

PUBLIC PROCUREMENT LAW

I. BASIC PROVISIONS

1. Subject of the Law

Article 1

This Law regulates the conditions, the manner and procedure for the procurement of goods, services, and awarding work assignments when the procuring entity is a government body, organization, institution or other legal person determined by this Law; determines the manner of keeping records of contracts and other data concerning public procurement, determines the activities and organizational form of the Public Procurement Office; establishes the Republic Commission for the Protection of Rights in Public Procurement Procedures; determines the manner of protecting the bidders' rights and public interest in public procurement procedures; regulates other issues of relevance for public procurement.

2. Terms

Meaning of Terms

Article 2

Particular terms used in this Law shall have the following meaning:

1) **public procurement** shall mean the procurement of goods and services or awarding work assignments by a government body, organization, institution or other legal persons regarded as a procuring entity for the purposes of this Law, in the manner and under the conditions prescribed by this Law;

2) **public procurement contract** shall mean a binding contract concluded in writing between a procuring entity and a bidder in accordance with the conducted public procurement procedure, whose subject is the procurement of goods, provision of services or performance of works;

3) **bidder** shall mean a domestic or foreign legal or natural person offering to supply goods, provide services, or perform works;

4) **candidate** shall mean a person whose qualifications were recognized in the first phase of the restricted procedure;

5) **public procurement procedures** shall mean any procedures and actions that must be conducted in accordance with this Law prior to the conclusion of a public procurement contract;

6) **open procedure** shall mean the procedure whereby all interested persons may submit bids;

7) **restricted procedure** shall mean the procedure that is conducted in two phases and where in the second phase bids may be submitted only by candidates;

8) **negotiated procedure** shall mean the procedure whereby a procuring entity negotiates directly with one or more bidders regarding the terms of the public procurement contract;

9) **design contest** shall mean the procedure for the conclusion of contracts for the provision of services of urban planning, designs in the area of architecture and civil engineering, engineering, design or data processing, with designs being selected by a previously appointed jury;

10) **bid price** shall mean the bid price determined by a bidder, expressed in dinars, which includes all costs related to the public procurement subject;

11) **abnormally low price** shall mean a bid price that is considerably lower than the comparable market price causing the procuring entity to doubt whether public procurement will be performed;

12) **criterion** shall mean a measure used for evaluating, comparing and assessing bids;

13) **requirement** shall mean the procuring entity's request that has to be fully complied with in the bid, in the manner prescribed by this Law and tender documents;

14) **qualification procedure** shall mean the manner of conducting the first stage of the restricted procedure in the area of water management, energy, mining, telecommunications and transport;

15) **application** shall mean a request of an interested person to participate in the first phase of the restricted procedure;

16) **timely bid** shall mean a bid received by a procuring entity within the deadline specified in the invitation to bid;

17) **correct bid** shall mean a bid submitted in a timely manner, for which it has been established, following the opening and examination, that it fully complies with all the requirements referred to in this Law and tender documents;

18) **adequate bid** shall mean a correct bid submitted in a timely manner, for which it has been established that it fully complies with all the technical specifications;

19) **acceptable bid** shall mean a bid submitted in a timely manner, correct and adequate, which does not restrict the rights of the procuring entity or obligations of the bidder, nor does it impose any conditions thereon, and which does not exceed the amount of the estimated value of the concrete public procurement;

20) **discount on the bid price** shall mean a method of determining the price that a bidder may offer in its bid only when the subject of public procurement is subdivided into several lots and the procuring entity cannot stipulate that method in the tender documents as an element of the criteria;

21) **goods** shall mean movable objects, products and equipment, electricity, raw materials and production materials in solid, liquid and gaseous state;

22) **goods, services or works of the same kind** shall mean any goods, services or works that have the same classification, purpose and characteristics;

23) **public procurement by lots** shall mean any procurement whose subject is subdivided into several separate wholes of the same kind and which is designated as such in the call for competition and tender documents;

24) **electronic bid** shall mean any bid or part of a bid which a bidder delivers to the procuring entity in the electronic form and it must be stipulated as such by tender documents, meet the principles of electronic business according to special regulations and constitute a clear whole with the other parts of the bid of the same bidder;

25) **electronic auction** shall mean any contest between bidders in public procurement procedures through provision of new, more advantageous bids electronically, which will be ranked by the procuring entity by use of automatic evaluation method and

26) **public funds** shall mean funds controlled by and at the disposal of the Republic, local authorities and compulsory social insurance organizations, i.e. any funds collected, received, kept, allocated and spent by procuring entities.

Procuring Entity

Article 3

A procuring entity shall mean:

1) a government body, organization, institution or other direct or indirect budget beneficiary within the meaning of the law regulating the budget system and the budget, as well as a compulsory social insurance organization;

2) public undertaking;

3) any legal entity also involved in an activity of common interest, if any of the following conditions are met:

(1) that more than half the members of that legal entity's managing body are representatives of the procuring entity;

(2) that the representatives of the procuring entity have more than half the votes in the body of that legal entity;

(3) that the procuring entity supervises the operation of that legal entity;

(4) that the procuring entity possesses over 50% of the shares or stake in that legal entity;

(5) that over 50 % is financed from the procuring entity's funds.

4) any legal entity founded by procuring entities, which also performs an activity of common interest and which meets at least one of the conditions referred to in item 3) of this Article.

3. Subject of a Public Procurement Contract

Procurement of Goods

Article 4

The subject of a public procurement contract may be:

1) the purchase of goods

2) the renting of goods;

3) the leasing of goods (with or without the option to buy).

A public procurement contract may include the provision of services if the services are necessarily linked to the supply of goods (assembly, transport, insurance or other services defined by the procuring entity).

Procurement of Works

Article 5

The subject of a contract on public procurement of works shall be:

- 1) the execution of works;
- 2) the design and execution of works linked to the specific activities listed in Annex II, attached to this Law and forming an integral part hereof;
- 3) construction works on a facility taken as a whole which meet all the economic and technical requirements of the procuring entity.

The subject of the public procurement of works is also the performance of works which are directly or indirectly financed by the procuring entity in an amount exceeding 50% of the public procurement value and which are related to the construction of hospitals, religious buildings, sports and recreational facilities and vacation facilities, school and university buildings and buildings used by government bodies, as well as civil engineering works in accordance with Annex II.

The procuring entity financing the performance of works shall be responsible for the application of the provisions of this Law in the case referred to in paragraph 2 of this Article.

Procurement of Services

Article 6

The subject of a contract on public procurement of services shall be the services listed in Annexes I A and I B, attached to this Law and forming an integral part hereof.

All provisions of this Law shall apply to the procurement of the services specified in Annex IA.

The provisions of this Law regulating low-value public procurement shall apply to the procurement of the services specified in Annex IB, regardless of the value of these services.

If the subject of service public procurement includes the services referred to in Annex IA and Annex IB, all provisions of this Law shall apply if the estimated value of the service referred to in Annex IA is higher than the estimated value of the service referred to in Annex IB. If the value of the service referred to in Annex IB is higher than the value of the service referred to in Annex IA, the provisions of this Law regulating low-value public procurement shall apply.

As contract of public procurement of services shall also be deemed any public procurement contract whose subjects are:

- 1) services and goods if the estimated value of the services exceeds the estimated value of the goods included in this contract;
- 2) the services and works referred to in Annex II that are necessary for the provision of the service that is the subject of the contract.

The provisions of this Law shall also apply to the procurement of services directly or indirectly financed by the procuring entity in an amount of over 50% of the public procurement value.

The procuring entity financing the provision of the service shall be responsible for the application of the provisions of this Law in the case referred to in paragraph 6 of this Article.

Procurements Exempt from the Law

Article 7

The provisions of this Law shall not apply to the procurement:

- 1) from the organizations which are considered, for the purposes of this Law, to be the procuring entity and to which the Republic of Serbia, a territorial autonomy or local government

granted on the basis of a special law, bylaw or other regulation a special or exclusive right to provide the services that are the subject of the public procurement;

2) to which different procurement rules apply and which is conducted:

a) based on of an international agreement pertaining to the supply of goods, performance of works, provision of services or design contests,

b) from the proceeds of foreign credits (loans) in accordance with special procedures of international organizations;

3) aimed at providing basic life conditions in the case of natural disasters, other accidents or catastrophes, according to the regulations on protection against such disasters, accidents or catastrophes;

4) to which the special regulation stipulates that can be defined as confidential and that is, by the decisions of the competent body based on authority provided in special regulations, defined as confidential, because the knowledge of unauthorized persons that such procurements are conducted, or knowledge that subjects of public procurement have certain specifications, or are executed by specific bidder, would threatened the national security and security of the citizens;

5) of the goods the procuring entity procures for further sale, processing and sale as well as for the provision of services to third parties in the market, provided that the procuring entity has no exclusive or special rights to resell or lease these goods or provide the services for which it will use these goods;

6) of the goods procured, with a prior approval from the Government, from the Republic Commodity Reserves Directorate;

7) of the property or rights related to it, with the provisions of this Law applying to the procurement of the financial services necessary for the procurement of the property;

8) aimed at the acquisition, development, production or co-production of radio or television program or broadcasting time;

9) of services of voice telephony, telex, radio-telephony, paging, internet and satellite services;

10) of arbitration and amicable dispute resolution services;

11) of financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments;

12) relating to the conclusion of employment and service contracts;

13) of research and development services other than those where the procuring entity uses research results exclusively for its purposes in the conduct of its own affairs, provided that the costs of such services are covered in full by the procuring entity and

14) of the services of expert individuals, entrepreneurs or legal persons that perform, for and on behalf of the Privatization Agency and under its supervision, the activities of receiver.

The Minister in charge of financial activities shall define the list of the international organizations referred to in paragraph 1 item 2) indent b) of this Article whose special public procurement procedures may be applied instead of the provisions of this Law.

4. Public Procurement Principles

Principle of Economic and Efficient Use of Public Funds

Article 8

A procuring entity shall ensure that the public procurement procedure is conducted and the selection of bids made within the time limits and in the manner prescribed by this Law, with minimum costs in effecting public procurement.

Public funds may be used only for the purposes determined in the public procurement contract.

Principle of Ensuring Competition among the Bidders

Article 9

A procuring entity may not limit competition among the bidders; in particular, a procuring entity may not prevent any bidder from participating in public procurement by unjustified use of the negotiated procedure or by using discriminatory requirements or criteria.

Persons who have been engaged in preparing tender documents or parts thereof may not appear as bidders or subcontractors, nor may they cooperate with the bidders in the course of bid preparation.

Principle of Transparency of Public Procurement Procedure

Article 10

Public procurement adverts shall be published in the "Official Gazette of the Republic of Serbia" and on the Public Procurement Portal in the manner prescribed by Article 69 of this Law.

A person participating in the public procurement procedure shall have the right during bid opening to review the data from the bid which are entered in the minutes of bid opening.

A person who participated in the public procurement procedure shall have the right to review the data concerning the conducted public procurement procedure after the procuring entity has made the decision referred to in Articles 22, 79 or 81 of this Law, regarding which that person may submit a written request to the procuring entity within two days from the day of decision delivery. The procuring entity shall enable access to the documents to the person who submitted the request to review the data concerning the conducted public procurement procedure within two days from the day of receiving such request.

Principle of Equality of Bidders

Article 11

A procuring entity shall ensure equality of all bidders in all phases of the public procurement procedure.

The procuring entity may not impose requirements that would constitute territorial, subject or personal discrimination among bidders, or discrimination arising from the classification of the business activity performed by the bidder.

Determination of the origin of goods or services is permitted in the cases and for the purposes stipulated by special regulations.

A procuring entity shall not exclude any bid merely because the bidder's registered address is located in a state with which the Republic of Serbia has not concluded an agreement on equal treatment of domestic and foreign bidders, if there is de facto equality as determined by the Ministry in charge of foreign economic relations.

5. Protection of Data, Documentation and Keeping Records of the Procedure

Data Protection

Article 12

A procuring entity shall:

- 1) keep as confidential all data on bidders contained in bids that are designated as confidential by a special regulation and designated as such in the bid by the bidder;
- 2) refuse to disclose information that would entail a breach of confidentiality of data received in a bid;
- 3) keep the names of bidders and applicants, as well as bids and applications, as a trade secret until the expiry of the time limit determined for bid or application opening.

The price and other information from the bid that are of significance for applying the criteria elements and bid ranking shall not be deemed confidential.

Determination of Confidentiality

Article 13

A procuring entity may require in the tender documents the protection of confidentiality of the information it places at the bidders' disposal.

A person who has received data designated as confidential shall observe their confidentiality irrespective of the degree of confidentiality stipulated.

Documentation and Keeping Records of the Procedure

Article 14

A procuring entity shall:

- 1) keep records of all the phases of the public procurement procedure;
- 2) keep all the documentation pertaining to public procurement in line with the regulations governing documentation and archives, at least eight years from the expiry of the agreed period for the execution of the individual public procurement contract;
- 3) keep records of all public procurement contracts awarded.

6. Language in Public Procurement Procedure

Article 15

A procuring entity shall prepare tender documents and conduct the procedure in the Serbian language.

Tender documents for public procurement of goods and services exceeding 150,000,000 dinars or for works procurement exceeding 300,000,000 dinars shall also be prepared by the procuring entity in a foreign language commonly used in international trade.

A bidder shall submit his bid in the language used in the tender documents, that is, in the language specified by the procuring entity in the tender documents.

Article 16

A procuring entity may allow bids, in their entirety or in part, to be submitted in a foreign language, especially in the section pertaining to technical characteristics, quality and technical documentation.

In the case referred to in paragraph 1 of this Article, the procuring entity shall specify which part of a bid may be submitted in a foreign language and which foreign language is to be used.

If, in the course of the review and evaluation of bids, a procuring entity finds that a part of a bid should be translated into the Serbian language, it shall set a time limit to the bidder for translating that part of the bid into Serbian.

In the event of dispute, the Serbian version of tender documents and bid shall prevail.

7. Currency

Article 17

The values in tender documents and bids shall be stated in dinars.

A procuring entity may allow the bidder to state the values in a foreign currency as well, in which case it shall state in the tender documents that the values shall be converted into dinars using the corresponding medium exchange rate of the National Bank of Serbia valid on the day of bid opening.

Article 18

If a bidder has been allowed to submit a bid in a foreign currency, a procuring entity shall specify in the tender documents the currency which can be used to state the prices in the bid.

8. Anti-Corruption Rule

Article 19

A procuring entity shall reject a bid if it has indisputable proof that a bidder has given, offered or alluded to, directly or indirectly, a gift or some other benefit to a member of the Public Procurement Committee, a person who participated in the preparation of the tender documents, a person participating in planning the public procurement or some other person in order to influence them in order to discover confidential information or influence the procuring entity's action or decision making in any phase of the public procurement procedure..

A procuring entity shall also reject a bid if it has indisputable proof that a bidder has threatened, directly or indirectly, a member of the Public Procurement Committee, a person who participated in the preparation of the tender documents, a person participating in planning the public procurement or some other person in order to influence them in order to discover confidential information or influence the procuring entity's action or decision making in any phase of the public procurement procedure.

A procuring entity shall, in cases referred to in paragraph 1 and 2 of this Article, immediately notify competent bodies, which will take legal measures against such entities.

II. CONDITIONS AND MANNER OF CONDUCTING PUBLIC PROCUREMENT PROCEDURE

1. Public Procurement Procedure

Types of Procedure

Article 20

Public procurement procedures are as follows:

- 1) open procedure;
- 2) restricted procedure;
- 3) negotiated procedure with a prior notice;
- 4) negotiated procedure without a prior notice;
- 5) design contest;
- 6) low-value public procurement procedure.

Selection of the most advantageous bid shall be performed, as a rule, in the open procedure of public procurement.

Selection of the most advantageous bid may also be performed in other public procurement procedures, if the conditions prescribed for that by this Law are met.

Open Procedure

Article 21

The open procedure is a procedure wherein all interested persons may submit bids according to requirements specified in the tender documents.

Restricted Procedure

Article 22

The restricted procedure is a procedure where in the first phase a procuring entity recognizes bidders' qualifications on the basis of previously determined requirements, whereas in the second phase it invites all the bidders whose qualifications have been established (candidates) to submit a bid.

The procuring entity may apply the restricted procedure in the case when the subject of public procurement are such goods, services or works that, with regard to technical, personnel and financial capacity, may be delivered, provided or performed only by a small number of bidders.

The procuring entity may also conduct the restricted procedure in the case when it is not possible to plan public procurement in advance in terms of quantities and time, and the subject of that procurement are occasional services or consumer goods or occasional repairs or maintenance works that are provided, delivered or performed, not according to special requests of a procuring entity, but according to the market conditions.

The procuring entity shall recognize qualifications of the applicant for which it has determined that it meets the requirements referred to in Article 44 of this Law based on the evidence submitted by the applicant along with the application in accordance with Article 45 of this Law.

The procuring entity shall make, within the time limit specified in the call for competition, a justified decision on the recognition of qualifications that contains a list of at least three candidates and a period during which the qualifications are recognized, which may not be longer than two years, and must state the reasons for the rejection of other applications in the decision explanation.

The procuring entity shall deliver the decision referred to in paragraph 5 of this Article to all applicants within three days from the day of its adoption.

The procuring entity may exclude a candidate from the list of candidates only for the reasons based on the requirements defined in the tender documents for the first phase of restricted procedure, on which it shall make a decision which shall contain in its explanation the reasons for exclusion of the candidate and which it shall deliver to all candidates within three days from the day of its adoption.

Negotiated Procedure with a Prior Notice

Article 23

A procuring entity may conduct a negotiated procedure with a prior notice:

1) if in the open procedure or in the second phase of restricted procedure all of the bids it received were incorrect and/or unacceptable provided that the originally defined requirements for participation in the procedure, technical specifications and criteria for the selection of the most advantageous bid have not been altered. If the procuring entity decides to invite to the negotiated procedure only all the bidders that participated in the open procedure or in the second phase of the restricted procedure to supplement their bids and thus make them correct and acceptable, it shall not have to publish a call for competition. The price offered in this negotiated procedure may not be higher than the price offered in the open or restricted procedure;

2) in exceptional cases where, due to the nature of works, goods or services as well as the risks related to them, it is not possible to estimate the public procurement value in advance;

3) in the case of public procurement of works purely for the purpose of research, development or experiment and not for the purpose of securing a profit or of recovering research and development costs.

The procuring entity shall ensure in the course of negotiated procedure that the contracted price does not exceed the comparable market price and check the quality of the subject of public procurement with due diligence.

The procuring entity shall define in the tender documents the contractual elements to be negotiated and the manner of negotiation as well as keep the minutes of the negotiations.

Negotiated Procedure without a Prior Notice

Article 24

A procuring entity may conduct a negotiated procedure without a prior notice:

1) if it did not receive any bids in the open procedure or in the second phase of restricted procedure or any applications in the first phase of the restricted procedure, or if all of the bids are inadequate, provided that the originally defined subject of the public procurement and the conditions for participation in the procedure, technical specifications and the criteria for selection of the most advantageous bid are not altered;

2) in the case of public procurement of goods purely for the purpose of research, development or experiment and not for the purpose of securing a profit or recovering research and development costs;

3) if, for technical or artistic reasons related to the public procurement subject or for reasons related to the protection of exclusive rights, the procurement may be executed only by a particular bidder;

4) if, for reasons of extreme urgency brought about by extraordinary circumstances or unforeseen events, whose appearance in no case depends on the will of the procuring entity, the

procuring entity was not able to observe the time limits laid down for the open or restricted procedure;

5) for additional deliveries by the original supplier intended as a partial replacement of products, materials or installations, or as the extension of the existing products, materials or installations, where a change of supplier or provider of services would oblige the procuring entity to obtain materials having different technical characteristics which would result in disproportionate technical difficulties in operation and maintenance, provided that the total value of all additional deliveries may not exceed 25% of the total value of the contract originally concluded;

6) for the public procurement of goods offered and purchased on commodity exchanges;

7) for additional works or services not included in the original project or the first public procurement contract, which, due to unforeseeable circumstances, have become necessary to the performance of the public procurement contract, on condition that the award is made to the original service provider or contractor and that the total value of all additional services or works does not exceed 25% of the total value of the contract originally concluded, as well as that:

(a) such additional services or works cannot be technically or economically separated from the first public procurement contract without causing disproportionate technical difficulties or disproportionately high costs to the procuring entity or

(b) such services or works, which the procuring entity could procure separately from the performance of the original contract, are necessary to the further phases of providing services or performing works;

8) for new works or services consisting in the repetition of similar services or works assigned to the original service provider or contractor, provided that such services or works conform to the basic project for which the public procurement contract was awarded after a call for competition, that this possibility is mentioned in the first publication of the call for competition and that no more than three years have passed since the conclusion of the first contract;

9) for purchases of goods under particularly advantageous conditions from a supplier winding up his business activities, with the agreement of other creditors, in accordance with the regulations governing company liquidation;

10) for services that are part of the follow-up to a design contest organized in accordance with this Law, if the contract in question was awarded to the winner or the winners of that contest, and if the procuring entity invites each of the winners to participate in the negotiations.

11) for the procurement of services and goods from firms dealing with the training, professional rehabilitation and employment of persons with disability, if such procurements are directly connected with the training, professional rehabilitation and employment of such persons, provided that all of the participants in the joint bid and all subcontractors are from the mentioned group of companies and the quality, price and time limits for the delivery of goods and provision of services meet the procuring entity's requirements.

The procuring entity shall, within three days from the day of making the decision on the selection of the most advantageous bid in the cases referred to in paragraph 1 of this Article, deliver for publication in the "Official Gazette of the Republic of Serbia" and on the Public Procurement Portal in the manner prescribed by Article 69 of this Law, a contract award notice, which shall contain the information on the subject of the procurement, on the bid selected and on the basis for conducting the negotiated procedure.

The procuring entity's obligation referred to in paragraph 2 of this Article shall not relate to the case referred to in paragraph 1 item 6) of this Article.

The procuring entity shall, within three days from the day of selection of the most advantageous bid, submit to the Public Procurement Office a report on contract award in the negotiated procedure referred to in paragraph 1 item 4) of this Article, which shall contain the information referred to in Article 80 of this Law.

The procuring entity shall ensure in the course of negotiations that the contracted price does not exceed the comparable market price and check the quality of the subject of public procurement with due diligence.

The procuring entity shall define in the tender documents the contractual elements to be negotiated and the manner of negotiation, as well as keep the minutes of the negotiations.

The provisions of Article 82 paragraph 5 and Article 108 paragraph 1 of this Law shall not apply to the conducting of the negotiated procedure referred to in paragraph 1 item 4) of this Article.

Design Contest

Article 25

A procuring entity shall conduct a procedure of public procurement of services by means of a contest in the field of urban planning, architecture, construction, engineering, design and data processing.

A plan or design shall be selected by an independent jury.

The jury referred to in paragraph 2 of this Article shall be composed exclusively of natural persons who are not related to the participants in the contest.

If the procuring entity demands from participants in a contest particular professional qualifications or experience, at least a third of the members of the jury must have at least the same qualifications or experience.

The jury shall be autonomous in its decisions and consider anonymous plans or designs.

A contest for plans or designs, with prize awarding and payment to the participants, may be conducted independently or as an integral part of another public procurement procedure.

Low-Value Public Procurement Procedure

Article 26

Low-value public procurement contract, for the purposes of this Law, shall be the procurement of goods, services or works of the same type, whose estimated value, at the annual level, is lower than the value determined by the law regulating the annual budget of the Republic of Serbia

The Law referred to in paragraph 1 of this Article shall also determine the procurement value representing the threshold in the budget year below which procuring entities are not obligated to apply the provisions of this Law.

The Minister in charge of financial activities shall regulate the procedure for low-value public procurement.

2. Initiation of a Procedure

Conditions for Initiation of a Procedure

Article 27

A procuring entity may initiate the public procurement procedure if such procurement is envisaged by the annual procurement plan and if funds for that particular procurement contract have been set aside in the budget of the Republic of Serbia, of a territorial autonomy, local self-government or in the financial plan of the procuring entity.

The funds set aside for a particular public procurement contract may not exceed the amount stipulated by the regulation governing budget execution and public financing.

If a public procurement contract lasts for several years, the liabilities that will become due in the following years must be stipulated in the amounts provided for by the regulations governing budget execution for each particular year.

If the public procurement in question concerns investments, the procuring entity shall prepare the investment program according to the common methodology for preparing investment programs, in line with the development plan.

The program referred to in paragraph 4 of this Article shall be approved in writing by the chief executive officer or the responsible person of the procuring entity.

If the republic budget, budget of a territorial autonomy, budget of a local self-government or the financial plan of another procuring entity has not been passed, the procuring entity may initiate the public procurement procedure only up to the amount of the funds planned according to the regulation on temporary financing.

Decision to Initiate a Procedure

Article 28

A procuring entity shall initiate the public procurement procedure by a written decision which contains:

- 1) registry number of the public procurement for the current year;
- 2) subject of public procurement and type of the public procurement procedure;
- 3) estimated value of public procurement;
- 4) data on the decision on approving public procurement for investment purposes;
- 5) provisional dates for conducting the individual phases of the public procurement procedure and
- 6) the data on the budget or financial plan allocation for the payment.

In the case of application of the restricted or negotiated procedure, the decision shall also contain the reasons for application of such procedure.

The decision may also contain other elements provided by this Law if the procuring entity considers them necessary for conducting the public procurement procedure.

When passing a decision to initiate a public procurement procedure, the procuring entity shall at the same time adopt a decision on the formation of a public procurement committee pursuant to prescribed criteria for the establishment of such committees.

The Minister in charge of financial activities shall lay down in detail the criteria for establishing public procurement committees.

Conduct of a Public Procurement Procedure by Other Procuring Entity

Article 29

A procuring entity may, simultaneously with the adoption of a decision on procedure initiation and a decision on the committee establishment, authorize another procuring entity to

conduct the public procurement procedure or undertake specific actions in that procedure for and on behalf of it.

3. Tender Documents

Preparation and Contents of Tender Documents

Article 30

A procuring entity shall prepare tender documents so that the bidders may prepare correct bids on the basis of such documents.

The data contained in the tender documents shall be identical to the data contained in the call for competition.

Tender documents shall contain:

- 1) an invitation to tender;
- 2) instructions to bidders on how to prepare a bid,
- 3) a bid form;
- 4) a form for the evaluation of compliance with the requirements referred to in Article 44 of this Law and an instruction how the compliance with these requirements is evidenced;
- 5) a model contract (except in the negotiated procedure and in the case of procuring a loan as financial service when the bid documents contain a loan application of the procuring entity based on which a bidder delivers its model contract);
- 6) type, technical characteristics (specifications), quality, quantity and description of goods, services or works, manner of executing control and quality assurance, time limit for contract execution, place of execution or of goods delivery, any additional services and the like (except in the case of procuring a loan as financial service);
- 7) technical documentation and plans, or documents on solvency of the procuring entity in the case of the public procurement of a loan as financial service;
- 8) a price structure form, with an instruction how to complete it.

Technical characteristics referred to in paragraph 3 item 6) of this Article and technical documentation referred to in paragraph 3 item 7) of this Article must contain proof of bidders' plans to comply with technical standards of accessibility for disabled persons.

The Minister in charge of financial activities shall regulate in detail the form and content of the loan application referred to in paragraph 3 item 5) of this Article, as well as the form and content of the documents on the procuring entity's solvency referred to in paragraph 3 item 7) of this Article.

The procuring entity may specify in the tender documents the type of financial security instruments by which bidders guarantee the fulfillment of their obligations in the public procurement procedure, as well as the fulfillment of their contractual obligations and the refund of advance payment (various forms of pledging securities or other movable property, mortgages, promissory notes, guarantees given by other legal person possessing adequate creditworthiness, bank guarantees, insurance policies, etc.).

Tender documents may also contain other elements that are, in view of the subject of public procurement, necessary for the preparation of bids.

Tender documents for the first phase of the restricted procedure and for the qualification procedure shall contain:

- 1) an invitation to tender;
- 2) instructions to bidders on how to prepare an application;

- 3) an application form and
- 4) a form for establishing the qualifications and instructions on how to prove the applicants' qualifications.

The procuring entity shall mark each page of the tender documents with an ordinal number and the total number of pages of the tender documents.

The Minister in charge of financial activities shall regulate in detail the compulsory elements of the tender documents.

The law regulating the annual budget of the Republic shall stipulate the amount of public procurement funds above which a procuring entity shall demand a bank guarantee for the fulfillment of obligations in the public procurement procedure, as well as the fulfillment of contractual obligations.

4. Access to Tender Documents

Time Limit for Submission of Tender Documents

Article 31

As of the day of the publication of the call for competition, a procuring entity shall enable interested persons to review the tender documents, take over the tender documents or send the documents by post, telefax or e-mail within two days of having received a request from a bidder, and may also post them on the Public Procurement Portal.

In the case of takeover or delivery of the tender documents, the procuring entity shall charge only the costs of copying and delivering the tender documents.

Amendments to Tender Documents

Article 32

If within the time limit for tender submission a procuring entity amends the tender documents, it shall forward these amendments without delay and with no charge to the interested persons who have already received the tender documents.

Interested persons may request from the procuring entity additional information or clarifications in writing concerning the preparation of a bid up to five days before the expiry of the time limit for bid submission.

In the case referred to in paragraph 2 of this Article, the procuring entity shall send a written reply to the interested person within the time period and in the manner stipulated in Article 31 paragraph 1 of this Law, and shall at the same time forward this information to all other persons who have received the tender documents.

If the tender documents or supplementary documents are too extensive, or if a bid can be prepared only after a direct inspection of the location where the public procurement is to be executed, or if a procuring entity amends the tender documents six or fewer days before the expiry of the time limit for the submission of bids, the procuring entity shall extend the time limit for bid submission.

The procuring entity shall inform in writing all persons who have received the tender documents of the extension of the time limit for bid submission.

The decision on the extension of the time limit for bid submission shall be published in the same manner as the call for competition.

After the expiry of the time limit for bid submission, the procuring entity may not amend

the tender documents.

5. Determining the Estimated Public Procurement Value

Determining the Estimated Value of Public Procurement of Goods

Article 33

The basis for calculating the estimated public procurement value shall be determined in the following manner:

1) in the case of contracts for sale, rental or lease and when the contract term is a period of 12 months or less, the total estimated contract value for its full duration shall be taken into account, whereas when the contract term is longer than 12 months, the total contract value shall include the estimated value for the first 12 months and the estimated value for the residual period until the time limit expiry;

2) in the case of the contract referred to in paragraph 1 item 1 of this Article being concluded for an indefinite period, as well as in the event of uncertainty regarding the term for which the contract is concluded, the monthly estimated value of the contract multiplied by 48 shall be used

In the case of periodic contracts, as well as contracts that are to be extended after the expiry of a certain time limit, the estimated public procurement value shall be determined on the basis of the actual aggregate value of similar contracts concluded over the previous budget year or in the course of the previous 12 months, adjusted for anticipated changes in the quantity or value of the goods whose procurement is the subject of the contract over 12 months following the conclusion of the original contract or based on the estimated total value during 12 months after the first delivery or for the duration of the contract if the contract term is longer than 12 months.

Determining the Value of the Public Procurement of Services

Article 34

When calculating the estimated value of public procurement of services, a procuring entity shall include all the expenses concerning such service incurred by the bidder.

For certain services the following amounts shall be taken into account by the procuring entity:

1) for insurance services - the premium amount, as well as other types of payments charged in connection with the service;

2) for banking and other financial services (except for loan-related services) – fees, commissions, as well as other types of payments charged in connection with the service;

3) for architectural services, industrial design, spatial planning and the like – the fee or commission.

The procuring entity shall determine the estimated agreed value of the loan according to the methodology prescribed by the National Bank of Serbia.

If a procuring entity cannot determine the estimated service value due to the contract term length, the service value shall be determined in the manner prescribed by Article 33, paragraph 1 of this Law.

Determining the Value of Public Procurement of Works

Article 35

The estimated value of public procurement of works shall be determined by taking the total works value as the basis for calculating the value of public procurement of works.

When determining the estimated value of public procurement of works, a procuring entity shall include in the works value the value of all the goods and services necessary for the execution of the works contract.

The estimated value of public procurement of works shall not include the value of goods and services that are not necessary for the contract execution.

Determining the Public Procurement Value per Lot

Article 36

The subject of public procurement may be subdivided into a number of separate units (lots), so that each lot may be subject of a separate contract.

When the public procurement subject is subdivided into separate lots, the value of all lots over the contract period must be taken into account in the determination of value of such procurement.

A bidder may submit a bid for one or more lots. The bid must include at least one whole lot.

A bidder shall state in the bid whether the bid relates to the entire procurement or only to specific lots.

If a bidder has submitted a bid for two or more lots it must be submitted so that it may be evaluated for each lot separately.

Method of Determining the Public Procurement Value

Article 37

A procuring entity shall not select the procurement valuation method so that, due to a lower estimated value, a call for competition is avoided.

The estimated public procurement value shall be stated in the full amount without including the value added tax.

6. General Rules on Determining Technical Elements of Public Procurement

Technical Specifications

Article 38

Technical specifications constitute an obligatory part of the tender documents.

A procuring entity shall state technical specifications in the tender documents pertaining to each individual public procurement.

A procuring entity shall define the technical specifications:

1) with a reference to Serbian, European or other standards and related documents, so that each reference must be accompanied by the words "or equivalent" or

2) in the form of desired functional characteristics or requirements for the work completion, which must be sufficiently precise and clear so that the bidders could prepare their bids and so that the procuring entities could procure the goods, services or works that are in accordance with their objective needs.

When defining technical specifications in tender documentation, procuring entity shall prescribe mandatory compliance to technical standards of accessibility for disabled persons.

In the case of defining technical specifications in the manner stipulated by paragraph 3 item 1) of this Article, the procuring entity may not reject a bid based on the fact that the goods, services or works offered do not fulfill the specified requirements regarding the required standard if the bidder provides adequate evidence that the solutions it offers fulfill the requirements from the required standard in an essentially equivalent manner.

Notwithstanding the provisions of paragraph 3 item 1) of this Article, if a technical regulation refers to a Serbian standard, such standard shall be obligatory and apply as technical regulation, without mentioning the words "or equivalent".

The competent ministry shall establish whether the technical regulations and standards referred to in paragraph 6 of this Article exist.

In the case referred to in paragraph 6 of this Article, the procuring entity shall also accept any other standard fulfilling the requirements of the Serbian standard as well as the evidence confirming this.

Use of Technical Specifications

Article 39

A procuring entity may not use or refer to technical specifications specifying goods, services or works of a specific make, source, or of a particular construction, if such a designation favors a certain bidder or might unwarrantedly eliminate other bidders.

The procuring entity may not include in the tender documents any provision that would result in favoring or eliminating certain bidders, in the manner referred to in paragraph 1 of this Article, unless such a specification is justified by the subject of the contract.

The procuring entity may not indicate in the tender documents any particular trade mark, patent, type, specific origin or production.

Where the procuring entity is unable to give a description of the subject of the contract in the tender documents using specifications which are sufficiently intelligible to bidders, the indication of elements such as trademarks, patents, type or manufacturer must be accompanied by the words "or equivalent".

Compliance Assessment

Article 40

The evidence of the compliance of goods, services or works with the technical specifications may be a compliance declaration, certificate, accreditation or other results of compliance assessment according to the standards and related documents for compliance assessment or any other appropriate instrument by which a bidder proves the compliance of the bid with the technical specifications.

The evidence of compliance of a service with the technical specifications may be a compliance declaration, certificate or other results of compliance assessment according to the standards and related documents for compliance assessment.

Content of Technical Specifications or Project Documentation

Article 41

The technical specifications and project documentation, for the purposes of this Law, shall mean the technical requirements that are an obligatory integral part of the tender documents laying down the characteristics of works, materials, products, goods or services. These specifications shall ensure that the works, materials, products, goods or services to be procured are described in a manner that is objective and appropriate to the procuring entity's needs.

Technical specifications may contain requirements related to the quality, performance, safety or dimensions of the material, product, good, or service, for the purpose of providing quality assurance, terminology, designations, testing and test methods, packing, marking and labeling.

In the case of public procurement of civil works, technical specifications may also include regulations concerning designs and cost calculation, test, inspection and takeover requirements, as well as techniques or method of construction.

Standards

Article 42

The standard referred to in Articles 38 and 40 of this Law shall be a document defined by consensus and adopted by a recognized body, in which rules, guidelines or characteristics are defined for general and recurrent use for the activities or their results for the purpose of achieving an optimal level of regulation in a specific field.

The related document referred to in Articles 38 and 40 of this Law shall be a document that was adopted by a standardization organization and is available to the public but does not comply with the requirements to be adopted as a Serbian standard.

The standard referred to in paragraph 1 of this Article may be the following:

1. International standard, as a standard adopted by the international organization (international body) for standardization, accessible to the public;
2. European standard, as a standard adopted by the European standardization organizations, accessible to the public;
3. Serbian standard, as a standard adopted by the standardization organization of the Republic of Serbia, accessible to the public;
4. Other standards, as standards that may be accepted on various grounds (e.g. industry standards, company standards and the like)

Statement of Essential Requirements and Patent Fee Costs

Article 43

Essential requirements not included in the current technical norms and standards, and relating to safety and other factors of common interest, shall be applied and shall be expressly stated in the tender documents.

A procuring entity may state in the tender documents that the patent fee, as well as the liability for any breach of protected intellectual property rights of third persons, shall be borne by the bidder.

7. Requirements for Participation in Public Procurement Procedure

Mandatory Participation Requirements

Article 44

A procuring entity shall publish in the call for competition the requirements that a bidder has to fulfill in order to be able to participate in the public procurement procedure.

A bidder has the right to participate in the procedure if it:

1) is registered with the competent body, or entered in the appropriate register;
2) is also established for the performance of the specific activity which is the subject of public procurement;

3) has not been prohibited by a final court or administrative measure from performing the activity that is the subject of public procurement in the period of two years prior to the publication of the call for competition;

4) has paid due taxes and other forms of public charges in accordance with the regulations of the Republic of Serbia or a foreign country if its registered address is in its territory;

5) has a valid permit issued by the competent body for carrying out the activity which is the subject of public procurement, if such a permit is stipulated by a special regulation.

6) possesses the necessary financial and economic capacity.

7) possesses sufficient technical and personnel capacity.

The procuring entity shall define in the tender documents what it considers to be the necessary financial and business as well as sufficient technical and personnel capacity.

The provisions of paragraph 2 items 6) and 7), as well as paragraph 3 of this Article shall not apply in the case of public procurement of a loan financial service, where a commercial bank appears as a bidder and where the bank is obliged to guarantee the confidentiality of information about its clients in accordance with the law regulating bank operation.

The procuring entity may also define other additional requirements for participation in the public procurement procedure, especially if they relate to social and environmental issues.

The procuring entity shall define the requirements for participation in the procedure so that these requirements do not discriminate against individual bidders and that they are logically related to the subject of public procurement.

The procuring entity may impose additional requirements concerning the fulfillment of the obligations of the bidder towards its subcontractors or suppliers.

The procuring entity may name in the tender documents the body authorized to provide the necessary information concerning the obligations to be fulfilled in order to meet the requirements of the current regulations dealing with safety at work, employment and working conditions.

In the case referred to in paragraph 8 of this Article, the procuring entity shall request the bidders or candidates to state explicitly in their bids that they have observed the obligations resulting from the current regulations dealing with safety at work, employment and working conditions.

The provisions of this Article shall apply accordingly to natural persons as bidders as well.

Proof of the Fulfillment of Requirements

Article 45

A bidder shall prove the fulfillment of the requirements referred to in Article 44 paragraph 2 of this Law by delivering the following evidence along with the bid:

- 1) an excerpt from the register of the competent authority;
- 2) the bidder's founding act;
- 3) a certificate of the competent body by which it proves that no measure prohibiting the performance of activities has been pronounced against it;
- 4) a certificate of the competent tax authority or a certificate of the competent authority that the bidder is in the privatization process;
- 5) a valid license for the performance of the relevant activity, issued by the competent authority.

A bidder shall prove the fulfillment of the requirements referred to in Article 44 paragraph 2 items 6) and 7) and Article 44 paragraph 5 of this Law by delivering the following evidence along with the bid:

- 1) a balance sheet with an opinion of an authorized auditor, or extracts therefrom, or a statement of the bidder's overall turnover and income from the products, works or services to which the public procurement contract relates - for not longer than the previous three financial years, as well as the opinion or statements of banks or other specialized institutions, or the proof referred to in the call for competition or tender documents. The procuring entity shall specify in the call for competition or in tender documents which proof from this item it has chosen and which other proofs evidencing the financial and economic capacity the bidder shall submit;

- 2) one or more proofs according to the subject of the contract, the quantity and the intended purpose, such as:

- (a) a list of the most important goods delivered, works performed or services provided over a period of previous five years for the works, and three years for goods and services, together with the amounts, dates and lists of purchasers or procuring entities. If purchasers or procuring entities are entities considered to be the procuring entities for the purposes of this Law, the proof must be in the form of a certificate issued or signed by the competent authority; if purchasers or procuring entities are other entities or entrepreneurs, the certificate shall be issued or signed by such purchaser or such procuring entity;

- (b) a description of the bidder's technical equipment, quality assurance measures and research and development capacity;

- (c) a statement on the key technical staff and other experts working for the bidder who will be responsible for the contract execution and on the persons responsible for quality control;

- (d) a sample description or a photograph of the product and a description of the works or services that the bidder will perform or provide. In case of doubt, the procuring entity may demand proof of the authenticity of samples, descriptions or photographs;

- (e) a compliance declaration, certificate, accreditation and other results of compliance assessment according to the standards and related documents for compliance assessment or any other appropriate instrument by which a bidder proves the compliance of the bid with the technical specifications or standards requested in the tender documents.

The proof of fulfillment of the requirements referred to in Article 44 of this Law may be delivered in the form of uncertified copies.

A bidder whose bid was assessed to be the most advantageous shall deliver the original or a certified copy of the proof of fulfillment of the requirements referred to in Article 44 of this Law within an adequate time limit defined by the procuring entity, which may not be longer than three days from the day of receiving the written invitation of the procuring entity,.

The procuring entity shall send the invitation referred to in paragraph 4 of this Article to the bidder whose bid was assessed to be the most advantageous prior to making the decision on selection of the most advantageous bid.

If the bidder whose bid was assessed to be the most advantageous fails to deliver the original or a certified copy of the proof within the time limit referred to in paragraph 4 of this Article, the procuring entity shall reject its bid as incorrect.

The proof referred to in paragraph 1 item 3) of this Article must be issued after the day of publication of the call for competition or the day when the invitation to tender was sent.

The proof referred to in paragraph 1 item 4) of this Article may also be issued prior to publication of the call for competition if no more than six months have passed from the day of its issuance until the day of publication of the call for competition or until the day of sending the invitation to tender.

If the bidder's registered address is in another state, the procuring entity may verify whether the documents by which the bidder is evidencing the fulfillment of the requested requirements have been issued by the competent authorities of such state.

The bidder shall notify the procuring entity in writing of any change concerning any of the information referred to in this Article without any delay and not later than within five days from the day of such change and document it in the manner prescribed.

Professional References as a Requirement for Participation and Confidentiality of the Data Obtained

Article 46

If a procuring entity requests the submission of professional references as a requirement for the participation in the public procurement procedure, it shall specify in the call for competition or in the invitation to tender and in the tender documents which professional references the bidders must provide.

The procuring entity shall consistently respect the legitimate interests of bidders, protecting their technical or trade secrets.

The procuring entity may use the information obtained only for the purpose of the particular public procurement.

The bidder shall be responsible for the authenticity of the professional references referred to in paragraph 1 of this Article.

Negative references

Article 47

A procuring entity may reject a bid if it possesses the evidence confirming that the bidder failed to fulfill its obligations under the previously concluded public procurement contracts that related to the same subject of procurement, over a period of previous five years for the works, and three years for goods and services.

The evidence referred to in paragraph 1 of this Article may be the following:

- 1) a final court decision;
- 2) a document on an executed instrument for securing the fulfillment of contractual obligations;
- 3) a report of the supervising engineer on the works performed;
- 4) a statement on contract termination due to a failure to fulfill the obligations, given in the manner and under the conditions stipulated by the law regulating contracts and torts;

5) any other relevant evidence that is of significance for orderly fulfillment of obligations under the previously concluded public procurement contracts.

The procuring entity shall specify in the tender documents the type of the relevant evidence referred to in paragraph 2 item 5) of this Article.

Bidder's Statement

Article 48

If the state where the bidder's registered address is located does not issue the evidence referred to in Article 45 of this Law, the bidder may submit its written statement instead, given under the criminal and material liability, or a statement certified by the authorized body of the state or republic where his registered address is located, a statement certified by a court or administrative authority, a notary public or other competent body of that state.

The procuring entity shall verify whether the conditions for the application of paragraph 1 of this Article have been met.

8. Requirements for Subcontractors and Participants in a Joint Bid

Fulfillment of Requirements by Subcontractors

Article 49

In the tender documents, a procuring entity shall request the bidder to state in the bid whether he will entrust a partial execution of the procurement to a subcontractor.

If the bidder states in the bid that he intends to entrust the partial execution of the procurement to a subcontractor, he shall state the name of the subcontractor and if the contract is concluded between the procuring entity and the bidder, the subcontractor shall be named in the contract.

The bidder shall be fully liable to the procuring entity for the procurement contract performance irrespective of the number of subcontractors.

The bidder shall allow the procuring entity, upon the latter's request, access to the subcontractor for the purpose of establishing the compliance with the requirements.

The bidder shall submit proof of the fulfillment of the requirements referred to in Article 44 paragraph 2 items 1) to 5) of this Law for the subcontractors in the manner stipulated by Article 45 of this Law.

A bidder shall submit proof of the fulfillment of the other conditions referred to in Article 44 of this Law for the subcontractors in the manner stipulated by the tender documents.

Fulfillment of Requirements in a Joint Bid

Article 50

A bid may be submitted by a group of bidders.

In the case referred to in paragraph 1 of this Article, a procuring entity may not request a group of bidders to associate themselves into a legal entity so that they may submit a joint bid.

The procuring entity may require a group of bidders to submit a legal act binding them to execute jointly the procurement contract if the joint bid is assessed as the most advantageous one, provided that such a request is necessary for successful procurement contract execution.

The legal act referred to in paragraph 3 of this Article shall specify the responsibility of

each bidder for the contract performance.

The bidders forming a group of bidders shall bear unlimited joint liability towards the procuring entity.

The procuring entity may request legal entities forming a group of bidders to state in their bids or requests to participate the names and adequate professional qualifications of the persons who will be responsible for contract execution.

Each bidder from a group of bidders must fulfill the requirements referred to in Article 44 paragraph 2 items 1) to 5) of this Law, which it shall demonstrate by delivering the proof referred to in Article 45 of this Law, while they jointly fulfill the other requirements referred to in Article 44 of this Law.

9. Criteria for the Selection of the Most Advantageous Bid

Determining the Criteria

Article 51

A procuring entity shall publish in the call for competition and tender documents the identical criterion and criteria elements for the selection of the most advantageous bid.

The criteria elements on the basis of which a procuring entity will select the most advantageous bid have to be described and evaluated in the tender documents, must not be discriminatory and must be logically related to the subject of public procurement.

In the tender documents the procuring entity shall state, describe and evaluate the criterion and all the criteria elements that it intends to apply, and states in particular the methodology for weighting point allocation for each criteria element that would enable a subsequent objective verification of bid evaluation.

The procuring entity shall define in the tender documents the criteria elements based on which it will perform the selection of the most advantageous bid in a situation where there are two or more bids with an equal number of weighted points.

When evaluating the bids, the procuring entity shall apply only the criterion and criteria elements contained in the tender documents, in the manner in which they have been described and evaluated.

Types of Criteria

Article 52

The criteria for evaluating bids shall be:

- 1) the economically most advantageous bid or
- 2) the lowest price offered.

The economically most advantageous bid criterion shall be based on various criteria, depending on the subject of public procurement, especially including:

- 1) price offered;
- 2) payment terms;
- 3) delivery period or period of completion of services or works;
- 4) current costs;
- 5) cost effectiveness;
- 6) quality;
- 7) technical and technological advantages;

- 8) after-sale service and technical assistance;
- 9) warranty period and the type of warranties;
- 10) obligations concerning spare parts;
- 11) post-warranty maintenance;
- 12) aesthetic and functional characteristics etc.

The participation requirements referred to in Article 44 of this Law may not be defined as criteria elements.

In the tender documents a procuring entity shall assign relative significance (weight) to each of the criteria element in such a way that the sum total of weighted points amounts to 100.

The procuring entity shall conduct bid selection based on the economically most advantageous bid criterion by ranking the bids on the basis of the weighted points assigned to the criteria elements.

In the case of applying the criterion of the economically most advantageous bid, and in a situation where there are bids of a domestic and a foreign bidder providing services or performing works, the procuring entity must select the bid of the most advantageous domestic bidder provided that the difference in the final sum of weighted points between the most advantageous bid of the foreign bidder and the most advantageous bid of the domestic bidder is not higher than 20 in favor of the bid of the foreign bidder.

In the case of applying the criterion of the economically most advantageous bid, and in a situation where there are bids of the bidders offering goods of domestic origin and bids of the bidders offering goods of foreign origin, the procuring entity must select as the most advantageous bid the bid of the bidder offering goods of domestic origin provided that the difference in the final sum of weighted points between the most advantageous bid of the bidder offering goods of foreign origin and the most advantageous bid of the bidder offering goods of domestic origin is not higher than 20 in favor of the bid of the bidder offering goods of foreign origin.

Bid selection based on the lowest price offered criterion shall be based on the lowest price as the sole criterion.

In the case of applying the criterion of the lowest price offered, and in a situation where there are bids of a domestic and a foreign bidder providing services or performing works, the procuring entity must select the bid of the domestic bidder provided that its price offered is not more than 20 % higher compared to the lowest price offered by the foreign bidder.

In the case of applying the criterion of the lowest price offered, and in a situation where there are bids of a bidder providing goods of domestic origin and bids of a bidder providing goods of foreign origin, the procuring entity must select the bid of the bidder providing goods of domestic origin provided that its price offered is not more than 20 % higher compared to the lowest price offered by the bidder providing goods of foreign origin.

Provisions of paragraphs 6, 7, 9 and 10 of this Article shall also apply to the public procurement subdivided in lots.

The priority given to domestic bidders in paragraphs 7, 9 and 10 of this Article in public procurement procedures in which bidders from the signatories of the Central Europe Free Trade Agreement (CEFTA 2006) participate shall be implemented in accordance with the provisions of that agreement.

The Minister in charge of finance activities shall regulate in detail the evidence of compliance with the requirements referred to in paragraphs 6, 7, 9 and 10 of this Article.

10. Bid in the Public Procurement Procedure

Bid Submission

Article 53

A bidder shall submit its bid directly, by mail or in electronic form in accordance with Article 54 of this Law.

The bidder may submit only one bid.

The bidder which submitted a bid independently may not participate at the same time in a joint bid or as a subcontractor.

Within the time limit for bid submission the bidder may amend or cancel its bid in the manner specified for bid submission.

Submitting Electronic Bid and Conducting Electronic Auction

Article 54

A bidder may submit a bid in electronic form if the procuring entity provides for such a possibility in the tender documents. Such bid must have the electronic signature protection while the signature must be certified by the qualification certificate. The electronic bid must have a time mark.

The information system of the procuring entity must provide a technologically independent receipt of bids and access to the bids only after the expiry of the time limit for bid receipt.

The Minister in charge of financial activities shall regulate in detail by a special act the manner of handling electronic bids and the manner of conducting electronic auction.

Bid Validity

Article 55

Bid validity period shall be stated in the bid and may not be shorter than 60 days from the bid opening date.

A procuring entity may, in the case of expiry of the bid validity period, request in written form an extension of the bid validity period from the bidder.

Any bidder who accepts the request for extension of the bid validity period may not alter the bid.

Bids with Variants

Article 56

If the criterion for selecting the most advantageous bid is the economically most advantageous bid, a procuring entity shall take into consideration the variants submitted by the bidders fulfilling the minimum requirements from the procuring entity's technical specifications.

The procuring entity shall state in the tender documents the minimum technical requirements that have to be observed in bids with variants.

If bids with variants are not allowed, the procuring entity shall point this out in the call for competition and in the tender documents.

Abnormally Low Price

Article 57

A procuring entity may reject a bid due to an abnormally low price.

If a bid contains an abnormally low price, the procuring entity shall demand in writing a detailed explanation of all its constituent elements it considers relevant, in particular those concerning the economy of the construction method, production or the selected technical solutions and exceptionally favorable circumstances that are available to the bidder for contract performance, or pertaining to the originality of the products, services or works proposed by the bidder.

In the case referred to in paragraph 2 of this Article, the procuring entity shall give the bidder a reasonable period of time to reply, which may not exceed 20 days from the day of receipt of such a request.

Having received the requested explanation, the procuring entity shall verify the relevant constituent elements of the bid referred to in paragraph 2 of this Article.

The procuring entity shall particularly verify the fulfillment of obligations arising from the current regulations on safety at work, employment and work conditions by the bidder or candidate if the abnormally low price results from any failure to observe these regulations.

Additional Explanations, Control and Permitted Corrections

Article 58

A procuring entity may request additional explanations from bidders that will help it in the course of examining, evaluating and comparing bids and it may also conduct control (inspection) of the bidder or its subcontractor.

The procuring entity may not demand, allow or offer any alterations to the content of a bid, including any change of price and in particular a procuring entity may not demand, allow or offer such a change that would turn an inadequate bid into an adequate one.

The procuring entity may, subject to the bidder's consent, correct only arithmetic errors observed in the course of examining the bid after the opening of bids.

If the value of the public procurement contract exceeds 300,000,000 dinars, the bidder shall submit to the procuring entity its bid along with a copy of the bid, in two separate envelopes.

The bidder shall guarantee that the bid and its copy are identical.

A bid shall be opened according to the provisions of this Law, whereas its copy shall be forwarded simultaneously and directly to the Republic Commission for the Protection of Rights, unopened.

If no request for the protection of the bidder's rights is submitted, the copy deposited with the Commission shall be returned to the bidder immediately after the expiry of the period for submitting requests for the protection of rights.

If a bidder lodges a request for the protection of its rights, the copy deposited with the Commission shall be returned to the bidder immediately after the procedure for the protection of rights is terminated.

The procuring entity may request a bidder or candidate to submit additional proofs of fulfilling the requirements within not more than 20 days, but only in the case when the bidder or candidate has been unable to obtain the requested documents on account of the fact that by the

time of bid submission they could not be issued under the regulations of the state where the bidder's or the candidate's registered address is located.

In the case referred to in paragraph 9 of this Article, the procuring entity shall state which additional proofs or documents must be submitted.

11. Time Limits in Public Procurement Procedure

Time Limit for Bid Submission

Article 59

A procuring entity shall set a deadline for bid submission in the call for competition and in the tender documents.

The time limit for bid submission set in the call for competition must be identical to the time limit set in the tender documents.

Setting the time limit referred to in paragraph 2 of this Article shall mean setting the date and hour by which bids may be submitted.

After the expiry of the time limit for bid submission, the bidder may not withdraw his bid or alter it; if it does so or if it does not sign a contract after its bid has been selected, the procuring entity shall be authorized to cash the guarantee submitted alongside the bid.

Calculation of Time Limits

Article 60

The time limit for bid submission shall be calculated counting from the day of publication of the call for competition in the "Official Gazette of the Republic of Serbia, or from the day when the invitation to bid was sent to the bidders.

Timely Bid

Article 61

Any bid received by the procuring entity within the time limit determined for bid submission shall be considered a timely offer.

Upon the receipt of a bid, the procuring entity shall mark the date and hour of the receipt and issue to the bidder, upon its request, a certificate of receipt.

If a bid has been submitted after the expiry of the time limit for bid submission, it shall be considered untimely, and the procuring entity shall return it to the bidder unopened after the procedure of opening the bids is terminated, with a note stating that it has been submitted in an untimely manner.

Setting the Time Limit for Bid Submission

Article 62

The time limit for bid submission shall be adequate to the period needed for the preparation of a correct bid.

If bid preparation requires an examination of extensive tender documents or technical specifications, or visit to the site and the like, a procuring entity shall envisage the possibility of a time limit extension.

General Time Limit for Bid Submission in the Open Procedure

Article 63

The time limit for bid submission in the open procedure shall not be shorter than 30 days from the day of the publication of the call for competition in the "Official Gazette of the Republic of Serbia".

Reduced Time Limit for Bid Submission in the Open Procedure

Article 64

The time limit for bid submission in the open procedure may be shorter than the time limit referred to in Article 63 of this Law, but it shall not be shorter than 22 days from the day of publication of the call for competition if a procuring entity, in accordance with Article 71 of this Law:

- 1) has previously published a periodic indicative notice stating its intention to conduct a public procurement procedure;
- 2) has issued the periodic indicative notice at least 30 days and no longer than 12 months before the publication of the call for competition;
- 3) has included in the periodic indicative notice all information it had at the moment of sending such notice.

Time Limits for Submission of Applications to Participate in the Restricted Procedure and in the Negotiated Procedure

Article 65

The time limit for the submission of applications to participate in the restricted procedure and bids in the negotiated procedure with a prior call for competition shall not be shorter than 25 days from the date of publication of the call for competition in the "Official Gazette of the Republic of Serbia".

Setting the General Time Limit for Bid Submission in the Restricted Procedure

Article 66

The time limit for bid submission in the restricted procedure shall not be shorter than 30 days from the date of dispatch of the written invitation by the procuring entity

Reduced Time Limit for Bid Submission in the Restricted Procedure

Article 67

The time limit for bid submission in the restricted procedure may be shorter than the time limit referred to in Article 66 of this Law, but it shall not be shorter than 26 days from the day of dispatch of the written invitation if a procuring entity:

- 1) has previously published a periodic indicative notice stating its intention to conduct a public procurement procedure;
- 2) has issued a periodic indicative notice at least 30 days and not longer than 12

months before the publication of the call for competition;

3) has included in the periodic indicative notice all the information it had at the time of sending such notice.

Requirements for Additional Reduction of Time Limits in the Restricted Procedure

Article 68

If in the restricted procedure for reasons of urgency, it is not possible to adhere to the time limits referred to in Articles 65, 66 and 67 of this Law, a procuring entity may set the following time limits:

1) the time limit for submitting the application to participate in the procedure shall not be shorter than 15 days from the date of publishing the call for competition in the "Official Gazette of the Republic of Serbia";

2) the time limit for bid submission shall not be shorter than ten days from the date when the procuring entity sent the written invitation, except in the case of the restricted procedure based on Article 22 paragraph 3 of this Law when the procuring entity determines the adequate time limit.

12. Publication of Public Procurement Notices

Method of Notice Publication

Article 69

Public procurement notices shall be published in the "Official Gazette of the Republic of Serbia" within 15 days from the day of delivering the procuring entity's request for notice publication, except in the case of conducting the negotiated procedure without publication of the call for competition referred to in Article 24 paragraph 1 item 4) of this Law, where a contract award notice shall be published within five days from the day of request delivery.

If value of a contract for goods, services and works exceeds threshold for small-value contracts determined by the Budget Law, the notices shall be also posted at the Public Procurement Portal.

Procuring entity may also post notices for low value procurement at the Public Procurement Portal.

Any public procurement notices shall be published in the Serbian language.

If the value of the public procurement exceeds 150,000,000 dinars for goods and services, or if it exceeds 300,000,000 dinars for works, the public procurement notices shall be published in the language commonly used in the international commerce.

Types of Notices

Article 70

The types of notices used shall be:

- 1) a periodic indicative notice;
- 2) a call for competition;
- 3) a contract award notice in accordance with Article 24 paragraph 2;
- 4) a notice on the public procurement contract concluded;
- 5) a notice on the termination of the public procurement procedure.

Periodic Indicative Notice

Article 71

For planned public procurements whose approximate value exceeds 50,000,000 dinars, a procuring entity shall publish, at least once a year, a periodic indicative notice indicating the intention to initiate a public procurement procedure.

A periodic indicative notice shall be published at least 30 days and maximum 12 months before publishing the call for competition.

Call for Competition

Article 72

A procuring entity shall publish call for competition inviting bidders or applications for public procurement in the:

- 1) open procedure;
- 2) first phase of restricted procedure;
- 3) qualification procedure;
- 4) negotiated procedure with a prior call for competition;
- 5) contest procedure.

A call for competition referred to in paragraphs 1 items 1), 4) and 5) of this Article shall contain information on the procuring entity, subject of procurement, participation requirements, criteria and criteria elements for the selection of the most advantageous bid, time and place for reviewing the bid documents, conditions for obtaining the bid documents, time and place for bid submission, time and place for bid opening, time limit for selecting the most advantageous bid, as well as the name of the contact person providing additional information.

A call for competition referred to in paragraph 1 items 2) of 3) this Article shall contain information on the procuring entity, subject of procurement, requirements for qualification recognition, time and place for reviewing the bid documents, conditions for obtaining the bid documents, time and place for application submission, time limit for adopting a decision on qualification recognition, as well as the name of the contact person providing additional information.

A call for competition referred to in paragraphs 2) and 3) of this Article may also contain other data necessary for providing information to the bidders.

Contents of a Call for Competition in the Second Phase of Restrictive Procedure

Article 73

An invitation to bid in the second stage of the restricted procedure shall contain information on the procuring entity, subject of procurement, criterion and criteria elements for the selection of the most advantageous bid, time and place for reviewing the bid documents, conditions for obtaining the bid documents, time and place for bid submission, time and place for bid opening, time limit for selecting the most advantageous bid, as well as the procuring entity's contact address at which additional information will be provided.

The invitation to bid referred to in paragraph 1) of this Article may contain other data necessary for providing information to the bidders.

Notice on Public Procurement Contract Conclusion

Article 74

A procuring entity shall publish the notice on public procurement contract conclusion in the “Official Gazette of the Republic of Serbia” within 3 days from the contract conclusion, as well as post that notice on the Public Procurement Portal within the same time limit.

12. Opening of Bids and Applications

Public Opening of Bids and Applications

Article 75

The opening of bids and applications shall be public.

Exceptionally, a procuring entity may for the purpose of protecting a trade, official, military or state secret decide not to open the bids and applications in public.

The procuring entity shall state the decision referred to in paragraph 2 of this Article when publishing the call for competition.

Minutes of Bid Opening

Article 76

A procuring entity shall take the minutes of the bid opening procedure, in which the following data in particular shall be recorded:

- 1) bid/application registry number;
- 2) bidder’s name, or code if the bid is submitted with a design contest;
- 3) bid price and any discounts offered by the bidder;
- 4) data from the bid that are defined as criteria elements;
- 5) shortcomings in the bids.

The procuring entity shall ensure the protection of the bidder’s trade secrets in the course of procedure.

The provisions of this Article shall apply accordingly to bid opening as well.

The Minister in charge of financial activities shall regulate in detail the bid opening procedure and prescribe the form for taking the minutes of bid opening.

Delivering the Minutes of Bid Opening

Article 77

A procuring entity shall deliver the minutes of the opening of bids or applications to the bidders within three days from the day of completion of the procedure of bid or application opening.

13. Selection of the Most Advantageous Bid

Article 78

Having examined the bids in the public procurement procedure, a procuring entity shall reject all the incorrect and inadequate bids, and may also reject unacceptable bids.

A procuring entity shall evaluate the bids it has not rejected as unacceptable by applying the criteria elements and rank them accordingly.

After conducting the evaluation and ranking of the bids the procuring entity shall select the most advantageous bid.

The procuring entity shall make a decision on the selection of the most advantageous bid if it has received at least one correct and adequate bid.

Decision on Termination of Public Procurement Procedure

Article 79

A procuring entity shall terminate the public procurement procedure if the requirements for the selection of the most advantageous bid referred to in Article 78 of this Law or for compiling a list of candidates referred to in Article 22 paragraph 6 of this Law have not been met.

The procuring entity may terminate the public procurement procedure for objective and provable reasons which could not have been foreseen at the time of initiating the procedure and which make it impossible for the initiated procedure to be completed or due to which the need of the procuring entity for the relevant procurement has ceased, for which reason it will not be repeated during the same budget year.

The procuring entity shall explain in written form its decision on the termination of the public procurement procedure, particularly stating the reasons for the procedure termination, and deliver it to the bidders within three days from the day of making such a decision.

The procuring entity shall deliver the notice of termination of the public procurement procedure for publication in the "Official Gazette of the Republic of Serbia" and on the Public Procurement Portal in the manner prescribed by Article 69 of this Law within three days from the day of making the decision on the termination of the public procurement procedure.

Report on Technical Evaluation of Bids

Article 80

The Public Procurement Committee shall compile a written report on the technical evaluation of bids.

The report referred to in paragraph 1 of this Article shall contain in particular the following information:

- 1) name and address of the procuring entity;
- 2) subject and value of the public procurement contract;
- 3) names of the bidders whose bids have been rejected and the reasons for rejection;
- 4) manner of applying the methodology of weighted point allocation;
- 5) name of the successful bidder and the reasons for selecting his bid; if the bidder has stated that the contract will be carried out with the assistance of a subcontractor, each part of the contract to be executed by the subcontractor shall be specified;
- 6) if the negotiated procedure has been applied – the circumstances justifying the application of such procedure.

Decision on Selection of the Most Advantageous Bid

Article 81

Based on the report referred to in Article 80 of this Law, the procuring entity shall make a decision on the selection of the most advantageous bid within the time limit specified in the invitation to bid.

The decision on the selection of the most advantageous bid must be justified and must contain in particular the information referred to in Article 80 of this Law.

A procuring entity shall deliver the decision on the selection of the most advantageous bid to all the bidders within three days from the day of making such a decision.

Public Procurement Contract

Article 82

A procuring entity shall conclude a public procurement contract with the bidder whose bid was selected as the most advantageous.

If the bidder whose bid was selected as the most advantageous refuses to conclude the public procurement contract, the procuring entity may conclude the contract with the second most advantageous bidder.

The public procurement contract must be concluded in accordance with the most advantageous bid.

After concluding the contract the procuring entity may allow any change in the price only for objective reasons, which must be specified in the tender documents or stipulated by special regulations.

The public procurement contract may not be concluded prior to the expiry of the time limit for the submission of a request for the protection of rights referred to in Article 107 of this Law.

III. PUBLIC PROCUREMENT IN THE WATER MANAGEMENT, ENERGY, MINING, TELECOMMUNICATIONS AND TRANSPORT SECTORS

Procuring Entities

Article 83

Procuring entities of public procurement in the water management, energy, mining, telecommunications and transport sectors shall be the procuring entities referred to in Article 3 of this Law and the entities referred to in Article 84 of this Law, when procuring goods, services or works necessary for the performance of the activities referred to in Article 85 of this Law.

Other provisions of this Law shall apply to the requirements, manner and the procedure of public procurement which are not specifically regulated in this chapter.

Holder of Special and Exclusive Rights

Article 84

If the Republic of Serbia, a territorial autonomy or local self-government has granted, through a special law, bylaw or other regulation, special or exclusive rights to perform the activities referred to in Article 85 of this Law to a person other than the procuring entity referred to in Article 3 of this Law, the holder of such a right shall be obligated, when procuring goods, services or works necessary for the performance of such activities, to act like a procuring entity under the provisions of this Law.

A special or exclusive right within the meaning of the provisions of this Law shall be any right granted by the Republic of Serbia, a territorial autonomy or local self-government, whose purpose or consequence is a restriction of the right to perform the activities referred to in Article 85 of this Law to a limited number of entities in the same geographical area.

Subject of Public Procurement

Article 85

The subject of public procurement contracts in the water management, energy, mining, telecommunications and transport sectors for the purposes of this Law shall be the procurement of goods, services and works necessary for:

- 1) construction, maintenance and operation of facilities for the production, transport or transmission and distribution of potable water, electricity, gas and heat;
- 2) exploration for or extraction of oil and gas, exploration for or extraction of coal and other mineral raw materials and other solid fuels;
- 3) construction, maintenance and utilization of facilities used in air, river and railway transport, as well as regular urban and suburban passenger transport in road transport that is performed by trams, trolley-buses and buses.
- 4) construction, maintenance and utilization of telecommunications networks and facilities and provision of telecommunication services.

The subject of public procurement in the energy sector shall also be the procurement of electricity, oil and gas.

A public procurement in the water management and energy sectors for the purposes of this Law shall not be considered to be any procurement of goods, services and works for:

- 1) production of potable water or electricity:
 - (a) if a person other than the procuring entity referred to in Article 3 of this Law pumps potable water or produces electricity, and the consumption of these goods is necessary for the performance of this person's activities not specified in paragraph 1 of this Article;
 - (b) if the supply of a public network depends solely on the personal consumption of a person other than the procuring entity referred to in Article 3 of this Law and if this consumption does not exceed 30% of the total production of potable water or electricity on the part of that person, taking into consideration the average over the last three years, including the current year;
- 2) production of gas or heat:
 - (a) if the production of gas or heat by a person other than the procuring entity referred to in Article 3 of this Law is an unavoidable consequence of the performance of this person's activities not specified in paragraph 1 of this Article, and
 - (b) if the supply of a public network is intended solely for the purpose of economic exploitation of such production and does not exceed 20% of the total annual income of a person other than the procuring entity referred to in Article 3 of this Law, taking into consideration the average for the last three years and the current year.

Other Procurements

Article 86

The subject of public procurement in the water management sector shall also be the procurements connected with:

1) hydraulic engineering projects, irrigation or land drainage, provided that over 20% of the total quantity of water provided through these projects, by irrigation or land drainage is to be used as potable water;

2) filtration and drainage of rainwater and waste water.

*Contracts in the Water, Energy, Mining, Telecommunications
and Transport Sectors not Subject to this Law*

Article 87

The provisions of this law shall not apply to public procurement contracts in the water management, energy, mining, telecommunications and transport sectors in the following cases:

1) when a procuring entity involved in the construction, maintenance and operation of telecommunications networks and facilities and provision of telecommunications services conducts a procurement procedure whose sole purpose is to enable it to provide one or more of telecommunications services, provided that another person may freely offer its services in the same geographic area and under the same conditions;

2) when a procuring entity awards a contract for potable water purchase;

3) when a procuring entity that is a rate-based customer concludes an electricity procurement contract;

4) when a procuring entity transports oil or natural gas, or transmits or distributes electricity through the systems where only one bidder exists;

5) when a procuring entity responsible for supplying rate-based customers with electricity, upon the previously obtained approval of the ministry in charge of energy, procures the missing quantities of electricity determined by the Energy Balance Sheet of the Republic of Serbia for the purposes of supplying these customers, directly from the electricity producer;

6) design contest that a procuring entity organizes for purposes not specified in Article 85 of this Law;

7) when an economic entity founded by several procuring entities performs procurement from its founders for the purposes of performing the activities referred to in Article 85 paragraph 1 of this Law;

8) when a procuring entity, as a related entity for the purposes of the law regulating the corporate income tax, or the law regulating the personal income tax, performs procurement from an entity to which it is related, provided that in the previous three years the procuring entity generated at least 80% of the average total revenue for the entity with which it is related.

The provisions of this Law shall not apply to other procurement of goods, services and works for the purposes of performing the activities referred to in Article 85 of this Law, provided that the procuring entity does not have exclusive or special rights to the performance of such activities and that other economic entities may freely perform such activities in the same geographical area under the same conditions.

Periodic Indicative Notice

Article 88

For planned public procurements referred to in Article 85 of this Law whose approximate value exceeds 100,000,000 dinars, the procuring entity shall publish, at least once a year, a periodic indicative notice referred to in Article 70 of this Law.

Qualification Procedure

Article 89

The qualification procedure may be conducted in several qualification phases, and has to be based on non-discriminatory requirements, established by a procuring entity in advance.

In the decision on recognition of qualifications, a procuring entity shall also set the period during which the qualifications are recognized to the candidates, which may not be longer than four years.

During the validity period of the list of candidates formed in the manner stipulated by paragraph 2 of this Article, the procuring entity shall update it every six months by recognizing the qualifications to each applicant that meets the requirements referred to in paragraph 1 of this Article and that has in the meantime submitted an application for the recognition of qualifications.

The procuring entity may update the requirements referred to in paragraph 1 of this Article and invite all the candidates to submit applications in accordance with the updated requirements.

Upon the request of any interested person, the requirements referred to in paragraph 1 of this Article shall be made accessible, and the procuring entity shall inform the interested parties of any update.

If the procuring entity believes that its qualifications system meets the requirements of other procuring entities as well, it shall furnish the names of these procuring entities to the interested persons.

In the procedure of public procurement in the water management, energy, mining, telecommunications and transport sectors, the procuring entity may decide to use a list of candidates of another procuring entity.

The decision on using the list of candidates of another procuring entity shall be made in written form and must be explained.

Observing the Principle of Reciprocity

Article 90

If a bidder offers products originating from a country with which Republic of Serbia has not concluded an agreement that would enable domestic bidders to have equal access to the market of that country, such a bid may be rejected if more than 50% of the products offered in the bid originate from such country.

The origin of products shall be established in accordance with the relevant regulations.

Termination of Public Procurement Procedure

Article 91

Having obtained the opinion of the Ministry in charge of foreign economic relations, the Government may temporarily terminate the procedure of public procurement of services:

1) to bidders with the registered address in the country with which Republic of Serbia has not concluded an agreement on equal treatment of domestic and foreign bidders;

2) to bidders which are related parties with the bidders referred to in item 1) of this Article and have the registered address in the country with which the Republic of Serbia has concluded an agreement on equal treatment of domestic and foreign bidders, but which do not have direct and effective links with the economy of the Republic of Serbia;

3) to bidders which have submitted bids offering services from a country with which the Republic of Serbia has not concluded an agreement on equal treatment of domestic and foreign bidders.

Selection among Equal Bids

Article 92

If two or more bids are equal on the basis of the criteria stipulated in Article 52 of this Law, a procuring entity shall give priority to the bids:

- 1) whose selection cannot be terminated on the basis of the Article 91 of this Law;
- 2) whose selection would not mean that the procuring entity would have to procure materials whose technical characteristics are different from those of the existing materials.

For the purposes of paragraph 1 of this Article, those bids whose prices do not differ by more than 3% shall be considered as equal.

IV. PUBLIC PROCUREMENT RECORDS

Keeping Records

Article 93

A procuring entity shall collect and keep records of certain data concerning public procurement procedures and awarded public procurement contracts.

The procuring entity shall keep separate records of low-value public procurements.

Report on Concluded Contracts

Article 94

The report on concluded public procurement contracts shall contain the information on the procuring entity, procedure and subject of the public procurement, value of the public procurement, bidder with which the public procurement contract was concluded, received bids and the public procurement advert.

The report on concluded public procurement contracts of low value shall contain the information on the procuring entity, the total number of the concluded contracts and the total value of the concluded contracts.

The report on public procurement procedures shall contain the information on the number of successfully conducted, terminated and cancelled procedures, reasons for procedure termination and cancellation, separately for public procurement and low-value public procurement.

A procuring entity shall deliver to the Public Procurement Office in a calendar year a quarterly report on concluded public procurement contracts and public procurement procedures, by the 10th day of the month following the quarter end at the latest.

The Public Procurement Office shall prepare a summary of reports on concluded public procurement contracts on the basis of the delivered quarterly reports of procuring entities and post it on the Public Procurement Portal.

The Minister in charge of financial activities shall regulate in detail the manner of keeping the public procurement records and prescribe the content of the reports referred to in paragraphs 1, 2 and 3 of this Article.

Additional Information

Article 95

The Public Procurement Office may request from any procuring entity a report on any individual public procurement contract or public procurement procedure with additional information, if it is necessary for the purpose of keeping public procurement data records.

The procuring entity shall deliver the requested information to the Public Procurement Office without undue delay, and not later than three days after the request of the Public Procurement Office.

Cumulative Public Procurement Report

Article 96

The Public Procurement Office shall prepare a cumulative annual public procurement report on the basis of the individual, quarterly reports of procuring entities referred to in Article 94 of this Law.

The Public Procurement Office shall submit the cumulative annual public procurement report to the Government by 31 March of the current year for the previous year at the latest.

V. PUBLIC PROCUREMENT ACTIVITIES

Public Procurement Officer

Article 97

A procuring entity shall define, by its bylaw by which it regulates the job classification, a post which would perform public procurement activities as well.

A Public Procurement Officer shall be a person employed on a full-time basis with the procuring entity who is trained for the performance of public procurement activities and who has acquired an appropriate certificate of this.

The Minister in charge of financial activities shall prescribe the procedure of issuing the certificate referred to in paragraph 2 of this Article and specify:

- 1) which procuring entities shall appoint a Public Procurement Officer;
- 2) which activities the Public Procurement Officer shall perform;
- 3) a common public procurement officer training program;
- 4) the conditions the instructors conducting the public procurement officer training must meet;
- 5) the conditions for acquiring a public procurement officer certificate.

The procuring entity may appoint several Public Procurement Officers if necessary.

Public procurement officer certificates shall be issued by the Public Procurement Office, of which it shall keep an appropriate register.

The procuring entity shall enable the person employed for the purpose of performing public procurement activities to acquire a public procurement officer certificate within three months from the day of employment.

VI. PUBLIC PROCUREMENT OFFICE

Manner of Establishment

Article 98

Public Procurement Office is a special organization for performing technical activities in the area of public procurement, providing conditions for economic, efficient and transparent use of public funds for public procurement and promotion of competition and equality of bidders in the public procurement procedure.

The regulations pertaining to the government administration shall apply to the activity and organization of the Public Procurement Office.

Activities

Article 99

The Public Procurement Office shall perform activities that relate to:

- 1) the participation in drafting the regulations pertaining to the sphere of public procurement;
- 2) providing consulting services to procuring entities and bidders;
- 3) monitoring public procurement procedures;
- 4) submission of requests for the protection of rights in the case of violation of public interest;
- 5) informing the body in charge of public fund auditing, budget inspection and other bodies competent for the initiation of offence proceedings on irregularities in conducting public procurement procedures and delivering public procurement reports that it has identified in the course of performance of the activities within its competence;
- 6) issuance of certificates to public procurement officers, as well as keeping the register of the public procurement officers who have been issued certificates;
- 7) publication and distribution of relevant technical literature;
- 8) preparation of model decisions and other acts the procuring entity adopts in public procurement procedures;
- 9) collection of information on public procurement in other states;
- 10) collection of statistical and other data on the procedures conducted, public procurement contracts concluded and on the efficiency of the public procurement system as a whole;
- 11) formation and maintenance of the Public Procurement Portal for the purpose of improving general information provision to procuring entities and bidders;
- 12) cooperation with foreign institutions and experts in the field of public procurement;
- 13) cooperation with other government bodies and organizations, compulsory social insurance organizations, as well as bodies of a territorial autonomy and local government;
- 14) other activities according to the law.

The Public Procurement Office shall submit to the Government a public procurement report in the previous year, including a proposal for measures to be undertaken, by 31 May of the current year.

VII. PROTECTION OF BIDDERS' RIGHTS AND PUBLIC INTEREST

Republic Commission for the Protection of Rights in Public Procurement Procedures

Article 100

The Republic Commission for the Protection of Rights in Public Procurement Procedures (hereinafter: the Republic Commission) shall be established as an autonomous and independent body of the Republic of Serbia, which shall ensure the protection of bidders' rights and public interest in public procurement procedures.

The Republic Commission shall have the status of a legal entity.

The seat of the Republic Commission shall be in Belgrade.

The Republic Commission shall have a seal in accordance with the law.

The funds for the operation of the Republic Commission shall be provided in the budget of the Republic of Serbia.

The Republic Commission shall be responsible for its work to the National Assembly.

Competence

Article 101

Within its competences the Republic Commission shall:

- 1) decide on requests for the protection of bidders' rights and public interest (hereinafter: request for the protection of rights);
- 2) decide on appeals lodged against the procuring entity's conclusions;
- 3) decide on the procuring entity's proposal that the submitted request for the protection of rights should not stay the activities in public procurement procedure;
- 4) decide on the expenses of the rights protection procedure;
- 5) monitor the implementation of decisions adopted by it;
- 6) cooperate with foreign institutions and experts in the field of public procurement;
- 7) also perform other activities in accordance with the law.

Composition and Election of the Republic Commission

Article 102

The Chairman and members of the Republic Commission shall be elected and dismissed by the National Assembly upon the Government proposal.

The Chairman and members of the Republic Commission shall be elected for a five-year period. The same person may be elected Chairman or member of the Republic Commission not more than twice.

The Government shall initiate a procedure for determining a proposal for the election of Chairman or member of the Republic Commission not later than three months prior to the expiry of their term of office. The election procedure shall be completed not later than one month prior to the expiry of the term of office of the Chairman and members of the Republic Commission.

The Chairman and members of the Republic Commission may not perform any other public function in accordance with the law regulating the conflict of interest, may not hold any office in a political party nor hold or perform any other office, post, job, duty or activity that could affect their independence in the work and actions or that would diminish their reputation or the reputation of the office of member or Chairman of the Republic Commission.

Any person meeting the conditions necessary for the election as a municipal court judge and having a three-year work experience in the field of public procurement may be elected Chairman of the Republic Commission. The Chairman of the Republic Commission shall have a salary equal to the salary of the Chairman of a standing working body of the National Assembly.

Any person who is a graduate lawyer with a two-year work experience in the field of public procurement or a seven-year work experience in the profession may be elected member of the Republic Commission. Members of the Republic Commission shall have a salary equal to the salary of a Member of Parliament employed full-time in the National Assembly.

The Republic Commission shall be represented by the Chairman of the Republic Commission, who shall manage its operation.

In the absence of the Chairman of the Republic Commission, the Republic Commission shall be represented by the Deputy Chairman of the Republic Commission, who shall be elected from among the members and dismissed by the Republic Commission upon the proposal of the Chairman of the Republic Commission.

Dismissal of the Chairman and members of the Republic Commission

Article 103

The Chairman or any member of the Republic Commission shall be dismissed before the expiry of the term of office if:

1) he/she has been convicted of a criminal offence to an effective sentence of at least six months of imprisonment or if he/she has been convicted of a punishable offence which makes him/her unfit for holding office;

2) it has been established based on the findings and opinion of the competent medical institution that, due to a deteriorated state of health, he/she has permanently lost the work capacity for holding office;

3) it has been established that he/she holds office in contravention of Article 102 paragraph 5 of this Law;

4) it has been established that he/she performs his/her duties in an unprofessional and negligent manner.

The Government shall submit to the National Assembly a justified proposal for dismissal of the Chairman or a member of the Republic Commission along with the evidence for his/her dismissal.

The Chairman or a member of the Republic Commission must be given an opportunity to give his/her statement in the National Assembly regarding the reasons for his/her dismissal.

In the case of proposal for dismissal of the Chairman or a member of the Republic Commission before the expiry of their term of office, the Government shall submit to the National Assembly a proposal for the election of a new Chairman or member of the Republic Commission simultaneously with the proposal for dismissal.

Service of the Republic Commission

Article 104

The Republic Commission shall have a Service that shall perform professional, general-legal, financial-material and administrative-technical activities necessary for the operation of the Republic Commission. The Service shall be managed by the Secretary, who shall be elected from among the employees and dismissed by the Republic Commission upon the proposal of the Chairman of the Republic Commission.

The regulations regulating labor relations in government bodies shall apply to the Secretary and employees in the Service.

Internal organization and job classification in the Service shall be regulated in detail by the Regulation passed by the Chairman of the Republic Commission upon the proposal of the Service Secretary.

The Regulation referred to in paragraph 3 of this Article must be approved by the Committee of National Assembly in charge of Finance.

Manner of Operation of the Republic Commission

Article 105

The Republic Commission shall make decisions at the meetings chaired by the Chairman of the Republic Commission or a member authorized by him/her.

Presence of a majority of the total number of members of the Republic Commission shall be necessary for valid decision-making at the meeting.

Decisions at the meeting shall be made by a majority of votes of the total number of members of the Republic Commission.

The manner of operation of the Republic Commission shall be regulated by the Rules of Procedure of the Republic Commission, which shall be published in the "Official Gazette of the Republic of Serbia".

The provisions of the law regulating administrative procedure shall apply accordingly to the issues of the rights protection procedure not regulated by this Law.

Legal Capacity in the Procedure

Article 106

A request for the protection of rights may be submitted by any person having an interest to conclude a contract on the particular public procurement (hereinafter: the claimant).

A request for the protection of rights in the case of violation of public interest may be submitted by the Public Procurement Office, a public attorney and a government body or organization authorized to perform supervision over the procuring entity's business activities.

The claimant referred to in paragraph 1 of this Article shall have no right to demand from the body or organization referred to in paragraph 2 of this Article to submit a request if it has not used its right to submission of request for the protection of rights.

The provisions of this Law applying in the case of submission of request by a claimant referred to in paragraph 1 of this Article, except for the provision of Article 116 paragraph 1 of this Law, shall apply accordingly in the case of submission of request for the protection of rights referred to in paragraph 2 of this Article.

Time Limits and Manner of Submission of Request for the Protection of Rights

Article 107

A request for the protection of the bidders' rights shall be submitted to the procuring entity.

A request for the protection of rights may be submitted during the whole public procurement procedure against any action of the procuring entity, unless otherwise specified by this Law.

A request for the protection of rights by which the content of a call for competition or tender documents is disputed shall be considered timely if received by the procuring entity before the expiry of the time limit for the submission of bids, regardless of the manner of delivery.

After the making of the procuring entity's decision referred to in Articles 22, 79 and 81 of this Law, the time limit for the submission of request for the protection of rights shall be eight days from the decision receipt date.

In the case of publishing the notice referred to in Article 24 paragraph 2 of this Law, the time limit for the submission of request for the protection of rights shall be eight days from the day of publishing the notice in the "Official Gazette of the Republic of Serbia".

No actions of the procuring entity taken in the public procurement procedure may be disputed by a request for the protection of rights if the claimant knew or could have known the reasons for its submission before the expiry of the time limit for the submission of bids or applications, but the claimant failed to submit it before the expiry of that time limit.

If the request for the protection was submitted again in the same public procurement procedure by the same claimant, no actions of the procuring entity the claimant knew or could have known when submitting the previous request may be disputed in that request.

A request for the protection of rights shall be submitted to the procuring entity directly or by registered mail with a delivery note.

The claimant shall simultaneously submit a copy of the request for the protection of rights to the Republic Commission.

The procuring entity shall inform all participants in the public procurement procedure of the submitted request for the protection of rights no later than three days from the day of receiving the request for the protection of rights.

The provisions of paragraphs 3 and 4 of this Article shall not apply in the negotiated procedure without a prior call for competition if the claimant has not been allowed to participate in this procedure.

Consequences of Submitted Request for the Protection of Rights

Article 108

A request for the protection of rights shall delay further activities of the procuring entity in the public procurement procedure until a decision on the submitted request for the protection of rights has been made unless otherwise decided by the Republic Commission upon the proposal of the procuring entity.

The Republic Commission shall make the decision referred to in paragraph 1 of this Article in the case where the interest of the Republic of Serbia would be significantly endangered by delaying the activities of the procuring entity in the public procurement procedure.

If the Republic Commission accepts the proposal referred to in paragraph 1 of this Article, the procuring entity shall inform all participants in the procedure accordingly.

Content of Request for the Protection of Rights

Article 109

A request for the protection of rights includes:

- 1) name and address of the claimant and contact person;
- 2) name and address of the procuring entity;
- 3) information on the public procurement that is the subject of the request or on the decision of the procuring entity;
- 4) violations of the regulations regulating public procurement procedure;
- 5) facts and evidence by which the violations are proved;
- 6) certificate of payment of the tax referred to in Article 116 paragraph 1 of this Law;
- 7) the claimant's signature.

If the procuring entity estimates that the request for the protection of the bidders' rights submitted does not contain all the information referred to in paragraph 1 of this Article, the procuring entity shall invite without delay the claimant to present additional information within three days.

If the claimant fails to act within the time limit referred to in paragraph 2 of this Article or fails to supplement the request in accordance with the request for supplementation, the procuring entity shall reject such request by a conclusion.

The claimant may submit an appeal to the Republic Commission against the conclusion of the procuring entity referred to in paragraph 3 of this Article within three days from the day of conclusion receipt, while it shall simultaneously deliver a copy of the appeal to the procuring entity.

Prior Verification of a Request for the Protection of Rights

Article 110

Upon receipt of a request for the protection of rights, the procuring entity shall verify whether the request has been submitted within the time limit and whether it was lodged by an authorized person.

If the request for the protection of rights is untimely or submitted by a person not having a legal capacity, the procuring entity shall reject such request by a conclusion.

The claimant may submit an appeal to the Republic Commission against the conclusion referred to in paragraph 2 of this Article within three days from the day of receiving that conclusion, while it shall simultaneously deliver a copy of the appeal to the procuring entity.

Decision of Procuring Entity on a Request for the Protection of Rights

Article 111

After a preliminary examination the procuring entity shall decide on a request for the protection of rights by a resolution by:

- 1) accepting the request and canceling the public procurement procedure wholly or partly if the request is well-founded;
- 2) rejecting the request for the protection of rights as unfounded.

After receiving the written notice on withdrawal of the request for the protection of rights, the procuring entity shall terminate the rights protection procedure by a conclusion.

The procuring entity shall adopt the resolution with an explanation referred to in paragraph 1 of this Article and deliver it to the claimant within ten days from the day of receiving the orderly request for the protection of rights.

If the resolution of the procuring entity was not delivered to the claimant within the time limit referred to in paragraph 3 of this Article, the claimant may continue the procedure before the Republic Commission by giving a written statement within the following three days, of which it shall simultaneously inform the procuring entity.

If the claimant does not continue the procedure within the time limit referred to in paragraph 4 of this Article, it shall be deemed that the protection procedure has not been initiated at all.

Continuation of Procedure After Adoption of the Decision of the Procuring Entity

Article 112

The resolution referred to in Article 111 paragraph 1 item 2) of this Law shall also contain an invitation to the claimant to give a written statement not later than three days from the day of resolution receipt whether it will continue the procedure before the Republic Commission as well as a notice of the consequences of missing the time limit for giving statement.

The claimant shall deliver a copy of the written statement on the continuation of the procedure to the Republic Commission.

After the receipt of the claimant's written statement on the continuation of the procedure before the Republic Commission, the procuring entity shall deliver all documents to the Republic Commission within the next three days.

If the claimant delivers the written statement after the expiry of the time limit referred to in paragraph 1 of this Article, the procuring entity shall make a conclusion on rejection of the statement.

The claimant may lodge an appeal to the Republic Commission against the conclusion referred to in paragraph 4 of this Article within three days from the day of receiving this conclusion, and it shall simultaneously deliver a copy of the appeal to the procuring entity.

Continuation of Procedure Before the Republic Commission

Article 113

The Republic Commission shall decide on the submitted request for the protection of rights based on the receipt of the claimant's written statement on the continuation of the procedure.

The Republic Commission shall decide within the scope of the submitted request for the protection of rights as well as on the violations which the claimant did not know and could not know about and which had an impact on the decision of the procuring entity in the public procurement procedure.

The Republic Commission shall present the evidence which it assesses as having an impact on making a correct and lawful decision on the submitted request for the protection of rights.

Time Limit for Decision Adoption and Delivery

Article 114

The Republic Commission shall decide on the request for the protection of rights by a resolution within 15 days from the day of receiving the complete documentation.

The Republic Commission shall decide on the appeal against the conclusion of the procuring entity within eight days from the day of receiving the necessary documentation.

The time limit referred to in paragraph 1 of this Article may be extended for maximum 20 days in particularly justified cases, of which the claimant and the procuring entity shall be informed.

The Republic Commission shall deliver the resolution referred to in paragraph 1 of this Article or the decision referred to in paragraph 2 of this Article to the procuring entity, the claimant and the selected bidder if the request for the protection of rights was submitted after the adoption of the decision on selection of the most advantageous bid, within ten days from the day of making the resolution or decision.

Information Collection and Court Expert's Examination

Article 115

If the Republic Commission establishes that a request for the protection of rights does not contain all the required information referred to in Article 109 paragraph 1 of this Law it shall invite the claimant to supplement the request.

The time limit for supplementing the request for the protection of rights shall be three days from the day the claimant received the supplementation request.

Prior to making its decision, the Republic Commission may request additional explanations from the procuring entity, the claimant or other participants in the procedure, opinion of experts or court experts and review other documents held by the parties in public procurement procedure as well as collect other information for making the decision.

The Republic Commission may request information and opinions that are necessary for the performance of its activities from other persons as well.

Any persons referred to in paragraphs 3 and 4 of this Article shall act within the time limit set by the Republic Commission in the request for obtaining the information or opinions.

The request for obtaining information or opinion must be justified.

Procedure Expenses

Article 116

A claimant shall pay a tax in the amount of RSD 60,000.00 to a specific account of the budget of the Republic of Serbia, or RSD 30,000.00 if it is a case of a low-value public procurement.

Each party to the procedure shall bear the expenses incurred through its actions.

If the request for the protection of rights is well-founded, the procuring entity must compensate the expenses incurred on the basis of rights protection to the claimant upon its written request.

If the request for the protection of rights is not well-founded, the claimant must compensate the expenses incurred on the basis of rights protection to the procuring entity upon its written request.

The parties must precisely state in the request the expenses whose compensation they request.

Compensation of expenses may be requested until the making of a decision of the procuring entity or the Republic Commission on the submitted request for the protection of rights.

The expenses shall be decided on by the Republic Commission. The decision of the Republic Commission shall be final.

Decision of the Republic Commission

Article 117

By its conclusion, the Republic Commission shall:

1) reject a request for the protection of rights or statement on the continuation of procedure before the Republic Commission in the case where the request for the protection of rights or the statement has been submitted in an untimely manner, if it has been submitted by a person not having a legal capacity or if the claimant failed to supplement the request within the given time limit or failed to supplement it in accordance with the invitation for request supplementation referred to in Article 108 of this Law;

2) terminate the procedure on the basis of receiving a written notice on withdrawal of the request for the protection of rights prior to the making of the decision;

3) reject the appeal as inadmissible, untimely or lodged by an unauthorized person.

By its resolution, the Republic Commission shall:

1) accept the request for the protection of rights and cancel the public procurement procedure wholly or partly if the request for the protection of rights is well-founded;

2) reject the request for the protection of rights as unfounded;

3) confirm the conclusion of the procuring entity or cancel the conclusion of the procuring entity and order further actions of the procuring entity in connection with the content of the request for the protection of rights referred to in Article 109 paragraph 1 of this Law or in connection with the preliminary examination of the request for the protection of rights referred to in Article 110 of this Law or in connection with the continuation of procedure after making the decision of the procuring entity referred to in Article 111 of this Law.

The Republic Commission shall explain its decision and order the procuring entity to take certain actions for the purpose of correct and lawful completion of the relevant public procurement procedure.

The decision of the Republic Commission shall be delivered within the time limit referred to in Article 114 paragraph 4 to the procuring entity, the claimant as well as the selected bidder if the request for the protection of rights was submitted after making the decision on selection of the most advantageous bid.

After its delivery to the parties in the procedure, the decision of the Republic Commission shall be delivered to the Public Procurement Office for publication on the Public Procurement Portal.

The procuring entity shall inform all participants in the procedure of the decision made by the Republic Commission.

Article 118

The procuring entity shall act upon the orders of the Republic Commission contained in the decision no later than 30 days from the decision receipt date.

The Republic Commission may request from the procuring entity to submit a report and documentation on conducting the public procurement procedure in which the request for the protection of rights was submitted or a report and documentation on the repeated procedure.

The procuring entity shall submit the report and documentation referred to in the previous paragraph within the time limit that is set by the Republic Commission and that may not be longer than six months from the date of receiving the decision of the Republic Commission.

If the Republic Commission establishes on the basis of the report and documentation that the irregularities have not been eliminated or that the instructions of the Republic Commission have not been observed or if the procuring entity fails to submit the report and documentation within the set time limit it shall inform of this the body competent for public funds auditing, the budget inspection, the National Assembly and the Government.

No appeal may be lodged against the decision of the Republic Commission.

An administrative dispute may be initiated against the decision of the Republic Commission.

An administrative dispute may also be initiated when the Republic Commission failed to make and deliver the decision within the time limits specified by Article 114 of this Law.

VIII SUPERVISION

Article 119

Supervision over the implementation of this Law shall be performed by the Ministry in charge of financial activities.

IX. ANNULMENT OF CONTRACTS

Annulment

Article 120

Public procurement contracts shall be deemed as annulled and void:

- 1) if they have been concluded in contravention of the provisions of this Law regulating the manner and the procedure of awarding public procurement contracts;
- 2) if a procuring entity has acted in contravention of the provisions on determining the value of public procurement per lot;
- 3) if they have been concluded in order to settle rights and liabilities, without applying the public procurement procedure;
- 4) if a procuring entity has selected the most advantageous bid under conditions other than those prescribed by this Law or concluded a contract with a bidder whose bid was not selected as the most advantageous one;
- 5) if a procuring entity authorizes a third person, who is not the procuring entity for the purposes of this Law, to conduct the public procurement procedure so as to avoid the application of this Law;
- 6) if the amendments to the original contract have been effected in contravention of the provisions of this Law;
- 7) if they have been concluded in contravention of the Republic Commission's decision, and
- 8) if they have been concluded without a prior public procurement procedure, which the procuring entity was obligated to apply according to the provisions of this Law.

X. PENAL PROVISIONS

Offenses

Article 121

A procuring entity shall be fined 100,000 to 1,000,000 dinars:

- 1)) *if it fails to provide to the bidder access to the information on the conducted public procurement procedure* (Article 10);
- 2) if it concludes a contact in violation of the principle of the equality of bidders (Article 11);
- 3) if it does not protect the data contained in the bid documents, according to the degree of confidentiality (Articles 12 and 13);
- 4) if it does not keep records or keep the documentation of public procurement (Article 14);
- 5) if it does not adhere to the prescribed language in the preparation of tender documentation and conduct of the proceedings (Article 15);
- 6) if it concludes a public procurement contract without prior implementation of the procedure prescribed by this Law (Article 20);
- 7) if it commences the public procurement procedure before the prescribed conditions are met (Article 27);
- 8) if it commences the public procurement procedure before adopting decision to initiate the procedure and decision on the formation of the public procurement committee (Article 28);
- 9) if it fails to forward the tender documents to everyone requesting them, in accordance with the call for competition, or charges for them more than the costs of copying and sending (Articles 31 and 32);
- 10) if the subject of a contract, contract requirements, technical specifications or other elements of the tender documents are adjusted to a specific bidder, or if the bid of a bidder who has participated in the preparation of the tender documents or part thereof is not rejected (Articles 9 and 39);
- 11) if it fails to observe the current technical norms, standards and other technical regulations while preparing the tender documents (Articles 38-43);
- 12) if it sets the requirements and criteria for participation that are not in conformity with this Law, or if it alters the requirements and criteria after the publication of a call for competition without notifying the bidders (Article 32 and Articles 44-52);
- 13) if it fails to observe the time limits for publishing the call for competition and bid submission (Articles 59-68);
- 14) if it fails to publish the prescribed adverts referred to in Article 70 of this Law in the "Official Gazette of the Republic of Serbia" and on the Public Procurement Portal, in the manner prescribed by Article 69 of this Law, or if it sends them to be published in other media without having sent them to the "Official Gazette of the Republic of Serbia" for publication (Article 70);
- 15) if the minutes of bid opening do not contain all prescribed data (Article 76);
- 16) if it fails to forward the information on conducted public procurement procedures to the Public Procurement Office (Articles 94 and 95);
- 17) if it fails to define by its internal document the post for the performance of public procurement activities referred to in Article 97 paragraph 1 of this Law;

18) if it fails to enable an employee to acquire a public procurement officer certificate within the time limit referred to in Article 97 paragraph 6 of this Law.

19) if it concludes a public procurement contract prior to the expiry of the time limit for submission of requests for the protection of rights referred to in Article 107 paragraphs 4 and 5 of this Law;

20) if it acts in contravention of the provision of Article 108 paragraph 1 of this Law on staying the procedure in the case of a request for the protection of rights being submitted;

21) if it does not forward the documents referred to in Article 112 paragraph 3 of this Law;

22) if it does not notify all the participants in process about decision adopted by Republic Commission (Article 117)

23) if it fails to act upon the orders of the Republic Commission within the time limit referred to in Article 118 of this Law;

24) if it fails to enable the employee performing public procurement activities to acquire a public procurement officer certificate within the time limit referred to in Article 126 paragraph 7 of this Law.

The responsible person of the procuring entity shall also be fined 20,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

Article 122

A bidder shall be fined 100,000 to 1,000,000 dinars:

1) if it fails to notify the procuring entity of alterations to the data (Article 45 paragraph 10);

2) if it supplies false information concerning professional references (Article 46);

3) if it supplies false information in the documents proving the compliance with the requirements (Articles 45 and 48).

The responsible person of the bidder shall also be fined 20,000 to 50,000 dinars for a violation referred to in paragraph 1 of this Article.

A natural person acting as a bidder shall also be fined 20,000 to 50,000 dinars for the violation referred to in paragraph 1 of this Article.

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 123

Public procurement procedures initiated before this Law enters into force shall be governed by the regulations that were in effect when they were commenced.

Article 124

The procedures of the protection of rights initiated before this Law enters into force shall be governed by the regulations that were in effect when they were commenced.

Article 125

As of the day of this Law coming into effect the Public Procurement Office shall continue its operation in accordance with its competence defined by this Law.

As of the day of this Law coming into effect the Commission for the Protection of Rights shall continue its operation until the start of the operation of the Republic Commission.

The Republic Commission shall be elected within six months from the day this Law comes into effect.

As of the day of the beginning of its operation the Republic Commission shall take over the civil servants employed in the Department for the Affairs of the Commission for the Protection of Rights within the Public Procurement Office, as well as the rights and obligations, cases, equipment, supplies and archives necessary for exercising the authority within its competence.

Article 126

As of the day of this Law coming into effect, the Public Procurement Law ("Official Gazette of the RS" nos. 39/02, 43/03, 55/04 and 101/05) shall cease to apply except the provisions of Articles 123, 124 and 125 of that Law, which shall apply until the day of the adoption of the secondary regulation referred to in Article 26 paragraph 3 of this Law.

The secondary regulations that are passed based on the authorizations referred to in this Law shall be passed within six months from the day this Law comes into effect except the secondary regulation referred to in Article 54 paragraph 3 of this Law.

The secondary regulations passed based on the Public Procurement Law ("Official Gazette of the RS" nos. 39/02, 43/03, 55/04 and 101/05) shall apply until the secondary regulations based on the authorizations referred to in this Law come into effect, except the provisions that are in contravention of this Law.

The provisions of Article 54 paragraphs 1 and 2 of this Law shall apply as of the day of passing of the secondary regulation referred to in paragraph 3 of that Article.

After the Stabilization and Association Agreement concluded between the European Communities and their member states, on the one side, and the Republic of Serbia, on the other side, comes into effect, the advantage given to domestic bidders in Article 52 paragraphs 6, 7, 9 and 10 of this Law shall become an advantage expressed in the price and shall gradually decrease over a five-year period in accordance with the schedule specified in that Agreement.

The provisions of Article 97 of this Law shall apply after the expiry of six months from the day this Law comes into effect.

The procuring entity shall enable the employee performing public procurement activities to acquire a public procurement officer certificate within three months from the day of application of the provision of Article 97 of this Law.

Article 127

This Law shall come into effect on the 15th day from the day of its publication in the "Official Gazette of the Republic of Serbia".

ANNEX IA

Services

Category no.	Subject
1	maintenance and repair services
2	land transport services (except for railway transport services), including transport in armored vehicles and courier services (other than postal transport)
3	air transport services of passengers and cargos (other than postal transport)
4	land and air postal transport (other than railway transport services)
5	telecommunication services (other than voice telephony, telex, radio telephony, paging, internet and satellite services)
6	financial services: - insurance services, - banking and investment services (other than the procurement of financial services in connection with issuing, sale, purchase or transfer of securities or other financial instruments, and the services of the National Bank of Serbia)
7	computer services
8	research and development services (other than the procurement of research and development services where the research results are not used solely by a procuring entity for its own needs, provided that the procuring entity bears the full costs of such services)
9	accounting, auditing and bookkeeping services
10	market research services and public opinion surveys
11	management consulting services (other than arbitrage, settlement and related services)
12	architectural, engineering, urban planning and landscape architecture services; technical testing and analyses
13	advertising services
14	building cleaning and real estate management services
15	publishing and printing services on a part-time or contractual basis
16	waste removal, sanitary and other related services

ANNEX IB

Services

Category no.	Subject
17	hotel and restaurant services
18	railway transport services
19	river transport services

20	additional and auxiliary transport services
21	legal services
22	personnel recruitment services
23	investigative and security services (other than transport in armored vehicles)
24	education and vocational training services
25	health care and social services
26	recreational, cultural and sports services
27	other services

ANNEX II
Construction works

Class	Group	Sub-group	Description
50			BUILDINGS AND CIVIL ENGINEERING
	500		<i>General construction and civil engineering works (without special specifications) and demolition</i>
		500. 1.	General construction and civil engineering works (without special specifications)
		500.2.	Demolition
	501		<i>Construction of objects and parts thereof</i>
		501.1.	General construction works
		501.2.	Construction of eaves and roofs
		501.3.	Construction of chimneys, furnaces and fireplaces
		501.4.	Protection against water and damp
		501.5.	Renovation and maintenance of external walls (refilling brick contacts with mortar, cleaning, etc.)
		501.6.	Erecting and dismantling scaffolding
		501.7.	Other specialized activities in connection with construction works, including carpentry
	502		<i>Civil engineering: building roads, bridges, railways, etc.</i>
		502.1.	General civil engineering works
		502.2.	Earthworks
		502.3.	Building bridges, tunnels and shafts; drilling
		502.4.	Hydraulic engineering and water management (rivers, channels, ports, inflows, dams, etc.)
		502.5.	Building roads, railway lines, airports and sports facilities
		502.6.	Specialized civil engineering works connected with water (irrigation, drainage, water supply, waste water removal, sewage, etc.)
		502.7.	Other types of civil engineering works, including specialized activities in other civil engineering sectors
	503		<i>Installations during construction</i>
		503.1.	General industrial works

		503.2.	Installations for supplying gas and water, and sanitary equipment installations
		503.3.	Installation of heating and ventilation appliances (district heating, air conditioning, ventilation)
		503.4.	Insulation works
		503.5.	Electric installations
		503.6.	Installation of aerials, lightning conductors, telephones, etc.
	504		<i>Finishing construction works</i>
		504.1.	General finishing construction works
		504.2.	Façade and stucco work
		504.3.	Interior woodwork (including laying parquet floors)
		504.4.	Painting, glazing and wallpapering
		504.5.	Laying tiles and other floor and wall coverings
		504.6.	Other types of finishing and additional construction works (installation of fireplaces, etc.)