to 72920000-5 (without 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4, 9342410-4
14	Scientific and research and development activity services and assessment tests	from 73000000-2 to 73436000-7
15	Accountancy, auditors services and keeping books	from 79210000-9 to 79212500-8
16	Consultation services on management and related services	from 73200000-4 to 73220000-0, from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4, 79342300-6, 79342320-2, 79342321-9, 79910000-6, 79991000-7, 98362000-8
17	Architecture services; engineering services and integrated engineer services; civil engineering services; park architecture; related services in scientific and technical consultations; technical tests and analysis services	from 71000000-8 to 71900000-7 (without 71550000-8) and 79994000-8
18	Cleaning buildings services and property management	from 70300000-4 to 70340000-6 and from 90900000-6 to 90924000-0
19	Pipe services and trash collection. Hygiene and similar services	from 90400000-1 to 90743200-9 (with the exception of 712200-3), from 90910000-9 to 90920000-2, and 50190000-3, 50229000-6, 50243000-0
20	Training and simulation services in the defence and security area	80330000-6, 80600000-0, 80610000-3, 80620000-6, 80630000-9, 80640000-2, 80650000-5, 80660000-8

## Annex No 15 to Art. 151

Category N	Subject	CPV reference N
21	Hotel and restaurant services	From 55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6
22	Additional and assistance transport services	from 63000000-9 to 63734000-3 (without 63711200-8, 63712700-0, 63712710-3), from 63727000-1 to 63727200-3 and 98361000-1
23	Legal services	from 79100000-5 to 79140000-7
24	Services, related to job hiring and provision of staff	from 79600000-0 to 79635000-4 (without 79611000-0, 79632000-3, 79633000-0) and from 98500000-8 to 98514000-9
25	Social and health services	79611000-0 and from 85000000-9 to 85323000-9 (without 85321000-5 and 85322000-2)
26	Other services	

## Annex No 16 to Art. 156, Para. 2

### NOTICES FOR PROCUREMENTS IN THE DEFENCE AND SECURITY AREAS

#### PART A

#### PRELIMINARY INFORMATION NOTICE

The least information to be contained in the preliminary informative notices:

1. Name, address, fax and e-mail address of the contracting authority and – if different – of the office where additional information may be received, and in procurements for services and construction – the office where information about the taxes may be received, environment protection, employment and work conditions and labour protection, applicable where the procurement will be fulfilled.

2. Where applicable, it is indicated if the procurement is intended only for specialized undertakings or cooperation of disabled people or restricted to protected undertakings or will be fulfilled on programmes for creation of protected jobs.

3. For the construction procurement: nature and scope of the works, place of fulfillment; if the

construction is to be divided in several separate positions – the basic characteristics of these positions; assessment of the price scope of the envisaged works; reference CPV No according to the nomenclature.

4. For supply services: nature and quantity or value of goods, which are to be provided; reference CPV No of the nomenclature.

5. For service procurements: envisaged total value for each of the categories of services, CPV reference No of the nomenclature.

6. For procurement for services in categories: close date for opening the procedures for awarding procurement/s.

7. If applicable, in it is to be indicated if a framework agreement is envisaged.

8. Where applicable – other information.

9. Date of sending the notice.

## PART B

### PROCUREMENT NOTICES

The least information to be contained in the procurement notices:

Restricted procedures, agreement procedures with publication of the notice for procurement and competition dialogue:

1. Name, address, tel. and fax N, e-mail address of the contracting authority.

2. Where applicable, it is indicated that it is intended only for specialized undertakings or cooperation of disabled people or restricted to protection undertakings or will be fulfilled on programmes for creating protected jobs.

3. Selected awarding procedure.

4. Where applicable, the reasons for use of an accelerated procedure ( in restricted procedure and negotiation procedure).

5. Where needed, it is indicated if a framework agreement is envisaged.

6. Where needed, conducting electronic tender.

7. Type of procurement.

8. Place of fulfillment of construction, place and supply of goods or for provision of services.

9. Depending on the public procurement subject:

a) construction procurements:

aa) description, scope and volume of the construction, as well as general description of the construction; indicate the possibilities for additional construction and if known – schedule for the additional construction, as well as the number of eventual renewal of the procurement – if any; if the procurement is divided in separate positions – description of them; reference CPV No of the nomenclature,

bb) information for the expected final result of the construction or the procurement, where the latter includes also drawing up designs,

cc) in the framework agreement the prognosis term is indicated, the eventual total value of the construction and the action term of the agreement and if possible – the value and periods of procurements, which the contracting authority envisages to award;

b) supplies procurements:

aa) description, quantity or volume of goods to be supplied, and indication if offers are required for supplies by purchasing, renting, financial leasing or leasing, or with, or without the right to buy or combination of them, nomenclature reference N; quantity of the goods to be supplies, where the possibilities are indicated for additional purchases and if known, preliminary schedule of these additional purchases, as well the number of eventual renewals; referent CPV No of the nomenclature,

bb) in regular and renewal procurements for a certain period it is to be indicated the schedule for follow up procurements, which the contracting authority is to award,

cc) in a framework agreement it is indicated the planned term of its action, eventual total value of



supplies for the action term of the agreement and if possible, the value and frequency of procurement, which the contracting authority intends to award;

c) service procurements:

aa) category and description of the service; reference CPV N; quantity of services to be provided; the possibilities for additional procurements and preliminary schedule of these additional procurements, as well as the number of possible repeating procurements, if any; in regular and repeated procurements for a certain period, also the schedule for follow up procurements for service, which the contracting authority envisages to award;

In case of a framework agreement, the planned term of its action is indicated, eventual total value of the services for the action term of the agreement and the value of the period of procurements, which are intended to be awarded,

bb) it is indicated if the service fulfillment is kept under legal, legislative or administrative provisions for a certain profession;

Reference to a relevant legal, legislative or administrative provision,

cc) indicate if the participants must give the names and the professional qualification of the staff, responsible for the service fulfillment.

10. Where the procurements are divided of separate positions, the possibility for the participants to submit offers is indicated for one, for all or only for some of them.

11. Restriction of prohibition of variants.

12. Where applicable – selection criteria in relation to personal state of the subcontractors, which may lead to their removal, as well as the needed information, proving that they do not fall in the cases for removal. The information and all the needed formalities for assessment of the minimal economic and technical capacity, required from the subcontractors.

Eventual required minimal level of capacity.

13. Term of finalization of construction, supplies, services or continuation of the procurement. If possible, final date for starting the construction or for the supplies or services.

14. Where possible, certain conditions, which must be met by the fulfillment of the procurement.

15. Information on the participation applications:

a) final date for receiving participation applications;

b) address, where they must be sent;

c) language/s in which they must be drawn up.

16. Conditions for financing and payment and/or references to relevant texts.

17. Where applicable – requirement for establishment of a legal person, where the participant, selected for contractor is a partnership of natural and/or legal persons.

18. Selection criteria in relation to personal state of the participants, which may lead to their removal, as well as the needed information, proving that they do not fall in the cases for removal. The information and all the needed formalities for assessment of the minimal economic and technical capacity, required from the subcontractors. Eventual required minimal level of this capacity in their various aspects.

19. For framework agreement: number, or maximum number of participants, which are to take part in them, envisaged term for its action.

20. In a procedure of competition dialogue or negotiation procedure with publication of a notice for procurement it is indicated the use of step-by step procedure, in order to decrease the number of the decision, which are to be discussed or of the offers, which are to be negotiated.

21. In case of a restricted procedure, negotiation or competition dialogue, where it is used the possibility for decreasing the number of applicants, invited to produce an offer, to participate in a competition dialogue or to negotiate: the minimal number, maximum envisaged number of applicants and objective criteria, which are to be applied for selection of this number of applicants.

22. The criterion, which is to apply in awarding the procurement: indicators, defining the economically best offer, as well as their relevant weight or indicators, arranged according to their

significance in a descending order, are to be indicated, where they are not included in the specifications, or in a competition dialogue procedure – in the description document.

23. Where applicable – date/s of publication of the preliminary information notice or an application, that such a notice is not published.

24. Date of submission of the notice.

## PART C

### NOTICE FOR AWARDED PROCUREMENT

The least information, which the notice for an awarded procurement must contain:

1. Name and address of the contracting authority.

Selected procedure for awarding the procurement. In negotiation procedure without publication of a notice for procurement – grounds.

2. Depending on the subject of the public procurement:

a) in construction procurements ; description and volume of the services;

b) in supplies procurements: description and quantity of supplied goods, distributed suppliers; reference CPV N;

c) in service procurements: category of service and description; reference CPV N; quantity of the bought services.

3. Date of awarding the procurement.

4. Criterion for awarding the procurement.

5. Number of received offers.

6. Name and address of the classified economic operators.

7. Paid price or the highest, or lowest offered price.

8. Value of the approved offer/s or of the highest and lowest offer, taken in consideration in awarding the procurement.

9. if applicable – the part of the procurement, which will be awarded to subcontractors, as well as its value.

10. If applicable – the motives, defining the framework agreement with term not longer than 7 years.

11. Information for termination of the procedure, where applicable.

12. Date of publication of the procurement notice.

13. Date of sending the current notice.

## PART D

Notices for voluntary transparency must contain the following least information:

1. Name and data for the contracting authority.

2. Description of the contract subject, which the contracting authority intends to sign.

3. Grounds on which the contract is to be signed and motive for their application.

4. Name and data for selected contractor.

### **Annex No 17 to Art. 167, Para. 2**

### **INVITATION FOR PRODUCTION OF OFFERS, FOR PARTICIPATION IN NEGOTIATIONS, OR FOR DIALOGUE**

Minimal contents of the invitations:

1. Address of the e-mail or internet address, to which will be unlimited and complete direct free access to the documents for the procurement or of the description document and all the document or name or

address of the office, where these documents may be received.

Where unlimited and complete free access is not available, instruction for the way, in which access may be received to the documentation for the public procurement.

2. Data about the office, where additional information may be received.

3. reference to the published notice for the procurement.

4. Deadline for receiving the offers, address, where the offers must be sent and the language/s in which the offers must be drawn up. In case of a procedure of a competition dialogue, this information will be contained in the invitation for provision of the offer.

5. In the competition dialogue – the date and address, defined for the start of the consultation, language/s to be used.

6. Indication of the documents, including certificates, which are to be produced for evidence and addition of the indicated EEDOP circumstances and information.

7. Criterion for awarding the procurement, and where applicable – the assessment indicators and their reference weight or where applicable – these indicators, arranged according to significance in descending order, if not indicated in the procurement notice, documentation for procurement or the described documents.

### **Annex No 18 to Art. 175, Para. 2**

#### **THE LEAST INFORMATION TO BE CONTAINED THE NOTICED FOR PROCUREMENTS FOR SUBCONTRACTORS**

1. Name, address, fax No and electronic address of the participant, won the procurement and of the office, if they are different, where additional information may be received.

2. Place of fulfillment of the construction, place of supply of the goods or for provision of services.

3. Description, quantity, scope and volume of construction, as well as general description of the work; reference CPV N.

4. Description of the goods, which must be supplied, indicating if offers for supply are required by purchase, renting, financial leasing or leasing with the right to purchasing or combination of them, reference CPV N.

5. Category and description of the service; referent CPV N.

6. Obligatory terms for finalization of the construction.

7. Name and address of the body, where specification and additional information may be required:

a) term for receiving participation applications and receiving the offers;

b) address, where they must be sent;

c) language/s in which must be written.

8. Required deposits or guaranties.

9. Objective criteria, which will be applied for selection of subcontractors, related to their person state or assessment of their offer.

10. Other information

11. Date of submission of the notice.

### **Annex No 19 to Art. 178, Para. 1**

#### **THE LEAST INFORMATION, WHICH MUST BE CONTAINED IN THE PUBLIC COMPETITION NOTICE**

1. Name and address of the contracting authority.

2. Subject of the procurement, prognosis value and source of financing.

3. Short description of the procurement subject, quantity and volume.

4. Data for separate position, where applicable.
5. Requirements to the personal state of the participants.
6. Selection criteria, referred to the possibility of exercising the professional activity, economic and financial state and the technical and professional abilities.
7. Awarding criteria, and assessment indicators of the offers.
8. Additional information and other requirements to the fulfillment of the procurement, where applicable.
9. Term of submission and place for receiving the offers.
10. Date and time and place of opening the offers.
11. Separate positions.
12. Body, responsible for the appeal procedures.

**Annex No 20 to Art. 187, Para. 1**

(amend. - SG 86/18, in force from 01.11.2019)

**THE LEAST INFORMATION, TO BE CONTAINED IN THE NOTICE**

1. Name of the contracting authority.
2. Object, subject and short description of the procurement.
3. (amend. - SG 86/18, in force from 01.11.2019) Selection criteria, where applicable
4. Term for submission of the offers.
5. Validity term of the offers.
6. Awarding criterion, including the assessment indicators and their weight.
7. Date and time of opening the offers.
8. Separate positions, where applicable.
9. Other relevant information.