

LAW
OF THE REPUBLIC OF ARMENIA

Adopted on 16 December 2016

ON PROCUREMENT

SECTION 1

GENERAL PROVISIONS

Article 1. Subject matter of the Law

1. This Law shall regulate the relations pertaining to the process of acquisition of goods, works and services by contracting authorities, define principal rights and obligations of parties to these relations.

Article 2. Main concepts used in the Law

1. The following main concepts shall be used in this Law:
 - (1) “contracting authority” means:
 - a. public administration and local self-government bodies, state or community institutions provided for by the Constitution of the Republic of Armenia and laws of the Republic of Armenia;
 - b. Central Bank of the Republic of Armenia;
 - c. state or community non-commercial organisations;
 - d. organisations with more than 50% of state or community shares;
 - e. foundations established or associations (unions) formed by the state or community, or state or community non-commercial organisation, or organisations with more than 50% of state or community shares;

- f. legal persons having received means in the form of donation or grant from the state or community, or from state or community non-commercial organisations, or organisations with more than 50% of state or community shares – as regards procurement carried out at the expense of means received in the form of donation or grant;
- g. foundations restructured through reorganisation of state or community non-commercial organisations or organisations with more than 50% of state or community shares;
- h. public organisations;

(2) **“public organisations”** means:

- a. persons included in the list approved by the Public Services Regulatory Commission of the Republic of Armenia, who carry out activities in the regulated field of public services, with the exception of persons who have been included in the list referred to in this paragraph due to holding a dominant position in respect of services provided within the framework of operation of the public network in the electronic communication sector;
- b. other organisations operating in the field of public services which, based on a special or exclusive right, implement one or more types of relevant activities defined by this Article, where procurement is carried out for the purpose of implementing the given type of relevant activity;

(3) **“procurement”** means acquisition, leasing of all types of goods, works and services – upon reimbursement by contracting authority – through conclusion of a contract with the selected bidder, acquisition of goods, works and services at the expense of means allocated to legal persons by contracting authority in the form of donation, acquisition of goods, works and services by barter, as well as granting of rights to a private sector partner within the framework of public-private partnership transactions, including transactions on trust management and concession;

(4) **“contract”** means a written transaction concluded for the purpose of carrying out procurement;

(5) **“bidder”** means a person participating in the procurement process for the purpose of concluding a contract with the contracting authority;

(6) **“selected bidder”** means a bidder (bidders) to whom the contracting authority offers to conclude a contract;

(7) **“invitation”** means terms offered to the bidder for the purpose of concluding a contract;

- (8) **“bid”** means a proposal submitted by the bidder based on the invitation;
- (9) **“bid security”** means a measure securing fulfilment of the obligations assumed by the bidder under the bid in cases provided for by this Law;
- (10) **“contract security”** means a measure securing fulfilment of the obligations being assumed by the selected bidder under the contract in cases provided for by this Law;
- (11) **“electronic auction”** means the process of presenting – with the use of electronic means – new prices, revised downwards, enabling by using automatic evaluation methods (means) to rank the bidders having submitted bids as per their position, that is, their sequential order;
- (12) **“electronic means”** means electronic equipment including software and hardware necessary for the processing and storage of data which is transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means, as well as for the organisation of procurement procedures by electronic means;
- (13) **“authorised body”** means a state body of the executive power of the Republic of Armenia, which develops and implements the policy of the Government of the Republic of Armenia in the field of public financial management;
- (14) **“bulletin”** means website at "www.procurement.am" for publishing the information subject to publication as provided for by this Law;
- (15) **“special or exclusive right”** means a right arising from competences granted by a competent body upon a legal or administrative act, the aim of which is to vest the right of implementing certain activities (including in the field of public services) with one or a limited number of organisations and which substantially limits the possibility of other organisations to implement such activities. Rights that are granted as a result of a public tender and granting whereof is based on non-discriminatory standards shall not be considered as a special or exclusive right, except for cases when the right granted as a result of a public tender is considered as exclusive as prescribed by law;
- (16) **“subject of procurement”** means goods, works or services to be purchased;
- (17) **“description of the subject of procurement”** means characteristics of the subject of procurement, terms of acquisition and payment thereof;
- (18) **“consultancy services”** means services, the provision whereof leads to the creation of intangible assets (values) lacking physical substance;

(19) **“consultant”** means a person participating in the procurement process for the purpose of concluding a contract for consultancy services with the contracting authority;

(20) **“selected consultant”** means a consultant (consultants) to whom the contracting authority offers to conclude a contract for consultancy services;

(21) **“procurement base unit”** means an amount equal to one million drams of the Republic of Armenia;

(22) **“relevant activities”** means the following types of activities being implemented in the field of public services, and this Law shall apply to procurement carried out within the framework thereof. Those types of activities are the following:

- a. generation of electric and thermal energy (including cogeneration), the transmission (transportation) and distribution of electric, thermal energy and natural gas, the provision of system operator services for electric power and natural gas supply, the construction of new production capacities in the electric and thermal energy industry or renovation thereof, the construction of transmission (transportation) or distribution networks in the electric and thermal energy or natural gas industry;
- b. supply of drinking, irrigation and industrial water, water disposal and waste water treatment;
- c. operation of public network in the field of electronic communication;
- d. services subject to tariff regulation by the Public Services Regulatory Commission of the Republic of Armenia in the fields of postal communication, mandatory technical inspection of railway transport and vehicles;
- e. provision or operation of (existing) networks intended for provision of public services in the field of transport. A network for provision of transport services shall be considered as existing, where the operation conditions including the routes under maintenance, the capacity to be provided or the frequency of maintenance are established by a competent state body;
- f. exploitation of a geographical area:
 - for the purpose of prospecting for or extracting oil, gas, coal or other solid fuels;
 - for the purpose of providing airports or other terminal facilities to carriers by air or waterways;

(23) **“procurement process”** means a set of actions aimed at implementing the procurement procedures, exercising rights and obligations provided for by the legislation of the Republic of Armenia on procurement, with the view of carrying out procurement, including planning of procurement, approval of the description of the subject of procurement, implementation and management of the contract;

(24) **“procurement price”** means the estimated price calculated as prescribed by the Government of the Republic of Armenia with the view of acquiring goods, works, and services.

Article 3. Objective, principles and scope of the Law

1. The objective of this Law is to ensure value for money in the procurement process, namely:

(1) acquisition of goods, works and services meeting the needs required for exercising the powers vested in the contracting authority, with an adequate compensation;

(2) cost-effective, efficient and benefit-based conduct of procurement and procurement process.

2. The procurement process shall be based on the following principles:

(1) organisation of the procurement process based on uniform rules of competition, transparency, proportionality, publicity and non-discrimination;

(2) enlargement of the circle of bidders and promotion of competition among them for the purpose of concluding a contract;

(3) equality of rights for every person to participate in the procurement process, irrespective of the fact of being a foreign natural person, an organisation or a stateless person.

3. Within the meaning of this Law, procurement shall be considered to be carried out outside the territory of the Republic of Armenia, where the contract is concluded and goods, works or services under the contract are acquired and used outside the territory of the Republic of Armenia.

4. This Law shall not apply to the following types of transactions:

(1) employment contracts;

(2) acquisition of services rendered by certain persons provided for by the decisions of officials carrying out criminal, administrative or judicial proceedings in cases provided for by law;

(3) transactions related to trust management of securities.

Article 4. Legislation of the Republic of Armenia on procurement

1. The legislation of the Republic of Armenia on procurement shall comprise the Civil Code of the Republic of Armenia, this Law and other legal acts. Other legal acts on procurement shall also be published in the Official Bulletin.

Article 5. Other legal acts adopted by the Government of the Republic of Armenia

1. For the purpose of ensuring achievement of the objective and fulfilment of the requirements of this Law, the Government of the Republic of Armenia shall approve:

- (1) the procedure for carrying out procurement outside the territory of the Republic of Armenia;
- (2) the procedure for carrying out procurement by electronic means;
- (3) the procedure for holding an electronic auction;
- (4) the procedure for procurement planning, approval of descriptions of a subject of procurement, preliminary control over procurement, implementation, management of contracts and financing thereof;
- (5) the types of transactions within public-private partnership, requirements for descriptions of such transactions, as well as the procedure for drafting and approval of descriptions;
- (6) the procedure for application of procurement procedures provided for by this Law and peculiarities thereof;
- (7) the procedure for formation and functioning of the evaluation commission;
- (8) the main terms of the invitation and the contract;
- (9) the procurement plan implemented at the expense of the funds of the State Budget;
- (10) the procedure for granting qualification to the procurement co-ordinators and conducting continuous professional trainings for them;
- (11) the form of the procurement plan, the procedure for completion, approval and publication thereof;
- (12) the concept of affiliated persons and the cases of limitation for participation of such persons in the procurement procedures as provided for by this Law;

- (13) procedure for conducting random evaluation of descriptions of subjects of procurement and qualification criteria for bidders approved by the contracting authorities in terms of observing the requirements for ensuring competition and non-discrimination provided for by this Law;
- (14) the list of goods, works and services acquired through electronic auction;
- (15) the list of goods, works and services acquired in closed periodic tenders;
- (16) the procedure for refunding the appeal fee;
- (17) the requirements of bid security and contract security set for bidders by invitation, based on the forms of procurement.

Article 6. Eligibility for participation in procurement and qualification criteria

1. Except for the cases of carrying out procurement under the procedure provided for by points 1, 3, 4 and 5 of part 1 of Article 23 of this Law, the following persons shall not be eligible to participate in procurement:

- (1) those who have been declared bankrupt through judicial procedure as of the day of submitting the bid;
- (2) those who have overdue liabilities amounting up to one percent of the price proposal submitted thereby for the part of incomes controlled by the tax authority as of the day of submitting the bid, but in the amount not exceeding fifty thousand drams of the Republic of Armenia;
- (3) those who have been convicted or a representative of the executive body whereof has been convicted – within three years prior to submission of the bid – for financing of terrorism, child exploitation or a crime involving human trafficking, creation of a criminal association or participation therein, receiving a bribe, giving a bribe or mediation in bribery and crimes against economic activity provided for by law, except for cases when the conviction is cancelled or expired as prescribed by law;
- (4) an unappealable administrative act for anti-competitive agreement or abuse of dominant position in the field of procurement has been adapted in relation thereto as prescribed by law, within one year prior to the day of submitting the bid;
- (5) those who have been included in the list of bidders ineligible to participate in the procurement process, published according to the legislation of member states of the Eurasian Economic Union on procurement, as of the day of submitting the bid;

(6) those that have been included in the list of bidders ineligible to participate in the procurement process as of the day of submitting the bid. The bidders shall be included in the indicated list, where:

- a. they have violated the obligation provided for by a contract or assumed within the procurement process, which resulted in unilateral rescission of the contract by the contracting authority or termination of further participation of the bidder concerned in the procurement process;
- b. they have refused to conclude a contract as a selected bidder;
- c. they have refused further participation in the procurement process after the opening of bids.

2. The authorised body shall publish, including in Russian, the list referred to in point 6 of part 1 of this Article. The authorised body shall initiate a procedure – without fee – with the person examining procurement-related appeals based on the information available on a bidder having been deprived of the right to participate in the procurement process. Upon hearing the opinion of the given bidder, the person examining procurement-related appeals shall within the time limit prescribed by part 6 of Article 50 of this Law deliver a decision on including the bidder in the list provided for by this Article. A person shall be included in the indicated list for a time limit of two years.

3. The bidder must meet the qualification criteria defined by the invitation. For fulfilment of obligations provided for by the contract, the bidder must have the following criteria as required by the invitation:

- (1) compliance of professional activities with activities provided for by the contract;
- (2) professional experience;
- (3) technical resources;
- (4) financial resources;
- (5) labour resources.

4. No criteria related to eligibility and qualification of the bidder for participation in the procurement may be prescribed, where such criteria:

- (1) are not provided for by this Article;
- (2) are discriminatory and restrict competition – unduly complicate or simplify possible participation in the procurement process;

(3) are inadequate, *i.e.* do not directly derive from the necessity to fulfil the obligations provided for by the contract.

5. The bidders may, within the scope of ensuring compliance of their data with the qualification criteria provided for by the invitation, rely on the financial and technical resources of other persons, where necessary, based on legal relation prescribed by the corresponding contract.

6. The criteria, procedure for evaluating the eligibility and qualification of the bidder for the participation in the procurement and the requirements set for the documents (information) required for this purpose shall be defined by the invitation.

Article 7. Equal participation in procurement

1. Any person, irrespective of the fact of being a foreign natural person, an organisation or a stateless person, shall have equal right to participate in the procurement process.

2. Participation of any person (persons) – resident of any country – in the procurement process may be restricted only by the Decision of the Government of the Republic of Armenia, where it is necessary to ensure the national security and defence of the Republic of Armenia.

3. Where part 2 of this Article does not apply, the procurement or prequalification notice shall indicate that every person may submit bids, irrespective of the fact of being a foreign natural person, an organisation or a stateless person; moreover, the notice shall not be subject to modification. Where part 2 of this Article applies, an indication about such a restriction shall be made in the procurement or prequalification notice.

4. Concurrent participation of organisations founded by affiliated persons and/or the same person (persons) or organisations with more than 50% of shares owned by the same person (persons), in the same procurement process, prescribed by this Law and other legal acts adopted on the basis thereof shall be prohibited, except for:

(1) organisations founded by the state or communities;

(2) cases of participation defined by part 6 of Article 30 of this Law.

5. Legal persons with shareholding of the contracting authority shall participate in the procurement with equal right with other bidders, and the shareholding of the contracting authority in those

organisations may not lead to defining and applying any privilege or any other favourable conditions for such persons.

Article 8. Documents and requisites thereof and e-procurement

1. Record and storage of procurement-related information shall be ensured by drawing up relevant documents (including electronic documents).

2. Where the invitation defines a requirement for providing information to the bidder, the requisites of such information shall be simultaneously provided. Within the framework of functions defined by this Law, the communication may be carried out electronically; moreover:

(1) the notice and the invitation may be provided electronically;

(2) the bids shall be submitted electronically in cases and in the manner prescribed by the invitation.

3. The means to be used for electronic communication must be non-discriminatory, generally available for any potential bidder and interoperable with the means of information and communication technologies in general use.

4. The following rules shall apply in a mandatory manner to the means for submission and receipt of bids electronically:

(1) information on the specifications (including the coding) necessary for submission of bids electronically shall be available for interested bidders;

(2) the electronic devices designed for receipt of bids electronically must guarantee the integrity and confidentiality of the received data, ensuring at least the following conditions:

a. the exact time and date for receipt of bids may be precisely determined;

b. prior to the time limits defined for transmission of data, no one may have access to the transmitted data;

c. unauthorised access may be clearly detected where the prohibition on access to the transmitted data has been violated;

d. the time limits for opening the data received may be defined or modified only by authorised persons;

- e. access to the received data in different phases of the procurement procedure is possible only by a simultaneous action of at least two authorised persons (systems) and only after the time limit defined according to this point;
- f. the data received and opened according to the requirements of this part must remain accessible only to persons authorised to get acquainted with them.

5. The Government of the Republic of Armenia may set a fee for participation in procurement carried out electronically.

Article 9. Protocol of procurement procedure and reports on procurement

1. Where the procurement price exceeds the procurement base unit, the contracting authority shall draw up, within three working days following the day of concluding the contract or declaring the procurement procedure as not having taken place, protocol of the procurement procedure. Based on the form of the procurement, the protocol of the procurement procedure shall contain:

- (1) the name and registered office of the contracting authority;
- (2) the need for procurement and the justification for selection of the procurement form;
- (3) the invitation and the modifications made therein;
- (4) the enquiries received on the procurement and clarifications provided;
- (5) the data on the bidders having submitted bids: name, registered office or place of residence, contacts;
- (6) the prices offered in the bids;
- (7) the bid evaluation procedure and the results of evaluation thereof;
- (8) in case of rejecting the bid – the justification for the rejection;
- (9) the contract, and where no contract is concluded as a result of the procurement process – the justification thereof;
- (10) in case of detecting unlawful actions within the framework of the procurement process – a brief description of such actions and measures undertaken in that respect;
- (11) the appeals filed regarding the procurement process and the decisions made in relation thereto;
- (12) other necessary information.

2. For the purpose of registering procurement transactions that entail obligations for the state, the contracting authority shall submit a report on the procurement process to the authorised body within seven working days after concluding the procurement contract at the expense of funds from the State Budget, means allocated from the State Budget in the form of grant, including subvention, or declaring the procurement process as not having taken place.
3. Where the procurement price does not exceed the procurement base unit, the contracting authority shall ensure the availability and storage of relevant documents (or electronic documents) on the actions carried out for procurement purposes and on the grounds thereof.
4. The contracting authority shall be obliged to provide the copy of the protocol of the procurement procedure or a document constituting part thereof to any person within five working days after the receipt of such a request, except for procurement containing state secret.
5. For the purpose of drawing up and publishing the annual procurement report, the contracting authorities shall submit reports to the authorised body. The annual procurement report shall be published in the bulletin by 1 May of the year following the year concerned.

Article 10. Decision on conclusion of contract, standstill period, conclusion and conditions of contract

1. Prior to the conclusion of contract, the contracting authority shall publish in the bulletin a notice regarding the decision on conclusion of a contract no later than the first working day following the adoption of decision on the selected bidder. In case of carrying out procurement containing state secret, the notice provided for by this part shall be sent to all bidders having submitted bids on the first working day following adoption of the decision on the selected bidder.
2. The decision on conclusion of a contract shall contain brief information on evaluation of bids and reasons justifying the selection of the bidder, and a statement on a standstill period. The standstill period shall be the period between the day following the day of publishing the notice regarding the decision on conclusion of a contract and the day the competence to conclude a contract by the contracting authority arises.
3. In case of a tender and an electronic auction, the standstill period shall be at least 10 calendar days. For other procurement procedures, the standstill period shall be at least five calendar days.
4. The standstill period provided for by part 3 of this Article shall not be applicable, where only one bidder has submitted a bid with whom a contract is concluded.

5. The contracting authority shall conclude the contract, where no bidder appeals against the decision on conclusion of a contract to the person examining procurement-related appeals within a standstill period provided for by part 3 of this Article. The contract concluded before expiry of the standstill period or without publication of the notice on conclusion of a contract shall be null and void.

6. Relationships of parties pertaining to procurement not regulated by the legislation of the Republic of Armenia on procurement shall be regulated by the contract.

Article 11. Publication of notice on concluded contract

1. The contracting authority shall publish a notice on the concluded contract in the bulletin no later than the first working day following conclusion of the contract. In case of carrying out procurement containing state secret the notice provided for by this part shall be sent to all bidders having submitted bids on the first working day following conclusion of the contract.

2. The notice on the concluded contract shall contain the following information:

- (1) the brief description of the subject of procurement;
- (2) the name and address of the contracting authority;
- (3) the date of conclusion of a contract;
- (4) the name (names) and registered office (offices) or place (places) of residence of the selected bidder (bidders);
- (5) the price proposals submitted by bidders and the contract price;
- (6) the information on publications made according to this Law for the purpose of involving bidders (if applicable);
- (7) the procurement procedure used and the justification for the selection thereof.

Article 12. Consequences of unlawful actions of bidders

1. Where an unlawful act within the framework of the procurement process is detected, which is committed by the bidder or a representative of management body thereof, the contracting authority shall, on the day of its emergence, notify law enforcement bodies about that in writing.

Article 13. Descriptions of subject of procurement

1. The descriptions of the subject of procurement must fully and clearly describe the characteristics of goods, works or services to be acquired and terms for their acquisition and payment, ruling out any different interpretation. The descriptions of the subject of procurement which also contain the contract price shall be included in the contract.
2. The descriptions of the subject of procurement:
 - (1) must ensure equal conditions of competition for potential bidders;
 - (2) must not result in the creation of unjustified obstacles for competition in the procurement process;
 - (3) must be objectively justified and proportionate to the need for which the given procurement is carried out;
 - (4) shall include the full and relevant description of specifications and technical data of the subject of procurement, and the bill of quantities, timetable for works and other non-price conditions – in case of works.
3. Depending on the peculiarity of the subject of procurement, the characteristics thereof shall, to the extent possible, include the clear description of the conditions for quality, standard, safety, conventional signs, terminology, packaging, unloading, dimension, designs for goods, works or services to be acquired, and other characteristics related to the subject of procurement based on international standards, and the standard technical documents and standards effective in the Republic of Armenia, while in case of absence thereof – on the temporary technical conditions.
4. The characteristics of the subject of procurement may also be defined as performance-related or functional descriptions which must be submitted with sufficient accuracy, allowing bidders and the contracting authority to have a precise understanding of the subject of the contract.
5. The characteristics of the subject of procurement shall not contain a requirement for or a reference to any trademark, a firm name, a licence, a sketch or a model, country of origin or a specific source or a manufacturer, except for cases when it is impossible to describe the subject of procurement without them. In case of using references, the descriptions of characteristics must contain the words "or equivalent".

Article 14. Official language of procurement procedure

1. The documents related to procurement shall be drawn up and published in the bulletin in Armenian in cases provided for by this Law, whereas notices on procurement, including prequalification notices, shall also be published in English and Russian.
2. The bids may, in addition to Armenian, also be submitted in English or Russian.

Article 15. Procurement planning and financing

1. The procurement plan being implemented at the expense of funds of the State Budget shall be approved based on the administrative and functional classification of budget expenditures.
2. The procurement plan containing a state secret shall include goods, works and services required for ensuring national security, protocol expenditures, accommodation, food and transport services for officials provided for by part 2 of Article 5 of the Law of the Republic of Armenia “On ensuring the safety of persons subject to special state protection”, including special hardware and software support in the field of technical maintenance and repair of vehicles, provision of military equipment, armament, ammunition and military-technical means.
3. The contracting authority shall publish the procurement plan including the modifications thereto in the bulletin within two working days following the day of approval thereof, except for the procurement plan containing a state secret.
4. Financial resources for the procurement of construction works shall be earmarked based on the design documents approved and having passed expert examination, under the prescribed procedure. Where no design documents are available, financial resources for the procurement of construction works may not be earmarked, unless otherwise prescribed by law or upon the decision of the community council of elders.
5. Where the procurement price exceeds the amount of financial allocations earmarked for that procurement, in case of concluding a contract, financial resources shall be earmarked during the period following the period concerned for carrying out the procurement defined by the procurement contract or the temporary termination of the given procurement (where the temporary termination requires financial resources).
6. Before earmarking financial resources, a contract may be concluded as prescribed by this Law, provided that procurement may be carried out within the framework of the mentioned contract in case necessary financial resources are earmarked. The contract concluded according to this part shall be

rescinded, where no financial resources for execution of the contract are earmarked during the period of six months following the day of concluding a contract. This part may apply, where:

(1) the contracting authority is unable to forecast (calculate) beforehand the amount of financial resources necessary for procurement;

(2) supply of goods, performance of works or provision of services start in such a period calculated from the moment of earmarking financial resources for the given procurement, which makes the application of any competitive procurement form impossible in terms of time limit.

7. The contracting authority shall assume financial obligations under the contract, where financial allocations required for carrying out that procurement are earmarked, as well as within the framework of those allocations.

8. Financial resources for carrying out procurement shall be earmarked under relevant items of economic classification of budget expenditures for the acquisition of goods, works and services. Earmarking of financial resources under other items of economic classification of budget expenditures shall be prohibited, where procurement is to be carried out at the expense of those resources.

SECTION 2

REGULATION AND CO-ORDINATION OF PROCUREMENT PROCESS

Article 16. Regulation and co-ordination of procurement process

1. The regulation and co-ordination of the procurement process shall be performed by the authorised body. The authorised body may not be involved in the procurement processes, be a party to the contract, except for procurement to be carried out for its own needs.

2. For the purpose of regulating and co-ordinating the procurement process, the authorised body shall:

(1) co-ordinate the elaboration of draft legal acts on procurement and shall adopt or submit them to the Government of the Republic of Armenia for approval;

(2) provide methodical assistance to the contracting authorities in arranging the procurement activities;

- (3) ensure the qualification certification of procurement co-ordinators and the existence of a system for continuous professional training thereof;
- (4) arrange publication of the bulletin;
- (5) co-ordinate procurement-related co-operation between international organisations, foreign states, as well as state and local self-government bodies of the Republic of Armenia;
- (6) register procurement transactions entailing obligations for the state;
- (7) publish:
 - a. the annual public procurement report;
 - b. the list of qualified procurement specialists (persons);
- (8) approve the standard forms of documents used during the procurement process, including those of the invitation and the contract;
- (9) approve the standard forms of documents to be submitted to the authorised body according to this Law, including those of the reports, and the deadlines for submission thereof;
- (10) approve the form of the register and the procedure for the keeping thereof;
- (11) maintain and co-ordinate the e-procurement system;
- (12) ensure the availability of a procurement support service (hotline) for the purpose of responding to alerts and quickly responding to questions on procurement.

3. The head of the contracting authority shall appoint a procurement co-ordinator who shall be:

- (1) responsible for the organisation and co-ordination of the procurement process of the contracting authority;
- (2) give an opinion on documents approved by the contracting authority within the framework of procurement;
- (3) exercise powers of the secretary of the evaluation commission;
- (4) draw up the protocol of the given procurement procedure and the procurement contract and submit them to the head of the contracting authority for approval.

4. A procurement co-ordinator may be:

- (1) a relevant subdivision of the contracting authority;

- (2) an official or officials;
- (3) an invited person – consultant or consultants.

5. Employees of the subdivision co-ordinating procurement, officials and invited persons must be included in the list of qualified procurement co-ordinators, published by the authorised body. The persons referred to in the list shall be included in the list after being evaluated as satisfactory based on the results of the procedure for procurement co-ordinators qualification, organised by the authorised body.

Article 17. Centralised procurement

1. Procurement for needs of contracting authorities or separate groups thereof may be carried out in a centralised manner as prescribed by the Government of the Republic of Armenia.
2. Centralised procurement shall be carried out by a body or a legal person authorised by the Government of the Republic of Armenia.

SECTION 3

PROCUREMENT PROCEDURES AND CONDITIONS FOR APPLICATION THEREOF

Article 18. Procurement procedures

1. Procurement procedures shall be the following:
 - (1) electronic auction;
 - (2) tender;
 - (3) price quotation;
 - (4) single source procurement.
2. Tenders shall be of two types – open and closed. Closed tender shall be targeted or periodic.

3. Procurement shall be carried out under the procedure for electronic auctions, where the subject of procurement is included in the list provided for by point 14 of part 1 of Article 5 of this Law.
4. In cases provided for by this Law, the tender may be carried out in two stages.
5. The preferable form of procurement shall be the tender, where the subject of procurement is not included in the list provided for by point 14 of part 1 of Article 5 of this Law, and in case of procurement containing state secret – in the list provided for by point 15 of the same part. Procurement may be carried out in other forms, exclusively in cases provided for by this Law.
6. As a result of the procurement procedure, a contract shall be concluded.
7. Procurement may be carried out from commodity, labour or service exchanges through the application of the procurement procedure.

Article 19. Conditions for applying two-stage tender

1. The tender may be carried out in two stages, where:
 - (1) the contracting authority is not able to accurately (objectively) define the descriptions of the subject of procurement in accordance with the requirements of this Law;
 - (2) the contracting authority gives the bidders an opportunity to submit alternative proposals on the possible descriptions of the subject of procurement;
 - (3) there is a necessity to negotiate with the bidders for the purpose of clarifying certain peculiarities of the descriptions of the subject of procurement;
 - (4) in case of concluding public-private partnership transactions, including the transactions on trust management and concession.
2. In case of applying the procedure of a two-stage tender, a prequalification procedure shall be arranged. Any bidder shall be eligible to participate in the prequalification procedure. The contracting authority shall deliver an invitation to the prequalified bidders only and invite them for negotiations. The aim of the negotiations shall be to develop one or more alternative options for descriptions of the subject of procurement that will meet the requirements of the contracting authority. As a result of the negotiations, the contracting authority shall issue a final invitation to prequalified bidders.

Article 20. Conditions for applying open tender

1. In case of an open tender, the time limit envisaged for submission of bids shall be calculated from the day of publishing the notice and the invitation of procurement in the bulletin.
2. Except for the contracting authorities referred to in sub-points "d" and "e" of point 1 of part 1 of Article 2 of this Law, the time limit for submission of bids shall be at least forty calendar days.
3. For the contracting authorities referred to in sub-points "d" and "e" of point 1 of part 1 of Article 2 of this Law, the time limit for submission of bids shall be at least:
 - (1) fifteen calendar days, where the procurement price does not exceed two-hundred-fold of the procurement base unit;
 - (2) forty calendar days, where the procurement price exceeds two-hundred-fold of the procurement base unit.
4. Where due to emergency or unforeseen situation an urgent need for procurement has arisen and it is impossible to apply the time limit for submission of bids, provided for by part 2 or point 2 of part 3 of this Article, provided that it has been objectively impossible to foresee such need, the time limit envisaged for submission of bids shall be at least fifteen calendar days.

Article 21. Conditions for applying closed tender

1. Closed tender shall be applied, where the procurement process contains a state secret.
2. Closed tender shall be periodic, where the subject of the procurement is acquired periodically and is included in the list provided for by point 15 of part 1 of Article 5 of this Law. Closed tender shall be targeted, where the subject of procurement is not included in the list provided for by this part.
3. In case of applying closed tender, a prequalification procedure shall be arranged. Any bidder shall be eligible to participate in the prequalification procedure. Only prequalified bidders having received an invitation from the contracting authority may submit a bid.
4. In case of a closed targeted tender, the time limit envisaged for submission of bids shall be calculated from the day of sending the invitation to the prequalified bidders.
5. Except for the contracting authorities referred to in sub-points "d" and "e" of point 1 of part 1 of Article 2 of this Law, the time limit for submission of bids shall be at least thirty calendar days.
6. For the contracting authorities referred to in sub-points "d" and "e" of point 1 of part 1 of Article 2 of this Law, the time limit for submission of bids shall be at least:

(1) fifteen calendar days, where the procurement price does not exceed two-hundred-fold of the procurement base unit;

(2) thirty calendar days, where the procurement price exceeds two-hundred-fold of the procurement base unit.

7. Where due to emergency or unforeseen situation an urgent need for procurement has arisen and it is impossible to apply the time limit for submission of bids, provided for by part 5 and point 2 of part 6 of this Article, provided that it has been objectively impossible to foresee such need, the time limit envisaged for submission of bids shall be at least 15 calendar days.

8. In case of a closed periodic tender, the time limit envisaged for submission of bids shall be at least five calendar days, which is calculated from the day of sending the invitation to the prequalified bidders.

Article 22. Conditions for applying price quotation

1. The procurement may be carried out through price quotation, where the procurement price does not exceed seventy-fold of the procurement base unit, and where the subject of procurement is not included in the list provided for by point 14 of part 1 of Article 5 of this Law, and in case of procurement containing state secret – in the list provided for by point 15 of part 1 of Article 5 of this Law.

2. In case of carrying out procurement containing state secret through price quotation, a prequalification procedure shall be arranged. Any bidder shall be eligible to participate in the prequalification procedure. Prequalified bidders having received an invitation from the contracting authority may submit a bid.

3. In case of applying the price quotation procedure, the time limit envisaged for submission of bids shall be at least four working days, which is calculated from the day of publishing the notice and the invitation of procurement in the bulletin, and in case of procurement containing state secret – from the day of sending the invitation to prequalified bidders.

Article 23. Conditions for single source procurement

1. Procurement may be carried out from single source, where:

(1) it is possible to acquire goods, works or services only from single source, which is preconditioned by the copyright and related rights thereof, existence of the special or exclusive right;

- (2) due to emergency or other unforeseen situation, an urgent need for procurement has arisen and, due to emergency or other unforeseen situation the use of other procurement forms is impossible in terms of the time limits, provided that it has been objectively impossible to foresee such need;
- (3) by carrying out procurement of goods from any source, the contracting authority decides to carry out additional procurement of goods from the same source, which have not been included in the initial contract, but due to objectively unforeseen circumstances have become necessary for the performance of the initial contract, provided that:
- a. the contract of additional goods supply may not be technically or economically separated from the initial contract without causing major inconvenience to the contracting authority, and
 - b. the price thereof does not exceed 10% of the total price of the initial contract. Moreover, additional procurement from the same source, by applying this point, may be carried out once, and the price of additional goods may not be more than provided for by the contract;
- (4) the procurement price does not exceed the procurement base unit;
- (5) the procurement is carried out outside the territory of the Republic of Armenia.

Article 24. Prequalification procedures

1. In case of arranging prequalification procedures:
- (1) a prequalification notice shall be published;
 - (2) in case of consultancy services, a two-stage tender or a closed targeted tender, the time limit envisaged for submission of prequalification bids shall be at least 15 calendar days, which is calculated from the day of publishing the prequalification notice;
 - (3) where the procurement price does not exceed seventy-fold of the procurement base unit, or procurement is carried out by the contracting authorities referred to in sub-points "d" and "e" of point 1 of part 1 of Article 2 of this Law, or due to emergency or other unforeseen situation an urgent need for procurement has arisen and it is impossible to apply the time limit provided for by point 2 of this part provided that it has been objectively impossible to foresee such need, the time limit envisaged for submission of prequalification bids shall be at least five calendar days, which is calculated from the day of publishing the prequalification notice.

2. The prequalification notice shall be published in the bulletin and contain the following information:

- (1) name and registered office of the contracting authority;
- (2) code of the procurement procedure;
- (3) notice on the eligibility of bidders to participate in the prequalification procedure;
- (4) the language or languages in which prequalification bids must be submitted;
- (5) brief and clear wording of the contents of the contract and the descriptions of the subject of procurement;
- (6) procedure for preparation and submission of a prequalification bid, including the form and venue, the deadline for submission;
- (7) requirements for the eligibility and qualification of the bidder and the procedure for evaluation thereof;
- (8) a note that the provisions of the Agreement on Government Procurement of the World Trade Organization apply to the given procurement process, where the procurement price exceeds the thresholds specified by the Agreement and the procurement process is organised through the procedure of a two-stage tender;
- (9) other necessary requirements related to the prequalification procedure.

3. The contracting authority must, within one working day, respond to the enquiry of the bidder to give clarifications regarding the prequalification notice. Information on the enquiry and the clarification provided shall also be published by the contracting authority in the bulletin without disclosing the data of the bidder having requested clarification. In case of providing information to any of the bidders, the contracting authority must ensure accessibility of the information to all other potential bidders.

4. Modifications may be made to the prequalification notice at least two working days prior to expiry of the deadline for submission of prequalification bids. In case of making a modification:

- (1) information on such modifications shall be circulated in the same way as the initial prequalification notice has been put into circulation;
- (2) the deadline for submission of prequalification bids shall be calculated from the day of publishing a notice on modifications in the bulletin.

5. During the first working day following the day of making modifications, a notice on making modifications shall be published in the bulletin.
6. The bid submitted by the bidder – the eligibility and qualification of the bidder, shall be evaluated as prescribed by the prequalification notice, and a list of prequalified bidders shall be drawn up.
7. Prequalified bidders shall be granted the right of further participation in the procurement process.
8. Where bids for the prequalification procedure arranged for holding a two-stage tender are submitted by up to three bidders, the evaluation commission may decide to:
 - (1) republish the prequalification notice;
 - (2) arrange a new prequalification procedure;
 - (3) declare the prequalification procedure as not having taken place;
 - (4) continue the procurement process.

Article 25. Impossibility of splitting or grouping procurement and of modifying descriptions of subject of procurement

1. When using competitive procurement forms, procurements with separate descriptions may be split into lots within the framework of a single procurement process. It shall be prohibited to:
 - (1) split a single subject of procurement into separate lots in order to avoid using a competitive procurement form;
 - (2) modify the descriptions of goods, works and services provided for by the contract.
2. Grouping of subjects of procurement having separate descriptions into one lot shall be prohibited, except for cases when the contracting authority substantiates the necessity of such grouping.

SECTION 4
PROCEDURE FOR HOLDING A TENDER

CHAPTER 1
SOLICITATION FOR BIDS

Article 26. Evaluation commission

1. Upon the order of the head of the contracting authority, evaluation commission shall be formed which shall:

- (1) approve the texts of the notice and the invitation;
- (2) make modifications to the invitation;
- (3) provide clarifications on the procurement procedure;
- (4) open and evaluate the bids;
- (5) determine the successful bidder (bidders) of the procurement procedure.

2. The evaluation commission shall have a secretary who is appointed by the act on formation of the commission. The secretary shall not be a member of the commission.

The secretary shall:

- (1) arrange the activities of the commission;
- (2) receive and register the bids;
- (3) draw up draft documents subject to the approval of the commission and submit them to the commission;
- (4) provide the invitation;
- (5) record the information on the activities of the commission by drawing up appropriate documents and ensure safe storage of the mentioned documents during the activities of the commission;
- (6) arrange the provision of clarifications on the procurement procedure;

(7) bear responsibility for compliance of the activities of the commission with the requirements of the legislation of the Republic of Armenia on procurement;

(8) perform other functions reserved thereto.

3. The members and the secretary of the commission shall be obliged to, throughout the entire course of activities of the commission, keep the confidentiality of information submitted in bids.

Article 27. Notice and invitation of procurement

1. For the purpose of involving bidders to carry out procurement through an open tender, a notice and invitation of procurement shall be published in the bulletin.

2. The procurement notice shall contain the following information:

(1) name and registered office of the contracting authority;

(2) code of the open tender;

(3) brief and clear wording of the contents of the contract and the descriptions of the subject of procurement;

(4) notice on the eligibility of bidders to participate in the open tender;

(5) conditions for receiving a hard copy of the invitation, including the amount of the fee charged and the procedure for payment thereof;

(6) the language or languages in which the bids must be submitted;

(7) brief summary of qualification criteria for bidders;

(8) criteria to be used for determining the selected bidder;

(9) form, venue and time limit for submission of bids;

(10) name and location of the body responsible for the appeal and precise information on the time limits for filing appeals;

(11) form, venue, date and time of bid opening;

(12) a note that the provisions of the Agreement on Government Procurement of the World Trade Organization apply to the given procurement process, where the procurement price exceeds the thresholds specified by the Agreement;

(13) other information, if necessary.

3. A person having submitted a written request to the contracting authority based on the procurement notice shall have the right to receive a hard copy of the invitation on the first working day following submission of the request.

4. In case of an open tender, a fee may be charged for providing the invitation in hard copy, which may not exceed the amount of costs for photocopying and delivering the invitation.

5. Failure to receive an invitation as provided for by this Article shall not limit the right of the bidder to participate in the open tender.

Article 28. Contents of invitation

1. The invitation shall contain:

(1) reference to the notice published, in addition to which the invitation is provided;

(2) code of the tender;

(3) instructions for preparation of bids;

(4) qualification criteria, eligibility requirements and the procedure for evaluation thereof;

(5) descriptions of the subject of procurement;

(6) the procedure for evaluation of bids and for selection of a selected bidder;

(7) the draft contract;

(8) where procurement is carried out in lots and bidders are allowed to submit bids only for one part of goods, works and services to be procured – the conditions and procedure therefor;

(9) the procedure for calculation of the price proposed by the bid including exchange rate thereof, where the price is quoted in foreign currency;

(10) a note that the proposed price in addition to the value of goods, works and services also includes the costs for transportation, insurance, duties, taxes and other charges and may not be less than the cost price thereof. Calculation of the proposed price shall be presented in the bid;

(11) requirements for the bid security and the contract security;

- (12) conditions including the form, venue, time limit for submission of bids, the language and validity of the bid;
- (13) the procedure for receiving clarifications on the procurement process, information on meetings to be held with the bidders, as well as the name and surname of the secretary of the evaluation commission;
- (14) form, venue, day and time of bid opening;
- (15) references to the provisions of this Law and other legal acts on the given procurement;
- (16) conditions for submitting the proposal on conclusion of a contract;
- (17) the right of the bidder to appeal against the actions (inaction) related to the procurement process or the adopted decisions and the procedure thereof;
- (18) grounds for rejection of the bid;
- (19) information on preparation, submission, opening and evaluation of the bid, as well as other necessary information on procurement.

2. The invitation shall also envisage that the bidder:

- (1) submits a statement certified thereby with the bid justifying the eligibility thereof to participate in the procurement and the compliance with qualification criteria provided for by the invitation provided that the bidder undertakes, in cases and as prescribed by this Law, to submit the documents (information) provided for by the invitation justifying the statement;
- (2) submits in the bid:
 - a. a statement certified thereby on the absence of abuse of the dominant position and an anti-competitive agreement;
 - b. the data on the natural person (persons) directly or indirectly holding more than 10 percent of the voting shares in a statutory capital of the legal person participating in the procurement process, including bearer shares, or the person (persons) entitled to appoint to or dismiss from office the members of executive body of the participating legal person, or receiving more than 15 percent of profit generated from entrepreneurial activities or other activities implemented by that legal person, and in case of absence thereof – the data on the head and members of the executive body. Moreover, where the bidder is declared a selected bidder, the information provided for by this sub-point shall be

published in the bulletin together with the notice regarding the decision on conclusion of a contract.

Article 29. Clarification of and modifications to invitation

1. The bidder shall have the right to request in a written form a clarification of the invitation at least five calendar days prior to expiry of the deadline for submission of bids. The clarification shall be provided to the enquirer in writing within two calendar days following the day of receipt of such an enquiry.
2. The notice on the contents of the enquiry and clarifications shall be published in the bulletin on the day of providing the clarification to the enquirer without disclosing the data on the enquirer, while in case of a closed tender the clarification on the contents of the enquiry and clarifications shall be provided to bidders having received an invitation.
3. A clarification shall not be provided, where the enquiry has been made with violation of the time limit stipulated by this Article, as well as where the enquiry falls beyond the contents of the invitation. Moreover, the bidder shall be notified in writing about the grounds for not providing the clarification within two calendar days following the day of receipt of the enquiry.
4. Modifications may be made to the invitation at least five calendar days prior to expiry of the deadline for submission of bids. In case of an open tender, a notice on making a modification and the conditions for provision thereof shall be published in the bulletin within three calendar days following the day of making a modification, and in case of a closed tender the modifications shall be provided to bidders having received an invitation.
5. In case of making modifications to the invitation for the open tender, the deadline for submission of bids shall be calculated from the day of publishing the notice on the modifications in the bulletin, and in case of a closed tender – from the day of providing the modifications made to the invitation to the bidders having received an invitation.
6. A protocol on the activities performed according to this Article and their results shall be drawn up, which is attached to the protocol of the procurement procedure.

CHAPTER 2

BIDS

Article 30. Submission of bids

1. The bidder may not submit more than one bid for the same procedure. The bidder shall submit the bid as prescribed by the invitation. The bid shall include the following documents approved by the bidder:

- (1) the statement on compliance of the bidder's data with the requirements of the invitation;
- (2) the price proposal;
- (3) the non-price proposal (technical proposal or technical specification), where it is provided for by the invitation;
- (4) other documents (information) provided for by the invitation.

2. In case the bid is submitted in hard copy, the bidder's proposals and related documents shall be placed into an envelope which is glued by the person submitting it. The documents placed into the envelope shall consist of the original documents and the copies in the number referred to in the invitation. The packages of documents shall be marked with the words "original" and "copy" respectively. The envelope and the documents provided for by the invitation, drawn up by the bidder shall be signed by the person submitting them or the authorised person thereof (hereinafter referred to as "the agent"). Where the bid is submitted by the agent, a document certifying the power thereof to submit a bid shall be submitted with the bid.

3. The following shall be indicated in the language of the bid on the envelope referred to in part 2 of this Article:

- (1) name of the contracting authority and the venue (address) for submission of the bid;
- (2) code of the tender;
- (3) the words "do not open until the session for bid opening";
- (4) name, registered office and telephone number of the bidder.

4. The secretary shall register the bids in the bid register in the order of receipt, by indicating on the envelope the registration number, date and time. A statement of information shall be issued at the request of the bidder.

5. The bids failing to comply with the requirements of this Article shall be rejected by the evaluation commission at the bid opening session and returned unchanged to the person having submitted the bid.

6. The bidders may participate in the procurement process as a joint venture (as a consortium). The procedure for participation in the procurement process as a joint venture shall be defined in the invitation. In such case:

- (1) the bid shall also include a joint venture agreement;
- (2) when evaluating the bid the combined qualifications of all the members to the joint venture agreement shall be considered;
- (3) the bidders shall be held liable jointly and severally;
- (4) the party (parties) to the joint venture agreement may not submit separate bid (bids) for the same procedure.

Article 31. Validity, withdrawal of and modification to bid

1. A bid shall be valid until the conclusion of a contract, the withdrawal of the bid by the bidder, the rejection of the bid or declaration of the procurement procedure as not having taken place, in accordance with this Law.

2. The bidders may modify or withdraw their bid before the deadline for submission of bids.

3. In case the bid is submitted in hard copy, the notification on modification to the bid shall be sent in an envelope prepared in accordance with part 2 of Article 30 of this Law, by indicating the word "modification" thereon. In case of withdrawing the bid, the bidder shall submit a written notification thereof before opening the bids.

Article 32. Bid security

1. The bidder shall provide with the bid a bid security as required by the invitation, the amount of which shall be equal to up to five percent of the price proposed in the bid. The bid security shall be submitted as a unilateral statement, in the form of penalty or bank guarantee or cash. The bid security submitted in the form of cash shall be deposited to a treasury account opened in the name of the authorised body.

2. The bidder shall pay the bid security, where the bidder:

- (1) has been announced a selected bidder, but refuses or is deprived of the right to conclude a contract;
- (2) has violated an obligation assumed under the procurement process which has led to termination of the bidder's further participation in the process;
- (3) has refused further participation in the procurement process after the opening of bids.

CHAPTER 3

OPENING AND EVALUATION OF BIDS

Article 33. Opening of bids

1. Bids shall be opened at the bid opening session – on the day, at the time and venue specified in the invitation. The day and time of opening the bids must coincide with the deadline for submission thereof. In case of a closed tender, the bids may be, upon the written consent of all bidders having received an invitation, opened before the day of expiry of the time limit specified in the invitation.
2. The following shall be published at the bid opening session:
 - (1) title (name) of each bidder having submitted a bid;
 - (2) information on compliance of drawing up and submission of envelopes containing the bids with the requirements of the invitation;
 - (3) information on availability of documents required in the invitation in each opened envelope;
 - (4) information on compliance of documents submitted by each bidder with the requisites defined in the invitation;
 - (5) the price proposed by each bidder in letters and figures;
 - (6) information on withdrawal of or modifications to the bids.
3. After the opening of bids, minutes shall be drawn up and attached to the protocol of the procurement procedure. The minutes shall be signed by the members of the evaluation commission present at the session. The minutes shall contain:
 - (1) information on the venue, day and time of the opening of bids;

- (2) names and addresses of bidders having submitted bids;
- (3) data on compliance of drawing up and submission of the envelopes with the requirements of the invitation;
- (4) data on availability of documents required in the invitation in each opened envelope;
- (5) data on documents submitted by each bidder, being drawn up in compliance with the conditions defined in the invitation;
- (6) the price proposed by each bidder;
- (7) data on bidders ranked the first and others ranked successively;
- (8) in case of declaring the procurement procedure as not having taken place – the justification thereof;
- (9) information on bid related enquiries and answers thereto;
- (10) the venue, date and time of the following session of the commission;
- (11) names and surnames of the commission members present at the session.

4. Where a member of the evaluation commission or a bidder wishes to express an opinion (special opinion) on the opening of bids not included in the minutes of the bid opening session, it shall be expressed in writing during the session, which is attached to the protocol referred to in part 3 of this Article.

5. Bidders and the representatives thereof may be present at the sessions of the evaluation commission. Bidders or the representatives thereof may request copies of the minutes of the sessions of the evaluation commission, which are provided within one calendar day. The contracting authority shall be obliged to ensure the confidentiality of information marked by bidders as confidential and shall be held liable, as prescribed by the law of the Republic of Armenia, for the damage caused to bidders as a result of disclosing such information, except for the information subject to mandatory disclosure provided for by law.

6. A member or the secretary of the evaluation commission may not participate in the activities of the evaluation commission, where at the bid opening session it appears that the organisation founded thereby or the organisation wherein he or she holds a share (unit), or the person with whom they are linked by kinship or in-law relationships (parent, spouse, child, brother, sister as well as parent-in-law, spouse's child, spouse's brother and spouse's sister), or the organisation founded by that person or the

organisation wherein that person holds a share (unit) has submitted a bid to participate in the procedure concerned.

7. Where the condition envisaged by part 6 of this Article exists, the member or the secretary of the evaluation commission having a conflict of interests in relation to the procedure concerned shall recuse himself or herself from the procedure concerned immediately after the bid opening session. Members and the secretary of the commission shall sign a statement on absence of the conflict of interests, which shall be published in the bulletin on the first working day following the end of the bid opening session.

8. The minutes of the bid opening session shall be published in the bulletin on the first working day following the end of the day of the bid opening session. In case of carrying out procurement containing state secret, the minutes provided for by this part shall be sent to all bidders having submitted bids on the first working day following the bid opening session.

Article 34. Evaluation of bids

1. Bids shall be evaluated under the procedure defined by the invitation. The bids complying with the conditions provided for by the invitation shall be evaluated as satisfactory; otherwise, the bids shall be evaluated as unsatisfactory and rejected.

2. The bidder ranked the first shall be determined:

(1) from among the bidders having submitted bids evaluated as satisfactory by the principle of giving preference to the bidder having submitted the lowest price proposal; or

(2) by the method of selecting the bidder, the total sum of coefficients given to the price proposal and the non-price criteria thereof is the highest. In case of using this method while evaluating the bids in cases and as prescribed in the invitation, other non-price criteria, in addition to the proposed price, shall be taken into account. The non-price criteria must be interrelated with the subject matter of the contract, and the relative weights thereof shall be presented in the invitation.

3. Where the bidder must pay value added tax for the transaction concerned to the State Budget, the amount due for that tax type shall be earmarked in the price proposal in a separate line. Moreover, evaluation and comparison of the price proposals of bidders shall be performed without calculating the amount of tax referred to in this part.

4. In case of inconsistency between the amounts in letters and in figures, the amount in letters shall be taken as a basis. Where the prices are proposed in two or more currencies, they shall be compared with the dram of the Republic of Armenia at the exchange rate fixed in the invitation.
5. After determining the bidders ranked first and successively ranked bidders within the time limit defined in the invitation:
 - (1) the bidder ranked the first shall submit to the commission documents (information) provided for by the invitation justifying the eligibility thereof to participate in the procurement and the compliance with the qualification criteria provided for by the invitation;
 - (2) the commission shall evaluate the compliance of the documents (information) submitted according to point 1 of this part with the requirements provided for by the invitation and, in cases and as prescribed in the invitation, shall evaluate the justified nature of the price and non-price (technical) proposals of the given bidder.
6. A bid shall be evaluated as satisfactory, where the data submitted according to part 5 of this Article meet the requirements defined in the invitation. In this case, the bidder shall be declared a selected bidder.
7. According to part 6 of this Article, where as a result of evaluation the bid is evaluated as unsatisfactory, the commission shall require the successively ranked bidder to submit documents.
8. Based on the results of the evaluation of bids, minutes of the bid evaluation session shall be drawn up, which is attached to the protocol of the procurement procedure. The minutes shall be signed by the commission members present at the session.
9. The minutes of the session shall be published in the bulletin on the first working day following the end of the bid evaluation session. In case of carrying out procurement containing state secret, the minutes provided for by this part shall, on the first working day following the end of the bid opening session, be sent to all the bidders having submitted bids.

Article 35. Contract security

1. Upon the request for submission of a contract security, the selected bidder shall be obliged to, within 10 working days after receiving such a request, submit a contract security. The contract shall be concluded with the selected bidder, where the latter submits a contract security.

2. The amount of the contract security shall be 10 percent of the contract price. The contract security shall be submitted as a statement unilaterally certified by the selected bidder in the form of penalty or cash or bank guarantee. The contract security submitted in the form of cash shall be deposited to the treasury account opened in the name of the authorised body.

3. In case a condition for allocating an advance payment by the contracting authority is provided for in the contract, the selected bidder shall, in advance, provide an advance payment security to the contracting authority in the amount of the advance payment in the form of a bank guarantee. The procedure for payment of the advance payment shall be defined by the contract.

4. Unless otherwise provided for in the contract, the contract security or the advance payment security shall be reimbursed to the person submitting the security no later than within five working days after completion of the contract performance.

Article 36. Conclusion of contract

1. The contract shall be concluded by the contracting authority based on a decision of the evaluation commission.

2. During four working days following the expiry of the standstill period provided for by Article 10 of this Law, the contracting authority shall notify the selected bidder by providing the proposal to conclude a contract and a draft contract. Moreover, a contract may be concluded no earlier than the second working day following the day of expiry of the standstill period provided for by Article 10 of this Law.

3. Where the selected bidder fails to sign the contract and submit the contract security to the contracting authority within 10 working days after receiving the notice on conclusion of the contract and the draft contract, the selected bidder shall be deprived of the right to sign the contract. Where advance payment is stipulated in the contract, the time limit provided for by this point shall be 15 working days.

4. Prior to expiry of the time limit provided for by part 3 of this Article, upon the consent of the parties, modifications may be made in the draft contract; however, such modifications may not lead to modification of descriptions of the subject of procurement, including to an increase in the price proposed by the selected bidder.

Article 37. Declaring procurement procedure as not having taken place

1. The procurement procedure shall be declared as not having taken place, where:
 - (1) none of the bids complies with the conditions of the invitation;
 - (2) the need for procurement ceases to exist;
 - (3) no bid has been submitted;
 - (4) no contract is concluded.
2. After the procurement procedure is declared as not having taken place, opening of unopened bids shall be prohibited, and they shall be returned to the bidders.
3. The contracting authority shall, within the working day after declaring the procurement procedure as not having taken place, publish a notice in the bulletin, which shall contain the justification for declaring the procurement procedure as not having taken place. In case of a closed tender, the notice provided for by this point shall not be published.

Article 38. Impermissibility of holding negotiations with bidders, detection and prevention of cases related to restriction of economic competition

1. Negotiations between the evaluation commission, the contracting authority and bidders shall be prohibited, except for:
 - (1) cases when one bidder has participated in the tender, whose submitted bid complies with the requirements of the invitation, or as a result of bid evaluation, a bid of only one bidder has been evaluated as complying with the requirements of the invitation, or when the price proposals submitted by all the bidders having submitted bids evaluated as complying with the non-price conditions exceed the financial resources earmarked for carrying out the procurement concerned. The negotiations held in accordance with this point may only lead to reduction of the proposed price or change of payment conditions and the negotiations shall be held simultaneously with all the bidders;
 - (2) other cases provided for by this Law.
2. For the purpose of detecting violations of the legislation on protection of economic competition in the procurement process, including cases of anticompetitive agreements and abuse of dominant position, the competent authority shall co-operate with the authorised body and the contracting authorities.

Article 39. Calculation of contract price

1. Calculation of the contract price shall include all the payments (costs) to be made to ensure performance of the procurement contract concerned, including taxes, duties, costs for transportation and insurance, bonuses and anticipated profit.
2. The contract price:
 - (1) may be factor-based, where the contract price varies as a result of the change of conditions (factors) provided for by the contract. Otherwise, the contract price shall be fixed and the parties shall be obliged to fully perform their contractual obligations within the scope of the contract price;
 - (2) in case of prospective development of new types of products, acquisition of scientific research and experimental design works for military needs containing state secret – may be calculated based on actual costs provided that it must not exceed the amount of financial allocation earmarked for acquisition of the goods, works or service concerned.

CHAPTER 4

ELECTRONIC AUCTIONS

Article 40. Conditions for holding electronic auction

1. The deadline for submission of bids to participate in the electronic auction shall be set at least 15 calendar days following the day of publishing the notice and the invitation in the bulletin. Where the procurement price does not exceed the seventy-fold of the procurement base unit, the time limit provided for by this part for submission of bids shall be set for at least seven calendar days.
2. The electronic auction shall be based solely on prices.
3. In case of using electronic auction, the invitation shall also include the following conditions:
 - (1) the limitations for the proposals to be submitted, which stem from the description of the subject of procurement;

- (2) the information to be provided to bidders during the electronic auction and the conditions for providing the information thereto;
- (3) the information of essential significance concerning the process of the electronic auction;
- (4) the conditions for submission of bids by bidders. Moreover, the bidder shall submit with the bid a statement certified thereby for justifying the eligibility thereof to participate in the procurement and the compliance with the qualification criteria provided for by the invitation provided that the bidder undertakes, in cases and as prescribed by this Law, to submit the documents (information) provided for by the invitation justifying the statement;
- (5) the information concerning the electronic equipment being used, conditions for establishing communication and the technical descriptions.

4. No later than two calendar days prior to the expiry of the deadline for submission of bids, modifications may be made in the invitation, which shall be published in the bulletin on the same day. In such case, the deadline for submission of bids shall be calculated from the day of publishing information on such modifications in the bulletin.

5. The bidder shall have the right to request clarification of the invitation at least three calendar days prior to the expiry of the deadline for submission of bids. The clarification shall be provided to the enquirer within two calendar days following the date of receipt of such an enquiry.

6. The notice on the contents of the enquiry and clarifications shall be published in the bulletin on the day the clarification has been provided to the enquirer without indicating the data on the enquirer.

Article 41. Procedure for holding electronic auction

1. The contracting authority shall, based on the criteria specified in the invitation, carry out full evaluation of bids after finalisation of the results of the electronic auction.

2. A proposal for submitting new (revised) prices by electronic means shall be sent to all bidders having submitted bids. The proposal shall also include information on the date and time of opening the electronic auction and data necessary for establishing an individual communication pathway with the electronic equipment being used.

3. The electronic auction may take place in a number of successive phases.

4. The electronic auction shall start no earlier than two calendar days after the day following the date on which the request thereon has been sent.
5. In each phase of the electronic auction, the contracting authority shall immediately (online) provide the bidders with minimum sufficient information which enables them to ascertain, at any time, their relative ranking.
6. During the phases of the electronic auction, the contracting authority shall not disclose the identity of bidders having submitted prices.

Article 42. Completion of electronic auction

1. The electronic auction shall be completed (closed), where one of the following conditions or a combination thereof exists:
 - (1) at a particular moment indicated in the invitation;
 - (2) the number of auction phases indicated in the invitation to participate in the auction has been exhausted;
 - (3) no more new prices have been submitted. In such a case, the contracting authority shall indicate in the invitation to participate in the auction the permissible period of time between receiving the last proposal and closing the electronic auction.
2. The contracting authority shall, as prescribed by this Law, conclude the contract with the selected bidder, based on the results of the electronic auction.

SECTION 5

PECULIARITIES FOR ACQUISITION OF CONSULTANCY SERVICES

Article 43. List of consultants

1. Consultancy services shall be acquired under the open or closed targeted tender procedure as prescribed by this Law, unless otherwise provided for by this Law.
2. In case of procurement of a consultancy service under the open or closed targeted tender procedure, a prequalification procedure shall be arranged for preparing a list of consultants in

accordance with the procedure provided for by Article 24 of this Law. The pre-qualified bidders shall receive the right of further participation in the procurement process.

Article 44. Procedure for determining selected consultant

1. The selected consultant shall be determined by the method provided for in the invitation for selection of a proposal from among the submitted bids:

- (1) which is evaluated as the highest as regards non-price conditions provided for by the invitation; or
- (2) which is evaluated as complying with the minimum non-price conditions provided for by the invitation and having proposed the lowest price; or
- (3) which is evaluated as the highest as regards non-price conditions provided for by the invitation within the fixed maximum price limits.

2. The selected consultant may also be determined through a method of selecting a consultant the total sum of coefficients awarded, under the procedure defined by the invitation, for the proposed price and work experience thereof, staff, proposed procedure for provision of the service or other non-price condition (conditions) defined by the invitation is the highest.

3. The procedure for selecting a consultant, including conditions for using a consultant selection method provided for by this Article, shall be defined by the invitation.

Article 45. Negotiations

1. The provisions of a draft procurement contract may be negotiated with the selected consultant, but they may not result in modification of the descriptions of the subject of procurement.

2. The negotiations with the consultant selected under the procedure provided for by point 1 of part 1 of Article 44 of this Law and evaluated as the highest under non-price conditions may result in reduction of the proposed price or modification of payment conditions.

SECTION 6

APPEALING THE PROCUREMENT PROCESS

Article 46. Right to appeal

1. Every person shall have the right to appeal against the actions (inaction) and decisions of the contracting authority, the evaluation commission and the person examining procurement-related appeals.
2. Relations pertaining to the procurement, including the relations with regard to examination of appeals, shall not be regarded as administrative relations and shall be regulated by the legislation of the Republic of Armenia regulating civil law relations.
3. According to this Law, every person shall have the right to:
 - (1) appeal against the actions (inaction) and decisions of the contracting authority and the evaluation commission to the person examining procurement-related appeals, before conclusion of the contract;
 - (2) appeal against the actions (inaction) and decisions of the person examining procurement-related appeals, the contracting authority and the evaluation commission through judicial procedure.
4. Every person interested in concluding a specific transaction and having suffered damages caused as a result of an action or inaction of the contracting authority, evaluation commission or the person examining procurement-related appeals shall have the right to claim compensation for damages through judicial procedure.

Article 47. The person examining procurement-related appeals

1. The appeals filed against the actions (inaction) and the decisions of the contracting authority and the evaluation commission shall be examined by the person examining procurement-related appeals.
2. The person examining procurement-related appeals shall be a body carrying out unbiased and independent investigation, which is not interested in the outcome of a certain procurement process and is protected from external influences while performing its obligations and exercising its rights. The person examining procurement-related appeals shall examine the appeals thoroughly and impartially. While exercising the powers provided for by this Law, the person examining procurement-related

appeals shall be independent from the bidders of the procurement process, including the contracting authorities, as well as state and local self-government bodies and officials and shall be obliged to be guided solely by the legislation of the Republic of Armenia on procurement and apply it.

5. The working conditions necessary for exercising the powers vested in the person examining procurement-related appeals by this Law shall be ensured by the authorised body.

6. Every year, before 1 April, the person examining procurement-related appeals shall publish in the bulletin a report on the activities for the previous year. The report shall comprise information, statistical data and comparative analyses for the activities implemented during the previous year, with regard to the powers vested by this Law.

7. The number of persons examining procurement-related appeals shall be defined by the decision of the Government.

8. The person examining procurement-related appeals shall hold office for a period of five years.

Article 48. Requirements for the person examining procurement-related appeals

1. A citizen of the Republic of Armenia having higher education with specialisation in Economy and Management or Law, service record of at least five years in the field of public administration, or professional service record of at least seven years and having command of Armenian, may be appointed as a person examining procurement-related appeals.

2. The maximum age for exercising the powers of a person examining procurement-related appeals shall be 65.

Article 49. Activities of the person examining procurement-related appeals

2. The person examining procurement-related appeals may not examine an appeal, if it appears that an organisation founded thereby, or an organisation wherein he or she holds a share (unit) is involved in the appeal procedure, or a person with whom he or she is linked by kinship or in-law relationships (parent, spouse, child, brother, sister, as well as parent-in-law, spouse's child, spouse's brother or spouse's sister), or an organisation founded by that person, or an organisation wherein that person holds a share (unit) is involved in the appeal procedure concerned. Where the condition provided for by this part exists, the person examining procurement-related appeals having a conflict of interests regarding the examination of the appeal concerned and adoption of the decision thereon shall recuse

himself or herself from examination of the appeal concerned. During the examination of each appeal, the person examining procurement-related appeals shall sign a statement on absence of conflict of interests, which shall be published in the bulletin together with the decision adopted on the appeal.

3. Based on this Law and for the purpose of complying with the requirements thereof, the authorised body shall approve the procedure for activities of the person examining procurement-related appeals.

Article 50. Procedure for filing an appeal to the person examining procurement-related appeals

1. The appeal shall be filed to the person examining procurement-related appeals in writing, signed and shall include:

- (1) the name (name, surname, copy of the identification document) and address of the person having filed the appeal;
- (2) the name and address of the contracting authority;
- (3) the code and subject of the procurement procedure being appealed;
- (4) subject of the dispute and the claim of the person having filed the appeal;
- (5) the factual and legal grounds for the appeal and the evidence thereof;
- (6) the copy of the document attesting to the payment of the appeal fee. Moreover, the amount of the appeal fee shall make up 30 thousand drams of the Republic of Armenia, which is paid to the State Budget of the Republic of Armenia. In case the appeal is satisfied, the payment provided for by this part shall be subject to return, as prescribed by the Government of the Republic of Armenia, to the person having filed the appeal;
- (7) other necessary information.

2. Where the person having filed the appeal appeals against:

- (1) the decision on concluding the contract, the appeal shall be filed within the standstill period provided for by Article 10 of this Law;
- (2) the descriptions of the subject of procurement, the requirements of the prequalification notice or of the invitation, the appeal shall be filed by the deadline for submission of bids.

3. Where the appeal fails to comply with the requirements of this Article, the person examining procurement-related appeals shall, within two working days following receipt of the appeal, inform

thereof in writing to the person having filed the appeal, setting a time limit of two working days for him or her to eliminate the detected deficiencies. Moreover, where the appeal filed within the time limit specified by point 2 of part 2 of this Article has failed to comply with the requirements of this Article, the appeal corrected and submitted to the person examining procurement-related appeals within the time limit specified by this part shall be deemed submitted within the defined time limit.

4. In compliance with the requirements of this Article, the person examining procurement-related appeals shall, within two working days following the receipt of the appeal, address the contracting authority with a request to submit to the person examining procurement-related appeals all the documents necessary for adoption of the decision on the appeal concerned. The contracting authority shall submit to the person examining procurement-related appeals the documents referred to in this point within two working days following the date of receipt of such request.

5. The decisions on the appeal shall be made through a procedure according to which the person having filed the appeal, the contracting authority and all the parties involved shall have the right to be present at the sessions convened for the purpose of examining the appeal and express their viewpoints.

6. A written decision on the appeal, which also includes the justification for the decision shall be adopted and published no later than within 20 calendar days after receipt of the appeal. Upon a reasoned decision of the person examining procurement-related appeals, the time limit provided for by this point may be extended once for up to 10 calendar days. The decision of the person examining procurement-related appeals shall be legally binding, which may be amended or abolished, including partially, only by the court.

7. The person examining procurement-related appeals shall:

(1) have the right to adopt the following decisions on the actions or inaction of the contracting authority and the evaluation commission:

- a. prohibit implementation of certain actions and adoption of decisions,
- b. oblige to adopt relevant decisions, including declaring the procurement procedure as not having taken place, except for the decision on recognising the contract as invalid,

(2) make a decision to include the bidder in the list of bidders ineligible to participate in the procurement procedure;

(3) keep the record of the decisions adopted by the person examining procurement-related appeals and exercise control over the implementation thereof.

8. In case the person examining procurement-related appeals satisfies the appeal, the contracting authority shall be held liable for compensating the damage which has been caused to the person having filed the appeal and has been justified as prescribed.

9. Examination of an appeal shall be open to the public, except for procurement containing state secret. Within one working day upon the date of receipt of an appeal, the person examining procurement-related appeals shall publish the notice on it in the bulletin, indicating the date of publication.

10. Every person whose interests have been violated or may be violated as a result of actions having served as a basis for the appeal, shall have the right to participate in the appeal procedure by filing a similar appeal to the person examining procurement-related appeals prior to the time limit for adopting a decision on the appeal. According to this Article, the person who has failed to participate in the appeal procedure shall be deprived of the right to file a similar appeal to the person examining procurement-related appeals.

11. The person examining procurement-related appeals shall publish the decision in the bulletin within two working days following the adoption thereof by indicating the date of publication. In case of procurement containing state secret, the adopted decision shall be sent to the contracting authority, the authorised body and the parties involved in the appeal procedure within the time limit prescribed by this part. The decision adopted by the person examining procurement-related appeals shall enter into force on the day following the date of its publication in the bulletin, and in case of procurement containing state secret – on the day following the date of its sending to the contracting authority, the authorised body and the parties involved in the appeal procedure.

Article 51. Suspension of procurement procedure

1. The appeal filed to the person examining procurement-related appeals shall automatically suspend the procurement process from the day of publishing the notice provided for by part 9 of Article 50 of this Law till the day on which the decision adopted based on the results of examination of the appeal enters into force.

2. Suspension may be cancelled by the decision of the person examining procurement-related appeals, where, according to the justifications submitted by the contracting authority, based on public interests or defence and national security interests, it is necessary to continue the procurement

process. The person examining procurement-related appeals shall publish the decision provided for by this part in the bulletin on the working day following the day of adopting the decision.

SECTION 7

PECULIARITIES OF CARRYING OUT PROCUREMENT

Article 52. General peculiarities of carrying out procurements by public organisations

1. In case of procurement carried out by public organisations within the territory of the Republic of Armenia:

- (1) the procurement-related relations shall be regulated by the procurement procedures approved by the given organisations;
- (2) the procurement procedures, notices on arranging procurement processes, invitations, notices on the concluded contracts exceeding the procurement base unit shall also be published in the bulletin;
- (3) the appealing shall be carried out as prescribed by Section 6 of this Law.

2. The procurement procedures provided for by part 1 of this Article may not contradict the objectives and principles prescribed by Article 3 of this Law, and in case of procurement exceeding the threshold specified in the Agreement on Government Procurement of the World Trade Organization – also the requirements of the Agreement mentioned in this part, and in case of public organisations included in the list approved by the Public Services Regulatory Commission of the Republic of Armenia – also the requirements specified by the Public Services Regulatory Commission of the Republic of Armenia which, under the procedure defined thereby, shall oversee (monitor) the implementation of such requirements.

Article 53. Special exclusions of procurements by public organisations

1. The provisions of this Law shall not apply, where a public organisation aims to acquire:

- (1) goods to be resold or leased out to a third party, provided that the organisation concerned enjoys no special or exclusive right to sell or to lease out the subject matter of such contracts, and other

organisations may freely realise (sell) or lease out similar goods under the same conditions together with the organisation concerned;

(2) goods, services or works for the purpose of implementing relevant activities in a third country and under conditions which shall not imply the use thereof within the territory of the Republic of Armenia;

(3) goods, services or works for the purpose of implementing activities other than the relevant activities. In cases the contract covers different types of activities and at least one of them is a relevant activity, but it is objectively impossible to determine which type of activity the contract is mainly intended for, the procurement shall be carried out according to the provisions of this Law.

Article 54. Peculiarities of carrying out procurements by the Central Bank of the Republic of Armenia

1. In case of procurements carried out by the Central Bank of the Republic of Armenia:

(1) the provisions of this Law shall not have effect in cases of carrying out procurement within the framework of operational expenditures of the Central Bank of the Republic of Armenia;

(2) the powers and functions vested by this Law in the Government of the Republic of Armenia and in the authorised body shall be exercised by the Board of the Central Bank of the Republic of Armenia;

(3) according to this Law, the procedure for disclosing information subject to disclosure shall be defined by the Board of the Central Bank of the Republic of Armenia;

(4) this Law shall not apply to procurement carried out by organisations founded by the Central Bank of the Republic of Armenia or organisations with the participation of the Central Bank of the Republic of Armenia;

(5) the requirements provided for by part 5 of Article 16 of this Law shall not have effect;

(6) the appealing as provided for by this Law shall be carried out in the manner prescribed by Section 6 of this Law.

Article 55. Peculiarities of carrying out procurement for the purpose of organising electoral processes

1. In case of procurement carried out at the account of funds allocated for organising and holding elections and referenda:

- (1) the provisions of this Law shall not have effect in case of procurement carried out for organisation of the electoral processes by the Central Electoral Commission of the Republic of Armenia, including organisation of professional training courses (tests) for the purpose of organising the elections concerned after calling elections (referenda);
- (2) the powers and functions vested by this Law in the Government of the Republic of Armenia and in the authorised body shall be exercised by the Central Electoral Commission of the Republic of Armenia;
- (3) according to this Law, the procedure for disclosing information subject to disclosure shall be defined by the Central Electoral Commission of the Republic of Armenia.

SECTION 8

FINAL AND TRANSITIONAL PROVISIONS

Article 56. Entry into force

1. This Law shall enter into force on the ninetieth day following the day of its official promulgation, except for parts 1 and 2 of Article 57 of this Law, which shall enter into force on the tenth day following the day of the official promulgation.

Article 57. Transitional provisions

3. The requirements of this Law shall not apply to procurement transactions launched and not terminated, as well as concluded and effective before the entry into force of this Law, and the relations concerning thereto shall be regulated by legal acts having effect at the moment of concluding the given transactions.
4. The requirements of this Law and the Law of the Republic of Armenia HO-206-N of 22 December 2010 “On procurement” shall not apply to transactions provided for by memorandums of understanding and preliminary contracts concluded by the state within the framework of the public-private partnership before the entry into force of this Law, the final contracts whereon must be concluded within two years after the entry into force of this Law.

5. Upon the entry into force of this Law the Law of the Republic of Armenia HO-206-N of 22 December 2010 “On procurement” shall be repealed.

6. The regulatory legal acts and legal norms adopted according to or in execution of the Law of the Republic of Armenia HO-206-N of 22 December 2010 “On procurement” shall continue to have effect to the extent not contradicting this Law.

**PRESIDENT
OF THE REPUBLIC OF ARMENIA**

S. SARGSYAN

14 January 2017

Yerevan

HO-21-N