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**on public procurement**

**no. 131 of 03.07.2015**

*Official Gazette no. 197-205 / 402 of 31.07.2015*

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*Note: In the text of the law, the term "the* *Agency for Dispute Settlement ", in any grammatical form, is substituted with the phrase "the National Agency for Dispute Settlement " in the appropriate grammatical form, according to* *Law no.229 of 23.09.2016**, in force since 04.11.2016*

For the purpose of transposing Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, published in the Official Journal of the European Union, 30 April 2004, partially of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, published in the Official Journal of the European Union No L 94/65 28 March 2014 and Council Directive 89/665/EEC of 21 December 1989 on the coordination of laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, published in the Official Journal of the European Union no. L 395 of 30 December 1989,

The Parliament adopts this organic law.

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.** Main definitions

For the purpose of this law, the following main definitions shall apply:

*The Public Procurement Agency* – administrative authority subordinated to the Ministry of Finance, which carries out oversight, ex-post control and inter-arbitrary coordination in the area of public procurement;

*The National Agency for Dispute Settlement* – autonomous public authority that solves the complaints formulated in public procurement procedures;

*public procurement* – procurement of goods, execution of works or provision of services for the needs of one or more contracting authorities;

*framework agreement* – an agreement concluded between one or more contracting authorities and one or more economic operators with a view to establishing the conditions for contracts to be awarded within a specified period, in particular as regards prices and, where appropriate, the quantities envisaged;

*central procurement authority* – a contracting authority which:

a) acquires goods and services for contracting authorities; or

b) award public works contracts or conclude framework agreements for works, supplies or services for contracting authorities;

*contracting authority* – public authority, legal person governed by public law, association of these authorities or persons;

*public money* –financial resources of the state budget, the local budgets, the state social insurance budget and the compulsory health insurance funds;

*candidate* – an economic operator who has applied for a restricted tender, negotiation or competitive dialogue procedure;

*candidacy* – documents by which a candidate demonstrates his / her personal situation, the economic and financial capacity, the technical and professional capacity, in order to obtain the invitation to participate in the subsequent submission of the tender, in the case of a restricted tender procedure, negotiation or competitive dialogue;

*solution competition* – a procedure allowing the contracting authority to acquire a design or project, particularly in the field of spatial planning, urban and landscape design, architecture or data processing, including in other areas, by selecting it on a competitive basis by a jury with or without awarding prizes;

*public contract* – are contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services within the meaning of this Law;

*public supply contract* – a public contract other than a works contract, which involves the purchase of goods / products, their purchase in instalments, renting or leasing, with or without a purchase option. A public contract having as its object the supply of products and covering, in addition, assembly and installation works is considered a public supply contract;

*public works contract* – a public contract having as object either the execution, or both the design and the execution of works related to the activities listed in Annex no.11 or of a construction, or the realization by any means of a building that meets the needs specified by the contracting authority;

*public service contract* – a public contract other than public works or supply contracts having as its object the provision of services as set out in Annexes 1 and 2. A public contract having as its object both the supply of goods and the supply of services is considered to be a public service contract if the value of the services in question is higher than the value of the products covered by the contract. A public service contract involving non-essential activities related to the public works contract in relation to the main object of the contract is a public service contract;

*competitive dialogue* – a procedure to which an economic operator may apply to participate and in which the contracting authority conducts a dialogue with the candidates admitted to that procedure with a view to developing one or more solutions to meet the needs specified by the contracting authority and on the basis of which or to which the selected candidates are invited to submit their offers;

*awarding documentation* – documentation containing all the information relating to the subject matter of the procurement contract and the award procedure, including the specification or, where appropriate, the descriptive documentation;

*working group* – a group of specialists within the contracting authority carrying out the procurement procedures;

*open tender* – a public procedure governed by this law, in which any interested economic operator may submit a tender;

*electronic auction* – a repetitive process involving electronic means of presentation in descending order of the new prices and of the new values related to certain elements of the bids which take place after a first complete evaluation of the bids, allowing them to be categorized on the basis of automatic evaluation methods;

*restricted auction* – a public procedure to which any economic operator may request to participate and in which only economic operators pre-elected by the contracting authority may submit their tenders;

*electronic means* – means using electronic processing equipment, including digital compression, and storing data that is transmitted, transmitted and received by cable, radio, optical means or by other electromagnetic means;

*tenderer* – an economic operator who submitted a tender in the award procedure of the public procurement contract;

*offer* – a legal act by which the economic operator expresses his/her willingness to engage legally in a public contract. The offer includes the technical proposal and the financial proposal;

*economic operator* – supplier of goods, works contractor and / or service provider, which may be any natural or legal person, any public entity or association of such persons and / or entities that provides goods, works and / or services to the market;

*negotiated procedure* – a procedure whereby the contracting authority consults economic operators about their options and negotiates the terms of the contract with one or more of them;

*financial proposal* – a part of the offer that includes information on the price, tariff, other financial and commercial conditions corresponding to the satisfaction of the requirements requested by the awarding documentation;

*technical proposal* – a part of the offer drawn up on the basis of the requirements of the specifications or, where appropriate, the descriptive documentation;

*technical reference* – any product, other than official standards, developed by the European Standardization Bodies in accordance with a procedure adapted to the evolution of market requirements;

*Automated Information System "State Register of Public Procurement”* (hereinafter *– AIS „SRPP”*) *–* a complex information and telecommunication system, providing information support to the processes of control and regulation of public procurement;

*dynamic purchasing system* – an entirely electronic procurement process for the acquisition of current use goods whose characteristics, generally available on the market, meet the requirements of the contracting authority, being limited in time and open for the entire period of any economic operator meeting the selection criteria and submitting an offer Indicative, according to the specifications;

*common technical specification* – a technical specification drawn up in accordance with a procedure recognized by the Member States of the European Union and published in the Official Journal of the European Union;

*technical specifications* – the set of technical specifications contained in particular in the specifications specifying the characteristics required of a material, product or good and permitting their characterization to be consistent with the use sought by the contracting authority. These features include levels of environmental performance, design for all types of uses (including access for people with disabilities) and assessment of compliance, performance, safety or dimensions, including quality assurance procedures, terminology, symbols, testing and test methods, packaging, marking and labelling, as well as the production process and methods. The characteristics also include the design and calculation rules for the works, the test, control and acceptance conditions for the works, as well as the construction techniques and methods and all other technical conditions which the contracting authority is in a position to provide, by general or specific regulations, in respect of finished works and materials or components thereof;

*standard* – a technical specification approved by a designated standardization body for repeated or permanent use which is not mandatory and which falls into one of the following categories:

a) international standard – a standard adopted by an international standardization body and made available to the public;

b) European standard – a standard adopted by a European standardization body and made available to the public;

c) national standard – a standard adopted by a national standardization body and made available to the public;

*Common Procurement Vocabulary* (CPV) – the reference nomenclature applicable to public contracts.

*[Art.1 amended by* *Law no.229 of 23.09.2016**, in force since 04.11.2016]*

**Article 2.** Scope of the law

(1) This law shall apply to public contracts, except those specified in Article 4, whose estimated value, net of value added tax, is equal to or greater than the following thresholds:

a) For public procurement of goods and services – 80000 MDL;

b) For public works contracts – 100000 MDL.

(2) This law shall also apply to a non-qualifying contracting entity in the case of awarding a public works contract or services financed/subsidized by more than 50%, directly by the Contracting Authorities and which does not refer to the exceptions specified in Article 4.

(3) This law also provides for particulars of public procurement contracts, with the exception of those specified in Article 4, whose estimated net value of value added tax is equal to or greater than the following thresholds:

a) For public procurement of goods and services – MDL 2300000;

b) For public works contracts – MDL 90000000.

(4) Public procurement contracts the estimated value of which, without value added tax, does not exceed the thresholds referred to in paragraph (1) shall be covered by the Low Value Public Procurement Regulation, approved by the Government.

(5) This law shall apply in a manner appropriate to the forms of public-private partnership not prohibited by law, as well as in the case of the award of public works concession contracts.

(6) This law shall apply accordingly in the case of the organization of the contest and the conclusion of the framework agreement.

(7) The contracting authority which, on the basis of its legal powers, grants to a subject of law which is not defined as a contracting authority, special or exclusive rights to provide a public service, has the obligation to impose, through the authorization issued for that purpose, compliance with the principle of non-discrimination by the person benefiting of special or exclusive rights when awarding public supply contracts to third parties. The obligation to observe the principle of non-discrimination by the person enjoying special or exclusive rights is required even if the contracting authority has not expressly provided for this in the permit issued.

**Article 3.** Calculation of the estimated value of public contracts and these contracts’ planning

(1) Calculation of the estimated value of a public contract is based on the total amount to be paid, net of the value added tax estimated by the contracting authority. The total pay-out structure includes any form of remuneration, including any prizes, fees, commissions, earnings, and / or premiums or payments to bidders, taking into account any possible form of option and eventual prorogation of the contract.

(2) The estimated value of the procurement contract must be determined before the award procedure for that contract is initiated. This value must be valid at the time of the submission of the contract notice or, if the award procedure does not imply the publication of such a notice, at the time of sending the invitation to tender.

(3) Where, by awarding the public procurement contract, the contracting authority proposes to acquire products that require also installation / commissioning operations, the estimated value of this contract must also include the estimated value of the respective works / works.

(4) Where, at the date of estimation of the value of the public supply contract, the contracting authority has not yet established how to acquire the purchase products, including rent, hire or leasing, with or without a purchase option, the estimated value of this contract must be considered equal to the highest of the values corresponding to each way of acquiring the products.

(5) Where, on the date of estimation of the value of the public procurement contract, the contracting authority has determined how to acquire products - purchase in instalments, hire or leasing, with or without a purchase option, the estimation method shall vary depending on the duration of that contract, thus:

a) If the duration of the contract is set and is less than or equal to 12 months, the estimated value must be calculated by adding up all the rates payable over the entire duration of the contract;

b) If the duration of the contract is set and is longer than 12 months, the estimated value should be calculated by adding up the total amount of the rates payable over the entire duration of the contract plus the estimated residual value of the products at the end of the period for which the contract was concluded;

c) If the contract is concluded for an indefinite duration or if its duration cannot be determined at the date of the estimate, the estimated value must be calculated by multiplying by 48 the value of the monthly payable rate.

(6) Where the contracting authority proposes to award a public supply contract which must be renewed within a given period, the estimate of the value of this contract must be based on the calculation:

a) either the total value of all similar contracts attributed in the previous 12 months, adjusted, if possible, to the foreseeable changes that may occur over the following 12 months in respect of the quantities purchased and the related amounts;

b) or the estimated total value of all similar contracts that are expected to be attributed in the next 12 months starting from the first delivery.

(7) Where the contracting authority proposes to purchase similar products, but broken down into batches the purchase of which is done by awarding several distinct contracts, the estimated value shall be taken to be the aggregate value of all lots. Where the aggregate value of all lots exceeds the threshold referred to in Article 2 (3), the contracting authority shall have the right to apply the procedure for requesting price offers only for consignments which cumulatively fulfil the following conditions:

a) The estimated value, net of value added tax, of that lot is less than or equal to MDL 400,000;

b) The cumulative estimated value of the lots for which the bidding procedure is applied does not exceed 20% of the total estimated value of the products to be supplied.

(8) Where the contracting authority proposes to award a public service contract for which the total price of the service cannot be predicted, but it is possible to estimate an average monthly charge, the method of estimation varies depending on the duration of the contract:

a) If the duration of the contract is set and does not exceed 48 months, the estimated value must be calculated taking into account the entire duration of the contract;

b) If the duration of the contract cannot be determined or exceeds 48 months, the estimated value should be calculated by multiplying the monthly value by 48.

(9) Where the contracting authority proposes to award a public service contract to be renewed within a given period, the estimate of the value of that contract must be based on the calculation:

a) either the total value of all similar contracts awarded over the previous 12 months, adjusted, if possible, to the foreseeable changes that may occur in the following 12 months in respect of the quantities purchased and the amounts involved;

b) or the total estimated value of all similar contracts that are expected to be attributed in the following 12 months from the date of the first benefit.

(10) Where the contracting authority proposes to purchase similar services, but broken down into lots whose purchase is subject to separate contracts, the estimated value shall be considered to be the aggregate value of all lots. Where the aggregate value of all lots exceeds the threshold provided for in Article 2 (3), the contracting authority shall have the right to apply the procedure for requesting price offers only for consignments which cumulatively fulfil the following conditions:

a) The estimated value, net of value added tax, of that lot is less than or equal to MDL 400,000;

b) The cumulative estimated value of the lots for which the bidding procedure is applied does not exceed 20% of the total estimated value of the services to be provided.

(11) Where the contracting authority proposes to purchase insurance services, the estimated value of such contracts shall be calculated on the basis of the insurance premiums to be paid and other forms of remuneration for those services.

(12) Where the contracting authority proposes to purchase banking services or other financial services, the estimated value of these public contracts shall be calculated on the basis of fees, commissions, interest and any other forms of remuneration relating to those services.

(13) Where the contracting authority proposes to purchase design, urban planning, engineering and other technical services, the estimated value of these public contracts shall be calculated on the basis of the fees to be paid and any other forms of remuneration relating to those services.

(14) Where the contracting authority proposes to purchase works for which it is due to make available to the contractor materials, equipment, technological equipment or any other fitting-out and equipment necessary for the execution of the works, the estimated value of such contracts shall include both the cost of the works Is to be executed, and the total value of the facilities mentioned.

(15) Where the object of the public works contract is the execution of a set of works involving, as the case may be, the supply of equipment, plant, machinery or other related equipment, the estimated value shall be determined taking into account the total value of the whole ensemble.

(16) Where a work permits the execution on objects / lots for which the contracting authority proposes to award to one or more contractors distinct public works contracts, the estimated value shall be determined by taking into account the cumulative value of all the items / Of the lots that are part of the work. If the aggregate value of all the objects / lots within this work exceeds the threshold provided for in Article 2 (3), the contracting authority has the right to apply the procedure for requesting price offers only for the items / lots which fulfil the following conditions cumulatively:

a) The estimated value, without value added tax, of the object / batch is less than or equal to MDL 1500000;

b) The cumulative estimated value of the objects / batches to which this exception applies does not exceed 20% of the total estimated value of the work.

(17) Where the contracting authority proposes to organize a competition solution, the estimated value to be taken into account shall be determined:

a) If the solutions competition is organized as an independent procedure, the estimated value includes the value of all the prizes / amounts to be awarded to competitors, including the estimated value of the public service contract that could subsequently be concluded if the contracting authority did not Excluded this possibility in the participation notice;

b) if the solutions competition is organized as part of a procedure to award a public service contract estimated value is taken into account that the estimated contract value, which includes the value of any prize / money to be awarded to competitors.

(18) Where the contracting authority proposes to conclude a framework agreement, the estimated value shall be deemed to be the estimated maximum value, net of value added tax, of all the public contracts that are expected to be awarded under that framework agreement on its entire duration.

(19) Where the contracting authority proposes to use a dynamic purchasing system, the estimated value shall be deemed to be the estimated maximum value, net of value added tax, of all public contracts that are expected to be attributed using the dynamic purchasing system Acquisition over its entire duration.

(20) The way of planning the public procurement contracts is laid down in the regulation approved by the Government.

**Article 4.** Exceptions

(1) The provisions of the present law shall not apply to:

a) public procurement contracts awarded by contracting authorities operating in the energy, water, transport and postal services sectors and falling within these activities, these being governed by other normative acts, coordinating the procedures for the award of energy, water, transport and postal services contracts;

b) research and development contracts other than those whose benefits exclusively fall to contracting authorities for their own use in their own activities, provided that the services provided are fully remunerated by the contracting authority and their price does not exceed or is Within the price limits of the market for these services;

c) public contracts relating to arbitration and / or conciliation services;

d) public procurement contracts relating to the issue, purchase, sale or transfer of securities or other financial instruments, in particular the operations of money or capital accumulation by contracting authorities;

e) contracts for the printing of banknotes and coins, and for transporting them;

f) contracts concluded by the National Bank of Moldova for the provision of legal and financial consulting services and contracts concluded by it with a view to exercising the powers provided for in Law on bank recovery and resolution with international financial institutions, with non-resident economic operators, according to which goods, works and services are delivered to provide the automated interbank payment system, the state and interbank securities market, state foreign exchange management, state foreign exchange operations, including the external debt, the external audit of the annual financial reports, the accounts and registers of the National Bank of Moldova;

g) services provided by the National Bank of Moldova;

h) public procurement contracts declared secret under the law if their execution requires special safety measures established by law;

i) employment contracts;

j) public service contracts awarded by a contracting authority to another contracting authority or an association of contracting authorities on the basis of an exclusive right which they have under a law;

*[Letter k) para. (1) art.4 repealed by* *Law no.229 of 23.09.2016**, in force since 04.11.2016]*

l) contracts for the procurement of goods, works and services related to the production or trade in arms, ammunition and weapon systems;

m) public procurement contracts governed by different procedural rules and awarded:

- under an international agreement concluded by the Republic of Moldova and one or more States concerning the goods or works necessary for the joint execution or exploitation of a work by the signatory States or for the services necessary for the joint execution or exploitation of a project by the signatory states;

- under an international agreement on the stationing of troops and the commitments of the Republic of Moldova or a third State;

- according to the specific procedure of an international organization;

n) public procurement contracts concluded by the diplomatic missions and consular offices of the Republic of Moldova, if their value does not exceed the thresholds stipulated in Article 2 paragraph (3). The diplomatic missions and consular offices of the Republic of Moldova have the obligation to observe the principles specified in Article 6;

o) contracts for the purchase or putting into service, by any financial means, of land, existing buildings, other immovable property or rights over such property. Financial services contracts concluded at the same time, before or after the conclusion of the procurement or putting into service, regardless of form, are governed by this law;

p) contracts relating to the purchase, development, production or co-production of broadcasting programs by broadcasters;

q) public procurement contracts whereby contracting authorities may make available or may operate public telecommunications networks or provide one or more telecommunications services to the public;

r) contracts for the printing of ballot papers and other electoral documents, including teaching material, supply of materials and equipment to electoral bodies during the electoral period, carrying out the information campaign and transport services for organizing and conducting the elections, including training seminars;

s) contracts concluded by public authorities under the measures, actions and instruments provided for in the Law on banks recovery and resolution.

(2) Where the contracting authority assigns a contract for the provision of services of the kind included in Annex no.2, the obligation to apply this law shall be imposed only for contracts whose value is equal to or higher than that provided for in (2) and is limited to the provisions of art.37 and art.29 and to the application throughout the award procedure of the principles stipulated in art. The contestations regarding the procedure of awarding contracts having as object the provision of services of the category included in Annex no.2 are solved according to the provisions of chapter X.

(3) Where the public contract provided for in paragraph (2) has as its object, in addition to the provision of services of the kind included in Annex no.2, the provision of services of the kind included in Annex no.1, the provisions of para. (2) applies only if the estimated value of the services included in Annex no.2 is higher than the estimated value of the services included in Annex no.1.

(4) When awarding the public procurement contract, the contracting authority is not entitled to combine, within the same contract, the services included in Annex no.2 with services in Annex no.1 in order to benefit from the application of the provisions of paragraph (2).

*[Art.4 amended by* *Law no.233 of 03.10.2016**, in force 04.10.2016]*

*[Art.4 supplemented by* *Law no.148 of 01.07.2016**, in force 19.07.2016]*

**Article 5.** The special regime

(1) Contracting authorities in the field of national defence, public order, national security and security shall be bound to apply the provisions of this law except in the cases set out in Article 4.

(2) The right to take part in public procurement procedures may be reserved by the Government for sheltered workshops where the majority of the employees involved are persons with disabilities who, due to the nature or severity of their deficiencies, cannot engage in professional activity under normal conditions.

(3) If the participation in the award procedure is carried out in accordance with the provisions of paragraph (2), the contracting authority shall have the obligation to specify this explicitly in the participation notice.

**Article 6.** The principles governing public procurement relations

The regulation of public procurement relations is based on the following principles:

a) Efficient use of public money and minimizing the risks of contracting authorities;

b) the transparency of public procurement;

c) ensuring competition and combating unfair competition in the field of public procurement;

d) protecting the environment and promoting sustainable development through public procurement;

e) maintaining public order, good morals and public safety, protecting the health, protecting the life of humans, flora and fauna;

f) the liberalization and expansion of international trade;

g) free movement of goods, freedom of establishment and provision of services;

h) equal treatment, impartiality, non-discrimination with regard to all bidders and economic operators;

i) proportionality;

j) mutual recognition;

k) assuming responsibility in public procurement procedures.

**Article 7.** Legal framework

(1) Public procurement relations shall be governed by this law and other laws, Government decisions adopted in accordance with this law.

(2) Where the international treaty to which the Republic of Moldova is a party lays down rules other than those provided by this law, the rules of the international treaty.

**Chapter II**

**STATE REGULATION OF PUBLIC PROCUREMENT**

**Article 8.** The Public Procurement Agency

(1) The Public Procurement Agency is an administrative authority subordinated to the Ministry of Finance, set up for the purposes of supervision, ex-post control and cross-border coordination in the field of public procurement. The Agency shall have functional autonomy.

(2) The Public Procurement Agency shall have its own balance sheet, settlement account, stamp with the State Coat of Arms of the Republic of Moldova and the name in the state language.

(3) At the territorial level, the Public Procurement Agency shall exercise its powers through its territorial subdivisions.

*[Art.8 supplemented by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 9.** The primary tasks of the Public Procurement Agency

The Public Procurement Agency shall have the following basic awards in the field of public procurement:

a) implement the normative acts in the field of public procurement and elaborate proposals for amending and supplementing the legislation on public procurement;

b) coordinate, monitor and evaluate the way the Contracting Authorities comply with public procurement and procurement procedures;

c) draw up, update and maintain the list of qualified economic operators and economic operators' ban list;

d) develop and implement the standard documentation on public procurement procedures;

*[Let. e) art.9 repealed by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

f) examine the reports on public procurement procedures;

*[Let. g) art.9 repealed by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

h) call for a review of the results of the procurement procedures;

i) manage the AIS „SRPP”;

j) grant methodological assistance and consultations to public procurement authorities in the field of public procurement, initiates and supports the training of personnel of contracting authorities involved in organizing, carrying out public procurement procedures and awarding public procurement contracts;

k) publish the Public Procurement Bulletin, develop and maintain the "Public Procurement of the Republic of Moldova" web page, where publications and information on public procurement and awarding of public procurement contracts;

l) draw up quarterly and annual reports and statistical analysis on public procurement;

m) request and obtain information from the competent bodies on the economic operators participating in the public procurement procedures, as well as any information necessary for the performance of the duties;

n) collaborate with international institutions and analogous foreign agencies in the field of public procurement;

o) coordinate the use of foreign technical assistance in the field of public procurement;

p) perform other functions stipulated by this law and other laws and regulations.

*[Art.9 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 10.** The activity and management of the Public Procurement Agency

The activity and management of the Public Procurement Agency shall be carried out in accordance with the regulation approved by the Government.

**Article 11.** The budget of the Public Procurement Agency

(1) The Public Procurement Agency shall be financed from the state budget, including collected revenues.

(2) The budget of the Public Procurement Agency shall be elaborated, reviewed, approved and executed in the manner established by law.

**Chapter III**

**PARTICIPANTS IN PROCUREMENT PROCEDURES**

**Section 1**

**Contracting authorities**

**Article 12.** The status of a contracting authority

(1) Contracting authorities are the public authorities, defined in the legislation of the Republic of Moldova, legal persons of public law, associations of these authorities or persons.

(2) A legal entity governed by public law is any entity:

a) exclusively established for the purpose of meeting the needs of public interest, not for profit (industrial or commercial));

b) which has legal personality;

c) the activity of which is provided on public money or the management of which is subject to the control of public authorities or other legal persons governed by public law, or of which more than 50% of the board of directors, directors or supervisors is formed by members appointed by those entities.

(3) The contracting authority is also an association of contracting authorities, the members of which, in their turn, designate by legal person a legal entity representing them as sole purchasers in their relations with any economic operator.

(4) By Government Decision, other legal entities that have the obligation to carry out public procurement under this law may also be qualified as contracting authorities if their activity is carried out in markets where competition is excluded by normative or administrative act or in the existence of a dominant position on the market.

(5) Any other entity that does not meet cumulatively the requirements specified in paragraph (2) may be qualified as a contracting authority, at the will or decision of the competent management bodies, provided that the purchases are made in strict accordance with this law.

(6) The contracting authority is also the central procurement authority designated by the Government to organize and centralize procurement procedures to meet the needs of the same goods, works or services of several contracting authorities.

(7) Contracting authorities purchasing goods, works and services through a central purchasing authority within the meaning of paragraph (6) shall be considered as compliant with the provisions of this law to the extent that the central purchasing body concerned has also complied with them.

**Article 13.** The performance of contracting authorities’ duties

(1) The contracting authority shall exercise its powers through a working group created for this purpose by officials and professionals with professional experience in the field of public procurement within the contracting authority within the limits of the staff. Depending on the subject of the procurement, the contracting authority may create one or more working groups.

(2) The contracting authority shall include representatives of civil society in the working group if a written request to this effect is submitted two days before the deadline for submission of tenders but they cannot constitute more than one third of the total composition of the group. The representatives of the civil society included in the working group have the right to vote or the right to separate opinion, which is set out in the deliberative act of the respective group.

(3) The inclusion of civil society representatives in the working group shall be carried out for each procurement procedure.

(4) The contracting authority shall ensure strict records of the requests received from civil society. Where more than the admissible number is submitted in proportion to the number of members with deliberative vote, the applicants to be included in the working group are appointed by lot.

(5) Upon decision by the contracting authority, civil society representatives shall be included the inclusion of in the working group without the capping provided for in paragraph (2).

(6) The contracting authority shall be responsible for the execution and management of public procurement contracts within the terms and conditions laid down by them.

(7) The contracting authority shall be entitled to attract, if necessary, in the working group, as consultants, specialists and experts in the field of the purchase to be made. In cases expressly provided for by legislation, specialists and experts shall be attracted to the working group with the right to vote.

**Article 14.** The tasks of the working group

(1) The Working Group shall have the following awards in the field of public procurement:

a) elaborate annual and quarterly public procurement plans;

b) draw up notices and / or invitations to tender procedures;

c) elaborate awarding documentation and other documents applicable in the framework of the public procurement procedures;

d) initiate and carries out public procurement procedures;

e) ensure the broad participation of economic operators in public procurement procedures;

f) examine, evaluate and compare the offers of the economic operators submitted in the framework of the public procurement procedures;

g) award public contracts which are concluded by the contracting authority with the economic operators;

h) draw up reports on the results of the public procurement procedures and submits them to the Public Procurement Agency;

i) monitor public procurement contracts;

j) maintain and keep track of all documents drawn up and applied in public procurement procedures.

(2) The contracting authority, through the working group, shall be obliged to:

a) ensure the efficiency of public procurement;

b) ensure objectivity and impartiality in public procurement procedures;

c) ensure the publicity and transparency of the procurement procedures;

d) submit, at the request of the Public Procurement Agency, any information regarding the conclusion and execution of public procurement contracts.

(3) In performing the duties, the member of the working group shall be autonomous, impartial and subject only to the law. It is forbidden to exercise any influence in order to determine the member of the group to perform his duties contrary to the provisions of the present law.

**Section a 2-a**

**The economic operator**

**Article 15.** Participation of the economic operator in public procurement procedures

(1) Any economic operator, resident or non-resident, a natural or legal person of public or private law or a group of such persons, has the right to participate, under the present law, in the procedure for the award of the public procurement contract.

(2) The foreign economic operator shall benefit, in the Republic of Moldova, of the same rights regarding the participation in the procedures for awarding public contracts that benefit the economic operators of the Republic of Moldova in the country where the foreign economic operator is a resident.

(3) Economic operators may be associated for the purpose of submitting bids and / or may be associated bidders. The association (group of economic operators) may be required to obtain a certain legal form of organization if such processing is necessary for the purpose of the proper performance of the contract.

(4) A tenderer / candidate who, under the law of the State in which he is established, is empowered to engage in a particular activity cannot be excluded from an award procedure for the sole reason that, under national law, that type of activity may be performed only by legal persons or only by individuals.

**Chapter IV**

**QUALIFICATION DATA AND AWARD CRITERIA**

**Article 16.** Economic operators’ qualification data

(1) In order to determine the qualification data in the procurement procedures, the economic operator will submit the documents issued by the competent authorities established by the contracting authority in the framework of the public procurement procedures. Depending on the subject matter of the public procurement within the meaning of Article 1 and the type of procedure chosen in accordance with Article 44 (1), the contracting authority has the obligation to establish, for each procedure, the qualification and selection criteria, Support, provided by the legislation in force, required to be submitted by the economic operators.

(2) The contracting authority shall consider the right of the economic operator to protect his intellectual property and commercial secrecy.

(3) The contracting authority shall assess the economic operator's qualification data according to the manner and criteria set out in the awarding documentation.

(4) If the qualification data submitted by the tenderer / candidate is to an insignificant extent or does not reflect the full information, the contracting authority has the obligation to request clarifications before deciding to disqualify it. The contracting authority disqualifies the tenderer / candidate at any stage of the procurement procedure if he finds that the qualification data presented by him / her are erroneous or incomplete, as well as in other cases provided by this law and by other legislative and normative acts.

(5) The tenderer / candidate shall be disqualified if he does not provide the clarifications required by the contracting authority within the time limits set by the tenderer (minimum 72 hours or, if the procedure used is request for quotations, minimum 24 hours). The contracting authority has the obligation to ensure, in any event, a reasonable period depending on the complexity of the request for clarification.

(6) The contracting authority shall request the tenderer / candidate to provide supporting documents and, if uncertainties arise as to his or her personal situation, may require cooperation and necessary information from competent authorities, including from abroad.

(7) Competent bodies and law enforcement bodies will provide free of charge, within 10 days at the request of the contracting authority, systematized information or any information about the legal status, involvement or non-involvement of the economic operator in criminal organizations or groups, and other data about the respective economic operator provided by this law. In the case of a non-resident economic operator, such information may be requested from competent foreign authorities in accordance with international custom (s).

(8) The qualification and selection criteria established by the contracting authority must be clearly linked to the subject of the contract to be awarded.

(9) The contracting authority has the obligation to observe the principle of proportionality when defining the qualification and selection criteria and the level of minimum requirements that bidders / candidates have to meet.

(10) The qualification and selection criteria specified in the notice and / or invitation to tender must be the same as those provided in the awarding documentation.

**Article 17.** Qualification and selection criteria

The contracting authority shall apply proportionate qualification and selection criteria to the subject matter of the contract only:

a) the personal situation of candidates or tenderers;

b) capacity to exercise professional activity;

c) economic and financial capacity;

d) technical and / or professional capacity;

e) quality assurance standards;

f) environmental protection standards.

**Article 18.** The personal situation of candidates or tenderers

(1) The contracting authority has the obligation to exclude from the award procedure any tenderer or candidate who is aware that during the last 5 years he has been convicted by a final court order for participation in the activities of an organization or criminal groups, for corruption, for fraud and / or for money laundering.

(2) The contracting authority has the obligation to exclude from the award procedure any tenderer or candidate who is in any of the following situations:

a) are insolvent as a result of a court order;

b) has not fulfilled its obligations to pay taxes, social security taxes and social security contributions in accordance with the legal provisions in force in the Republic of Moldova or in the country in which it is established;

c) has been convicted, in the last 3 years, by the final decision of a court, for an act which has violated professional ethics or for committing a professional misconduct;

d) submitted false information or failed to submit the information requested by the contracting authority for the purpose of demonstrating that the qualification and selection criteria were met;

e) is included in the Economic operators' ban list.

(3) The contracting authority shall have the obligation to accept as sufficient and relevant to prove that the tenderer / candidate does not fall into any of the situations referred to in paragraphs (1) and (2) any document considered to be edifying in this respect in the country the country of origin or the country where the tenderer / candidate is established, such as certificates, legal records or other equivalent documents issued by the competent authorities of that country.

(4) As regards the situations referred to in paragraph (2), according to the national law of the state in which the tenderers / candidates are established, the provisions of paragraph (3) refer to natural and legal persons, including, where appropriate, to directors Companies or any person with the power to represent, decide or control the bidder / candidate.

(5) If documents in the country of origin or in the country in which the tenderer / tenderer is established are not of the nature specified in paragraph (3), or these documents do not cover all the situations referred to in paragraphs (1) and (2) , The contracting authority has the obligation to accept a declaration on its own responsibility or, if there are no legal provisions on the declaration on its own responsibility, a genuine declaration given to a notary, an administrative or judicial authority or a professional association Who has competence in this respect.

**Article 19.** Capacity to exercise professional activity

The contracting authority has the right to require any economic operator to submit supporting documents proving the form of registration as a natural or legal person and, as the case may be, attestation or membership from a professional point of view in accordance with the provisions of the country in which the tenderer is established.

**Article 20.** Economic and financial capacity

(1) Demonstrating the economic and financial capacity of the economic operator is achieved by presenting one or more relevant documents, such as:

a) appropriate bank statements or, where appropriate, evidence of professional risk insurance;

b) financial reports or, if the publication of such reports is provided by the law of the country where the tenderer / candidate is established, extracted from the financial statements;

c) declarations of total turnover or, where applicable, of turnover in the field of activity related to the object of the contract in a previous period referring to the activity for the last 5 years at most, insofar as such information is available. In the latter case, the contracting authority has the obligation to take into account the date on which the economic operator was established or started its commercial activity.

(2) Where, for objectively justified reasons, the economic operator is unable to submit the documents requested by the contracting authority, he shall have the right to demonstrate his economic and financial capacity by submitting other documents which the contracting authority may consider to be enforceable in so far as they reflect a true and fair view of the economic and financial situation of the tenderer / candidate.

(3) If the contracting authority asks for the demonstration of economic and financial capacity, it shall also indicate in the awarding documentation the information that the economic operators are to submit for this purpose.

(4) The tenderer / candidate may also be supported by another person for the fulfilment of a contract, irrespective of the nature of the legal relationship between the tenderer / candidate and the person concerned.

(5) If the tenderer / candidate demonstrates his / her support, according to the provisions of paragraph (4), by another person, he / she shall prove his / her support by submitting a Firm commitment of that person, signed in authentic form, by which this person confirms that he will make available to the candidate / candidate the financial resources invoked. The person providing financial support must not be in any of the situations provided for in Article 18 (1) and (2) (a), (c) and (d), which results in exclusion from the award procedure.

**Article 21.** Technical and / or professional capacity

(1) In the case of a procedure for the award of a public supply contract for the purpose of verifying the technical and / or professional capacity of tenderers / candidates, the contracting authority has the right to require them, depending on the specificity, on the quantity and complexity of the products to be Are provided and only to the extent that this information is relevant to the performance of the contract, the following:

a) the list of the main deliveries of similar products made in the last 3 years, including values, delivery periods, beneficiaries, whether the latter are contracting authorities or private customers. Deliveries of products are confirmed by the submission of certificates / documents issued or countersigned by an authority or by the beneficiary private customer. If the beneficiary is a private client and, for objective reasons, the economic operator is not able to obtain certification / confirmation from him, the demonstration of the deliveries of products shall be made by a declaration of the economic operator;

b) a statement of the technical equipment and of the measures applied for quality assurance and, where appropriate, study and research resources;

c) information on the staff / technical body in its possession or the engagement of which has been obtained by the tenderer / candidate, in particular to ensure quality control;

d) certificates or other documents issued by bodies authorized to do so, attesting the conformity of products, clearly identified by reference to relevant specifications or standards;

e) samples (to the extent that the need for presentation is justified), descriptions and / or photographs whose authenticity must be demonstrable if the contracting authority so requests.

(2) In the case of a procedure for the award of a public service contract for the purpose of verifying the technical and / or professional capacity of the tenderers / candidates, the contracting authority has the right to require them, depending on the specificity of the volume and complexity of the following services to be provided and only to the extent that this information is relevant to the performance of the contract, the following:

a) the list of the main similar services provided in the last 3 years, containing values, delivery periods, beneficiaries, whether the latter are contracting authorities or private clients. Service provision is confirmed by the submission of certificates / documents issued or countersigned by an authority or by the beneficiary private customer. If the beneficiary is a private client and, for objective reasons, the economic operator is not able to obtain certification / confirmation from him, the demonstration of the service provision is made by a declaration of the economic operator;

b) a statement of the technical equipment and of the measures applied for quality assurance and, where appropriate, study and research resources;

c) information regarding the specialized technical staff / body at his / her disposal or whose engagement was obtained by the tenderer / candidate, in particular to ensure quality control;

d) information on education, training and qualification of management staff, as well as those responsible for the performance of the contract;

e) the statement regarding the average annual staff numbers of the employed and of the managerial staff in the last 3 years;

f) where applicable, information on environmental protection measures that the economic operator may apply during the performance of the contract;

g) information on the machinery, plant and equipment that the economic operator will have for the proper performance of the contract;

h) information on the part of the contract that the economic operator may intend to subcontract.

(3) In the case of a procedure for the award of a public works contract for the purpose of checking the technical and / or professional capacity of tenderers / candidates, the contracting authority has the right to ask them, depending on the specificity, the volume and complexity of the works to be carried out Be executed and only to the extent that this information is relevant to the performance of the contract, the following:

a) a list of similar works executed in the last 5 years, accompanied by performance certificates for the most important works, containing at least one similar works contract whose value is not less than 75% of the value of the future contract or the cumulative value of all contracts executed in the last year of activity is equal to or greater than the value of the future contract. Performance certificates indicate that the beneficiaries, irrespective of whether they are contracting authorities or private clients, value, time and place of execution of the works and indicate whether they have been carried out in accordance with professional rules in the field and whether they have been carried out;

b) information on the staff / technical body in its possession or the engagement to which the candidate / tenderer has obtained, in particular to ensure quality control;

c) information on the studies, professional training and qualification of the managerial staff, as well as the persons responsible for the execution of the works;

d) the statement of the average annual staff numbers of the staff employed and of the managerial staff in the last 3 years;

e) where applicable, information on environmental protection measures that the economic operator may apply during the performance of the contract;

f) The declaration relating to the machinery, plant and equipment that will be available to the economic operator for the proper performance of the contract;

g) information on the part of the contract that the economic operator may intend to subcontract.

(4) The criteria for qualification of similar goods, works and services are set by the Government.

(5) If the contracting authority asks for the demonstration of technical and / or professional capacity, it has the obligation to indicate in the awarding documentation the information that the economic operators are to submit for this purpose.

(6) The tenderer / candidate may also be supported by a tenderer / candidate for the performance of a contract by another person, irrespective of the nature of the legal relationship between the tenderer / candidate and that person.

(7) If the tenderer / candidate demonstrates his / her technical and / or professional capacity by invoking the support granted in accordance with the provisions of paragraph (6) by another person, he / she must prove his / her support by submitting a commitment Firmly signed by the person, in a genuine form, by which this person confirms that he will make available to the candidate / candidate the technical and professional resources invoked. The person providing technical and / or professional support shall not be in any of the situations provided for in Article 18 (1) and (2) (a), (c) and (d) leading to exclusion from the award procedure.

**Article 22.** Quality assurance standards

(1) Where the contracting authority requests the submission of certificates issued by independent bodies attesting that the economic operator complies with certain Quality assurance standards, it must relate to quality assurance systems based on the relevant European standards series, certified bodies conforming to the European certification standards series, or to relevant international standards, issued by accredited bodies.

(2) In accordance with the principle of mutual recognition, the contracting authority is required to accept equivalent certificates issued by bodies established in the Member States of the European Union. Where the economic operator does not hold a quality certificate as requested by the contracting authority, the latter has the obligation to accept any other certification submitted by that economic operator, insofar as they confirm that an adequate level of quality.

(3) If the economic operator has other certifications than those required by the contracting authority, he is obliged, under the sanction of rejection of the tender, before the expiry of the deadline for submitting tenders, to request confirmation of acceptance by the contracting authority of such Certification.

**Article 23.** Environmental protection standards

(1) If the contracting authority requests the submission of certificates issued by independent bodies attesting that the economic operator complies with certain Environmental protection standards, it must report:

a) either to the Community of Environmental Management and Audit Scheme (EMAS);

b) or to environmental management standards based on European or international standards, certified by bodies complying with Community legislation or European or international standards on certification.

(2) In accordance with the principle of mutual recognition, the contracting authority is required to accept equivalent certificates issued by bodies established in the Member States of the European Union. Where the economic operator does not hold an environmental certificate as required by the contracting authority, the latter must accept any other certification submitted by that economic operator, insofar as it confirms that an appropriate level of environment protection.

(3) In cases where the economic operator has other certifications than those requested by the contracting authority, he is obliged, under the sanction of rejection of the tender, before the expiry of the deadline for submitting the offers, to request confirmation of acceptance by the contracting authority of such Certification.

**Article 24.** The list of qualified economic operators

(1) The list of qualified economic operators is an official document that ensures the economic operator's accessibility to the procurement procedures.

(2) The registration in the list of qualified economic operators is not mandatory, it is done at the request of the economic operator, after having obtained the confirmation certificate.

(3) The list of qualified economic operators is drawn up, updated and maintained by The Public Procurement Agency under the Regulation approved by the Government.

**Article 25.** Economic operators’ ban list

(1) The economic operators' ban list is an official document and is drafted by the Public Procurement Agency in order to limit the participation of economic operators to the public procurement procedures provided by the present law for a period of 3 years.

(2) The Economic Operators' List is drawn up, updated and maintained by the Public Procurement Agency in accordance with the regulations approved by the Government.

**Article 26.** Award criteria for the public contract

(1) The contracting authority shall have the obligation to specify in the participation notice the award criterion of the public procurement contract.

2. Without prejudice to legislative or administrative provisions on the remuneration of certain services, the award criterion may only be:

a) the most economically advantageous tender;

b) the lowest price.

(3) Where the criterion specified in paragraph (2) (a) is applied, the tender established as winning is the bid that scores the highest score resulting from the application of a system of valuation factors for which weights are established.

(4) Where, for objective reasons which the contracting authority can reasonably justify, it is not possible to establish the exact weighting for each assessment factor, the contracting authority has the obligation to indicate in the participation notice and in awarding documentation, in the decreasing order of their importance, at least the evaluation factors to be used.

(5) The contracting authority is clearly required to specify in the tender notice and in the awarding documentation the factors for assessing the tender with their weightings.

(6) The contracting authority has the obligation to specify in the awarding documentation the calculation algorithm or the concrete method of scoring the advantages that will result from the technical and financial proposals submitted by the bidders.

(7) The most economically advantageous tender is the winning bid based on the evaluation factors, but not limited to, as follows:

a) price, delivery terms, payment terms, quality, aesthetic, functional and technical characteristics, technical service possibilities and costs, technical assistance, other considerations relevant to the evaluation of bids - in the case of public supply contracts. The share of the price in the total bid evaluation will not be less than 60%;

b) quality offered, unit price, total price, other items considered significant for the evaluation of bids - in the case of public works contracts. The share of the price in the total bid evaluation shall not be less than 80%;

c) the quality offered, the unit price, the total price, other elements considered significant for the evaluation of the offers - in the case of public service contracts. The share of the price in the total bid evaluation shall not be less than 40%.

**Chapter V**

**PUBLICITY AND TRANSPARENCY**

**Article 27.** Notice of intention

(1) The contracting authority is required to publish in the Public Procurement Bulletin an intention notice for the envisaged public procurement. The contracting authority has the obligation to include in the notice at least the information contained in Annex no.3 and, if necessary, other information deemed useful by the contracting authority.

(2) In the case of the public procurement referred to in Article 2 (3), notice of intention shall also be published in the Official Journal of the European Union.

(3) A notice of intention shall be published separately for goods, works and services no later than 30 days after the approval of the respective contracting authority's budget.

(4) The notice of intention shall include all the public procurement contracts to be awarded by the end of the budget year. For contracts whose estimated value for goods and services is less than MDL 400,000 and less than MDL 1,500,000 for works, publication of the Intention Notice is not mandatory.

5. The publication of the notice of intent shall not oblige the contracting authority to carry out that public procurement.

**Article 28.** Participation notices

(1) The contracting authority shall be obliged to publish the participation notice in the Public Procurement Bulletin and on the website of the Public Procurement Agency in all cases provided by this law, in accordance with the applied procurement procedure.

(2) In the case of public procurement specified in Article 2 (3), the notice shall also be published in the Official Journal of the European Union.

(3) The participation notice shall be published in the State language and, where applicable, in one of the languages ​​of international circulation.

(4) Standard forms, approved for this purpose, shall be used when drawing up and finalizing the contract notice, which will allow public procurement to be advertised. The contracting authority has the obligation to include at least the information contained in Annex 3 and, if necessary, other information deemed useful by the contracting authority, using the standard forms adopted by the European Commission.

(5) In order to ensure maximum transparency, the contracting authority has the right to publish the participation notice in other national or international media, but only after publication of the notice in the Public Procurement Bulletin and on the website of the Procurement Agency public. The announcement published in other local, national or international media shall also mention the number and date of the Public Procurement Bulletin in which the notice was originally published and shall contain no information other than that published in that bulletin.

(6) The participation notice shall be published within deadlines giving all interested economic operators, without any discrimination, real opportunities to participate in the procurement procedures.

(7) If, after publication of the contract notice but before the closing date for the submission of tenders, the need for correction is corrected, the corrected advertisement will be published in the same mass media and will have the same value as the original notice. In this case, the contracting authority will extend the deadline for submission of tenders to allow potential bidders to make the necessary changes. If, for whatever reason, the specifications and documents or additional information, although requested in due time, have not been provided or have been provided incomplete within the time limits set by this law, or where tenders can only be made After an on-the-spot visit or on-the-spot consultation of documents annexed to the specifications, the contracting authority will extend the time limit for the submission of tenders in such a way that all interested economic operators may have access to all the information necessary for the submission of tenders.

**Article 29.** Award notices

(1) The Public Procurement Agency is required to publish in the Public Procurement Bulletin and on its website an award notice no later than 30 days after the date on which the contracting authority submits the information regarding:

a) completion of the open tender, restricted auction, competitive dialogue, negotiation with / without prior publication of a contract notice, request for price offers - by awarding the public procurement contract or by concluding the framework agreement;

b) finalizing a competition solution by establishing the winning competitor;

c) the award of a public contract through a dynamic purchasing system.

(2) When awarding public procurement contracts through a dynamic purchasing system, award notices may be grouped quarterly. In this case, the aggregated assignment announcements will be published no later than 48 days after the end of each quarter.

(3). In the case of public procurement specified in Article 2 (3), the award notice shall be published by the contracting authority and in the Official Journal of the European Union.

(4) The award notice shall contain at least the information contained in Annex No 3 and, if necessary, other information deemed useful by the contracting authority using the standard forms.

**Article 30.** Notification and award of the public contract

(1) The contracting authority has the obligation to inform the economic operators involved in the award procedure about the decisions regarding the result of the selection, the outcome of the procedure for the award of the public procurement contract or the conclusion of the framework agreement, upon admission to a dynamic purchasing system, The outcome of the contest or, as the case may be, the cancellation of the award procedure and the possible subsequent initiation of a new procedure, in writing and as soon as possible but no later than 3 working days after their issue.

(2) The communication of the information referred to in paragraph (1) may also be transmitted by fax or electronic means to the addresses indicated by the tenderers in their tenders. In all cases, this is recorded.

(3) If the contracting authority fails to submit the communication on the outcome of the procedure also by fax or electronic means, the deadlines provided for in Article 31 (1) shall be extended by 5 days.

(4) In the communication referred to in paragraph (1), the contracting authority has the obligation to inform the successful tenderer / successful tenderer or the accepted candidate / accepted candidates regarding the acceptance of the tender (s) or of the candidature / applications submitted.

(5) In the communication referred to in paragraph (1), the contracting authority has the obligation to inform the tenderers / candidates who have been rejected or whose tender or candidature has not been declared winning / accepted as to the reasons underlying that decision as follows:

a) each rejected candidate - the concrete reasons behind the decision to reject his application;

b) for each rejected offer - the concrete reasons behind the rejection decision, detailing the arguments under which the offer was considered unacceptable and / or inadequate, in particular the elements of the offer that did not meet the operational and performance requirements set out in the tender dossier Tasks;

c) to each tenderer who has submitted an acceptable and conforming offer and therefore admissible but has not been declared winner - the relative characteristics and advantages of the winning bid / offer in relation to its tender, the name of the tenderer to be awarded to the public Contract or, where appropriate, the names of the tenderers with whom a framework agreement is to be concluded.

(6) In the case of the successful tenderer whose tender is awarded, the awarding document may include the requirement to sign the procurement contract within 10 days of the date on which it was submitted for signing. The conclusion of the contract may be suspended by the National Agency for Dispute Settlement in the cases provided by this law.

(7) The public contract shall be deemed to have been concluded on the date of its signing by the parties and shall come into force as of its registration in the manner established by the present law.

(8) Where, after the expiry of the period provided for in paragraph (6), the tenderer who has received the notice of acceptance of the tender has not signed the public contract or has not submitted the performance guarantee for the contract, the contracting authority is entitled to reject the bid and to select another winning bid from remaining bids. At the same time, the contracting authority has the right to reject all other offers under the terms of this law.

**Article 31.** Deadlines for the conclusion of public contracts

(1) Public procurement falling within the scope of this law may only be concluded after the waiting times of:

a) 11 days from the date of transmission of the communication on the result of the application of the award procedure - if the estimated value, according to the provisions of Article 3, of the respective contract is equal to or higher than the thresholds stipulated in art.2 paragraph (3);

b) 6 days from the date of transmission of the communication on the result of the application of the award procedure - if the estimated value, according to the provisions of Article 3, of the respective contract is less than the thresholds stipulated in art.2 paragraph (3).

(2) The public procurement contracts / framework agreements falling within the scope of the present law, concluded before the deadlines provided for in paragraph (1), are null and void.

(3) Compliance with the deadlines provided for in paragraph (1) shall be optional in the following cases:

a) when the public contract is awarded following the negotiation procedure without prior publication of a contract notice;

b) where that public contract / framework agreement is to be concluded with an economic operator which was the sole tenderer in the award procedure and there are no other economic operators involved in the award procedure;

c) when a contract is awarded after a framework agreement or as a result of the use of a dynamic purchasing system.

**Chapter VI**

**MAIN REQUIREMENTS FOR THE PROCEDURE**

**OF PUBLIC PROCUREMENT**

**Article 32.** Rules applicable to communication

(1) Any communication, request, information, notification and the like, provided for in this law, must be submitted in writing.

(2) Any written document must be recorded at the time of transmission and at the time of receipt.

(3). The contracting authority shall have the right to impose in the awarding documentation the means of communication it intends to use during the award procedure.

(4) The economic operator shall have the right to submit an application for participation in the award procedure in any of the ways provided in Article 33, including by telephone, in the latter case the economic operator having the obligation to confirm the application for participation in writing, as soon as possible, but not later than 3 days from the date on which he applied for registration as a participant and, necessarily, by the closing date for submission of tenders.

(5). The contracting authority shall have the right to require that any request to participate in the award procedure, which has been transmitted by fax, be confirmed within 3 days by post or by electronic means.

(6) The economic operator shall transmit the tender only by post or by electronic means if this requirement is provided in the participation notice.

(7). Where the contracting authority determines that tenders are to be sent by post, the tenderer shall also have the right to submit the tender directly at the premises of the contracting authority or at another address indicated by the tenderer.

(8) The contracting authority has the right to determine that requests for participation and / or bids are to be transmitted by electronic means only if the following requirements are met:

a) information on specific possibilities for electronic transmission, including encryption, is available to all interested economic operators;

b) electronic receiving devices shall duly guarantee the integrity and confidentiality of the received data;

c) economic operators must submit, before the transmission deadline, the documents, certificates, declarations and the like requested if they are not available electronically.

(9) Ensuring the integrity and confidentiality of the data received implies that electronic devices, by virtue of their technical characteristics and / or by the specific procedures used, allow the cumulative fulfilment of at least the following conditions:

a) the precise timing of receipt of tenders or requests to participate and, where appropriate, of plans / projects can be precisely determined;

b) before the data transmission deadline, no person has access to the transmitted data;

c) if the access ban provided for in subparagraph (b) has been violated, unauthorized access is clearly detectable;

d) only persons authorized to do so have the right to set or change the date of viewing of the received data;

e) access to the received data is possible at all stages of the process only by simultaneous action of at least two authorized persons / systems and only after the visualization date established in accordance with subparagraph (d);

f) after the date of viewing of the received data, access to the data is only possible for the persons authorized to view this data.

(10) Communications and information exchanges and their storage shall be conducted in such a way as to ensure that the integrity of data and the confidentiality of tenders and requests to participate are kept and the contracting authorities examine the content of tenders and requests to participate only after the deadline for their submission.

(11) Instruments used for electronic communication as well as their technical characteristics must be available to the public at all times and compatible with the general information and communication technologies used.

(12) The application of electronic transmission and receipt devices, as well as the application of electronic devices for the receipt of requests to participate, take place in accordance with the following rules:

a) information on the specifications necessary for the electronic submission of tenders and requests to participate, including encryption, must be made available to interested parties;

b) the electronic signature is applied to the electronic offers.

(13) In the process of communication, the contracting authority shall not discriminate against any economic operator in respect of the information communicated, and the awarding documentation, the tender dossier or the descriptive documentation shall be made available to all economic operators who have submitted, a request to participate in the same volume and identical content.

**Article 33.** Ways of communication

(1) All communications, as well as all exchanges of information, may be made at the choice of the contracting authority by post, fax, electronically, by telephone (under the conditions of Article 32 (4)) or by combining these modalities.

(2) The chosen means of communication must be generally accessible and not restrict the access of economic operators to the procedure for the award of public contracts.

**Article 34.** Clarifications

(1) Any interested economic operator has the right to request clarifications on awarding documentation.

(2) The contracting authority has the obligation to respond clearly, completely and unambiguously, as soon as possible, to any clarification requested, within a period which should not, as a rule, exceed 3 working days after receipt of a Such requests from the economic operator, with the exception of the bidding procedure, in which case this period shall not exceed one working day.

(3) The contracting authority has the obligation to send the answers, together with the related questions, to all the economic operators who obtained, under the present law, the awarding documentation, taking steps not to disclose the identity of the person who requested the clarifications, also publish these answers in AIS „SRPP”.

(4) Without prejudice to the provisions of paragraph (2), to the extent that the clarifications are requested in due time, the contracting authority's responses to these requests shall be published in the AAR "SRPP" or transmitted to the economic operators no later than:

a) 6 days before the deadline set for the submission of tenders, where the estimated value of the contract is equal to or greater than the thresholds provided for in Article 2 (3);

b) 4 days before the deadline set for the submission of applications, in the case of restricted tenders or in the case of negotiation with the prior publication of a contract notice;

c) 3 days before the deadline set for the submission of tenders, if the estimated value of the public procurement contract is less than the thresholds stipulated in Article 2 paragraph (3);

d) one day before the deadline set for the submission of tenders in the case of the price tendering procedure.

(5) If the economic operator has not submitted the request for clarification in a timely manner, thus rendering the contracting authority unable to meet the deadlines provided for in paragraph (4), the latter is entitled not to respond. If the contracting authority decides to submit the answer to the clarification request, it has the obligation to extend the deadline for the submission of tenders so that the deadlines provided for in paragraph (4) are met. In this case, extending the deadline for submitting bids does not extend the right to request clarifications.

(6) The contracting authority has the obligation to open the applications / tenders at the date, time and address indicated in the notice / invitation to participate, insofar as the obligation to extend the deadline for submission of tenders has not occurred, unless the deadline for the submission of tenders was extended following the suspension of the award procedure.

**Article 35.** Documents confirmation requirement

The contracting authority is entitled to ask the tenderer to confirm the documents he has submitted under the conditions set for this category of documents.

**Article 36.** Rules on the deadlines for the submission and receipt of tender applications and offers

(1) Until the expiry of the deadline set by the contracting authority, the economic operator concerned to participate in the tendering procedure shall be required to submit a request for participation in this respect.

(2) The deadline for submitting and receiving requests to participate and tenders shall be sufficient to allow economic operators in the country and foreigners to prepare and submit tenders before it expires.

(3) When setting the deadline, the contracting authorities shall take into account the complexity of the proposed procurement, the scope of the subcontracting and the usual time for the submission of tenders by post in the country and abroad.

(4) The contracting authority is responsible for determining the time limit for the submission and receipt of requests to participate and tenders.

**Article 37.** Rules on the description of goods, works and services

(1) The technical specifications of the goods, works and services requested by the contracting authority shall be an exact and complete description of the object of the procurement so that each requirement and criterion set by the contracting authority is met.

(2) The technical specifications of the procurement object must meet the requirements of the contracting authority regarding the quality, efficiency, testing, security, dimensions, symbols, terminology, packaging, mode of transport, marking, labelling, processes and production methods, Of its compliance with the requirements of the awarding documentation.

(3) When drawing up technical specifications, drafts, drawings, drawings and descriptions, the contracting authority shall carry out the physical description of the goods, works or services requested only in cases where it is not possible to describe performance and / or functional requirements.

(4) The technical specifications will not refer to a particular trade mark or to a particular economic agent, patent, draft or type of goods, works and services, will not indicate a specific origin, a manufacturer or a Concrete economic operator. If there is not a sufficiently accurate way to expose acquisition requirements, and such a reference is inevitable, the features will include the words "or the equivalent".

(5) The technical specifications shall be based on national and international standards, technical regulations and national regulations, as appropriate.

(6) Technical specifications shall be defined so as to correspond, whenever possible, to the needs / exigencies of any user, including persons with disabilities.

(7) The technical specifications must enable any tenderer to have equal access to the award procedure and must not have the effect of introducing unjustified obstacles which restrict competition between economic operators.

8. Without prejudice to mandatory national technical regulations, to the extent that they are compatible with Community law, the contracting authority shall define the technical specifications:

a) either by reference, as a rule, in the following order of precedence, national / European standards, national / European technical approvals, international standards or other technical references developed by national / European standardization bodies; If these do not exist, the technical specifications are defined by reference to other national standards, approvals or national technical regulations concerning the use of the products or the design, calculation and execution of works. Any such reference must be accompanied by the words "or equivalent";

(B) or by specifying the required performance and / or functional requirements, which must be sufficiently precise to enable tenderers to determine the subject of the public procurement contract and to award the contract to the contracting authority;

(C) or by specifying the required performance and / or functional requirements as provided for in subparagraph (b), and by reference to the standards, technical approvals, common technical specifications referred to in subparagraph (a) as a means of presuming Compliance with the performance level and the respective functional requirements;

(D) or by specifying the required performances and / or functional requirements as provided for in subparagraph (b) for certain characteristics, and by reference to the technical standards or approvals referred to in subparagraph (a) for other characteristics.

(9) Where the contracting authority defines the technical specifications in the tender dossier in the manner provided for in paragraph 8 (a), no tender may be rejected on the grounds that the products or services covered by the technical proposal do not comply with the specified specifications if tenderer demonstrates, by any appropriate means, that the technical proposal presented satisfies in a manner equivalent to the requirements of the contracting authority as defined by the technical specifications.

(10) Where the contracting authority defines the technical specifications in the specifications by specifying the required performance and / or functional requirements, no tender may be rejected if the tenderer demonstrates by any appropriate means that the products, works or services provided are such as to achieve Performance or functional requirements as they comply with:

a) a national / European standard:

b) a national / European technical approval;

c) a common technical specification;

d) an international standard;

e) other technical regulations developed by the European standardization bodies.

(11) A suitable means of demonstrating compliance with the required technical specifications may be the manufacturer's technical file or a test / test report issued by a recognized body, such as, where appropriate, a neutral testing and calibration laboratory or a certification body and inspection that ensures compliance with applicable national / European standards. The contracting authority has the obligation to accept certificates issued by bodies recognized in any of the Member States of the European Union.

(12) Performance and functional requirements defining technical specifications may also include environmental characteristics.

(13) Where the contracting authority requires that certain environmental characteristics be met in terms of performance and functional requirements, it shall have the right to use, in whole or in part, specifications defined by eco-label, European, multinational or any other eco-label, If the following conditions are met cumulatively:

a) these specifications are appropriate to define the characteristics of the products or services the supply of which is the subject of the public procurement contract;

b) the eco-label requirements have been developed on a scientific basis;

c) the eco-label has been adopted through a specific procedure that has allowed the involvement of all stakeholders - government bodies, consumers, producers, distributors, environmental organizations;

d) the eco-label is accessible / available to any interested person.

(14) The contracting authority shall have the right to specify in the specifications that the products or services offered which hold a particular eco-label are considered as fulfilling implicitly the technical specifications required. The contracting authority is not entitled to consider a technical proposal as inappropriate for the sole reason that the products or services offered do not have the specified eco-label if the tenderer demonstrates by any appropriate means that the products / services offered correspond to the technical specifications requested.

(15) The contracting authority shall have the right to impose in the awarding documentation, insofar as they are compatible with Community law, special conditions for the performance of the contract, which seek to achieve social or environmental effects and to promote Sustainable development.

**Article 38.** Awarding documentation

(1) The contracting authority shall have the obligation to establish in the awarding documentation any requirement, criterion, rule and other information necessary to ensure that the tenderer / candidate has full, correct and explicit information on how to apply the award procedure.

(2) The Public Procurement Agency shall examine, prior to the publication for publication of the contract notice, the invitation to participate.

*[Para. (3) and (4) art.38 repealed by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

(5) The awarding documentation shall be prepared and published in the state language.

(6) Awarding documentation may also be drawn up in one of the languages of international circulation where:

a) the nature of the goods, works and services required entails attracting foreign economic operators, resources, foreign technology, the provision of expertise or the involvement of foreign competitors;

b) the estimated value of the goods, works and services required exceeds the thresholds set out in Article 2 (3).

(7) Tenders shall be submitted in the language specified in the awarding documentation. Any economic operator has the right to refer to awarding documentation and to formulate his requirements in the language in which he submitted the tender.

*[Art.38 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 39.** Amending the awarding documentation

(1) By the expiration of the deadline for the submission of tenders, the contracting authority has the right to modify the awarding documentation either on its own initiative or in response to the request for clarification of an economic operator under Article 34. Information on the operation of the changes shall be immediately communicated to all economic operators who have submitted a request for participation or to whom the contracting authority has awarded the awarding documentation to the Public Procurement Agency.

(2) Where a meeting of economic operators is held, the contracting authority shall draw up the minutes of the meeting. The minutes shall be immediately brought to the attention of all economic operators who have submitted a request for participation or to which the contracting authority has given them awarding documentation, shall be published in the "SRPP" AIS, subject to the provisions of Article 34, and shall be communicated to the Public Procurement Agency. The minutes are part of the awarding documentation and its provisions, which the contracting authority considers changes or additions to the tender documentation, are to be mentioned accordingly.

**Article 40.** Corruption in public procurement procedures

(1) The contracting authority shall reject the tender if it finds that the economic operator that has submitted it proposes or agrees to propose, directly or indirectly, to any person in charge or to any employee of the contracting authority a favour in any form whatsoever, An offer of employment or any other service as a reward for certain actions, decisions or the application of a public procurement procedure to its advantage.

(2) Rejection of the offer and reasons for rejection shall be recorded in the tender notice and shall be immediately communicated to the economic operator concerned.

(3) The Public Procurement Agency / contracting authority and / or economic operator shall report immediately to the competent authorities any case of corruption or attempted corruption committed by the economic operator or the representative of the contracting authority.

(4) Corrupt procurement contracts, confirmed by the final decision of the court, are null.

**Article 41.** Conditions relating to taxes, environmental aspects, labour protection

(1) The contracting authority shall indicate in the tender documents the bodies from which the tenderers can obtain relevant information regarding the obligations related to taxes, environmental protection, labour protection provisions and working conditions in the Republic of Moldova that will be applied to the works performed or to the services Performed during the period of performance of the contract.

(2) The contracting authority supplying the information referred to in paragraph 1 shall require tenderers to state that, when drawing up the offer, they have taken into account the obligations and provisions relating to employment protection and working conditions in force at the place where the works or services are to be carried out.

**Article 42.** The offer. Alternative offers

(1) The tenderer shall have the obligation to develop the tender in accordance with the provisions of the awarding documentation.

(2) The tender is binding in content terms for the entire period of validity set by the contracting authority.

(3) The economic operator shall have the obligation to submit the offer at the established address and by the deadline and deadline for submission set out in the notice or in the invitation to participate.

(4) The risks of transmission of the offer, including force majeure, are the responsibility of the economic operator.

(5) The tender submitted at a different address of the contracting authority than the established one or after the expiry of the deadline for submission shall be returned unopened.

(6) The content of the tenders must remain confidential until the date set for their opening, the contracting authority being informed of the content of the tenders submitted only on that date.

(7) The contracting authority may allow tenderers to submit other tenders, called alternative offers, but only if the tender evaluation criterion is the most advantageous tender from a technical and economic point of view. Only alternative offers may, to a certain extent, deviate from the requirements of the awarding documentation.

(8) The contracting authority has the obligation to provide in the awarding documentation the minimum mandatory requirements that alternative tenders must meet in order to be taken into account.

(9) The notice / invitation to tender must explicitly state whether alternative tenders are permitted or prohibited. If this is missing, the contracting authority is not entitled to consider alternative tenders.

(10) The contracting authority has no right to reject an alternative offer on the sole ground that it:

(A) it is drawn up using technical specifications defined in a manner other than that specified in the specifications, if the tenderer can demonstrate that the proposed solution ensures that all the technical requirements required by the contracting authority are adequately met;

B) could be declared winner if:

– the public supply contract for which the contract award procedure was organized shall be transformed into a public service contract;

- the public service contract for which the contract award procedure was organized shall be transformed into a public supply contract.

(11) The contracting authority has the obligation not to take into consideration alternative offers that do not comply with the minimum requirements stipulated in paragraph (8).

**Article 43.** Public procurement files

(1) The contracting authority shall have the obligation to prepare the public procurement file and to keep it within 5 years from the initiation of the public procurement procedure.

(2) The documents to be included in the Public procurement file, as well as those to be submitted to the Public Procurement Agency, shall be established by the regulation approved by the Government.

**Chapter VII**

**PUBLIC PROCUREMENT PROCEDURES**

**Section 1**

**Types of public procurement procedures**

**Article 44.** Public procurement procedures

(1) The public contract may be awarded through the following procedures:

a) open tender;

b) restricted tender;

c) competitive dialogue;

d) negotiated procedures;

e) request for price offers;

F) solution competition;

G) acquisition in the case of social housing construction plans.

(2) The basic procedures for the award of the public procurement contract are open tender and restricted tendering. Other public procurement procedures may be used only under the conditions expressly provided by this law.

(3) The contracting authority may use special award procedures only in the cases expressly provided by this law. The special ways are:

a) framework agreement;

b) dynamic acquisition system;

c) electronic auction.

**Section a 2-a**

**The open tender**

**Article 45.** Open tender initiation

(1) The open tender procedure shall include the offers of all economic operators wishing to participate in the auction. The contracting authority shall publish in advance an open tender notice to inform potential participants so that they can prepare their offers. The participation notice to the open tender shall be published in accordance with Article 28 (1).

(2) In the case of public procurement in which the value of the contract to be awarded, estimated according to the provisions of art. 3, is equal to or higher than the thresholds stipulated in art.2 paragraph (3), the participation notice shall be published also in Official Journal of the European Union.

(3) In the case of public procurement where the value of the contract to be awarded, estimated according to the provisions of Article 3, is less than the thresholds referred to in Article 2 (3), the period between the date of publication of the notice of participation in the Bulletin Public procurement and the deadline for the submission of tenders must be at least 20 days.

(4) In the case of public procurement in which the value of the contract to be awarded, estimated according to the provisions of Article 3, is equal to or higher than the thresholds referred to in Article 2 (3), the period between publication in the Procurement Bulletin As well as between the date of submission of the contract notice for publication in the Official Journal of the European Union and the closing date for submission of tenders must be at least 52 days.

(5) Where the contracting authority has published a notice of intent relating to the public contract to be awarded, it has the right to reduce the period provided for in paragraph (4) to 36 days.

(6) The reduction provided for in paragraph (5) is permissible if the published notice of intention contains all the information provided for the participation notice insofar as it is known on the date of publication of the notice of intent and has been forwarded for publication of up to 12 months and at least 52 days prior to the date of submission for publication of the contract notice.

7. If the participation notice is transmitted electronically for publication in the Official Journal of the European Union, the periods provided for in paragraphs 4 and 5 may be reduced by 7 days.

(8) If the contracting authority publishes the entire tender documentation electronically and allows direct and unrestricted access of economic operators to the documentation from the date of publication of the contract notice, it has the right to reduce by 5 days the periods stipulated in paragraph (3) and (4), as well as those resulting from the application of the provisions of paragraph (7).

(9) The reduction provided for in paragraph (8) is only permitted if the participation notice contains specifications on the internet address to which the awarding documentation is available.

(10) Any interested economic operator has the right to request and obtain awarding documentation.

(11) If, for technical reasons, the awarding documentation cannot be published electronically, the contracting authority has the obligation to place the awarding documentation at the disposal of the economic operator as soon as possible within a period not to exceed 2 days from the receipt of a Requests from him / her.

(12) The economic operator concerned shall act with due diligence so that compliance by the contracting authority with the period referred to in paragraph (11) does not result in the awarding of the documentation being made available to him / her less 2 days before the deadline for submitting bids.

*[Art.45 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 46.** The notice of participation to the open tender

The notice of participation to the open tender shall be elaborated in accordance with the provisions of Article 28, indicating the information contained in Annex no.

**Article 47.** Conditions for providing the awarding documentation

The contracting authority shall provide awarding documentation to the economic operators according to the provisions specified in the tender notice. The fee that the contracting authority is entitled to charge for the awarding documentation includes only the costs of printing and delivering it to the economic operator. Awarding documentation shall be offered free of charge to workshops protected under Article 5 (2).

**Article 48.** Awarding documentation

The structure and content of the awarding documentation is set out in the standard documentation approved by the Ministry of Finance.

**Section a 3-a**

**Restricted tendering**

**Article 49.** Restricted tender initiation

(1) Restricted tendering shall be conducted in accordance with the rules laid down for the open tender, subject to the application of a pre-selection procedure preceded by the publication of a pre-selection notice. The restricted bid procedure takes place in two stages:

a) the selection stage of the candidates, by applying the qualification and selection criteria according to the provisions of art. 16-25;

b) the evaluation stage of the tenders submitted by the selected candidates, applying the award criterion.

Restricted tendering shall be initiated by the publication of a contract notice in accordance with Article 28 (1) requiring interested economic operators to submit applications.

(2) In the case of public procurement in which the value of the contract to be awarded, estimated according to the provisions of art. 3, is equal to or higher than the thresholds stipulated in art.2 paragraph (3), the participation notice shall be published also in Official Journal of the European Union.

(3) In the case of public procurement where the value of the contract to be awarded, estimated according to the provisions of Article 3, is less than the thresholds referred to in Article 2 (3), the period between the date of publication of the notice of participation in the Bulletin Public procurement and the deadline for the submission of applications must be at least 20 days.

(4) In the case of public procurement in which the value of the contract to be awarded, estimated according to the provisions of Article 3, is equal to or higher than the thresholds referred to in Article 2 (3), the period between the date of publication of the contract notice In the Procurement Bulletin as well as between the date of submission of the contract notice for publication in the Official Journal of the European Union and the closing date for submission of applications must be at least 37 days.

(5) If, for emergency reasons, the periods provided for in paragraphs (3) and (4) cannot be observed, the contracting authority has the right to speed up the procedure by reducing these periods but not to less than 15 days before the closing date for submission of applications or not less than 10 days if the notice is sent electronically.

(6) If the participation notice is submitted in electronic format for publication in the Official Journal of the European Union, the period provided for in paragraph (4) may be reduced by 7 days.

(7) Where the contracting authority publishes electronically all the awarding documentation, the direct and unrestricted access of the economic operators to this documentation shall be ensured, starting with the date of publication of the contract notice.

(8) Any economic operator shall have the right to apply for the first stage of the restricted auction procedure.

(9) The contracting authority has the right to limit the number of candidates to be selected to submit tenders, provided that sufficient candidates are available. When selecting candidates, the contracting authority has the obligation to apply objective and non-discriminatory criteria, using for this purpose only the selection criteria provided in the participation notice.

(10) The contracting authority shall have the obligation to indicate in the participation notice the selection criteria and the applicable rules, the minimum number of candidates it intends to select and, where applicable, the maximum number of candidates.

(11) The minimum number of candidates indicated in the participation notice under paragraph (10) must be sufficient to ensure real competition and, in any event, may not be less than 5.

(12) The number of candidates selected in the first stage of the restricted auction must be at least equal to the minimum number indicated in the participation notice.

(13) If the number of candidates fulfilling the selection criteria is less than the minimum number indicated in the participation notice, the contracting authority has the obligation to cancel the restricted auction procedure.

(14) The manner of conducting the public procurement through restricted tendering is laid down in the regulation approved by the Government.

*[Art.49 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 50.** Pre-selection procedure

(1) In order to identify qualified economic operators, the contracting authority shall, before submitting tenders, carry out the pre-selection procedure, applying the provisions of Articles 16-25.

(2) In the case of the pre-selection procedure, the contracting authority shall provide a set of pre-selection documents to each economic operator who will request them, according to the pre-selection notice, and pay their cost. The fee that the contracting authority is entitled to charge for the pre-selection documents will only include the costs of printing and delivering them to the economic operator. For sheltered workshops within the meaning of Article 5 (2), these documents are provided free of charge.

(3) The pre-selection documents shall contain:

a) instructions on the preparation and submission of pre-selection requests;

b) summary of the main clauses of the contract to be concluded following the public procurement procedures;

c) specification of the documents that the economic operator must submit to confirm his qualification data;

d) information on the manner, place and deadline for the submission of applications for pre-selection, indicating the date and time of presentation;

e) any other requirements regarding the preparation and submission of pre-selection requests and its procedure, which the contracting authority establishes in accordance with the present law, with other legislative and normative acts and with the standard documentation.

(4) The contracting authority shall be obliged to respond to any request by the economic operator regarding the pre-selection documents, in compliance with the deadlines mentioned in art.34. The response to any action will be sent to all economic operators to whom the contracting authority has sent the pre-selection documents without indicating the source of the action.

(5) The pre-selection criteria shall be set out in the pre-selection documents. When assessing the qualification data of each economic operator that has submitted a pre-selection application, only these criteria apply.

6. After completion of the pre-selection, the contracting authority shall immediately communicate to each economic operator who has submitted a pre-selection application its results and, on the request of any public applicant, submit the list of all pre-selected economic operators. Only the preselected economic operators will continue to participate in the procurement procedure.

(7) The information of the candidates shall be made according to art.30.

*[Art.50 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 51.** Submission of tender invitations

(1) The contracting authority shall have the obligation to simultaneously submit a call for participation to the second stage of the restricted procedure to all selected candidates.

(2) It shall not be forbidden to invite, at the second stage, the restricted bid of an economic operator who has not submitted the application in the first stage or who has not fulfilled the selection criteria.

3. The invitation to participate in the second stage must include at least the following information:

a) references to the published participation notice;

b) the date and time limit set for the submission of tenders;

c) address at which bids are submitted;

d) the language or languages ​​in which the tender is to be drawn up;

e) address, date and time of the opening of tenders;

f) where appropriate, particulars of the additional documents which economic operators are required to submit for the purpose of verifying the declarations or completion of the documents submitted in the first stage to demonstrate their technical and / or professional capacity and the economic and financial.

(4) If the awarding documentation is directly accessible by electronic means, the contracting authority has the obligation to include in the invitation to participate information on how to access that documentation.

(5). Where the publication of the awarding documentation is not technically possible for technical reasons, the contracting authority shall send the invitation to tender accompanied by a copy of the award documentation to all selected candidates.

(6) If the estimated value of the public procurement contract is equal to or higher than that stipulated in Article 2 (3), the contracting authority has the obligation to send the invitation to participate at least 40 days before the deadline for submission of tenders.

(7) If the contracting authority has published a notice of intent concerning the public contract to be awarded, it has the right to reduce the period provided for in paragraph (6) to 36 days, as a rule, but Not until less than 22 days.

(8) The reduction provided for in paragraph (7) shall be allowed if the notice of intention contained contains all the information provided for the participation notice insofar as they are known on the date of publication of the notice of intent and has been forwarded for publication of up to 12 months and at least 52 days prior to the date of submission for publication of the contract notice.

(9) If the contracting authority publishes the entire tender documentation electronically and allows the direct and unrestricted access of the economic operators to the documentation from the date of publication of the contract notice, it has the right to reduce the period provided for in paragraph (6) by 5 days.

(10) The reduction provided for in paragraph (9) is only allowed if the invitation to tender contains specifications on the internet address to which the awarding documentation is available.

(11) Where, for reasons of urgency, the periods provided for in paragraphs (6) and (7) and those resulting from the application of the provisions of paragraphs (9) and (12) cannot be respected, the contracting authority Has the right to speed up the application of the procedure by reducing those periods, but not to less than 10 days.

(12) Where the estimated value of the public procurement contract is less than that provided for in Article 2 (3), the contracting authority has the obligation to send the invitation to tender at least 20 days before the date of the contract, deadline for submitting bids.

(13) Where the contracting authority publishes the entire tender documentation electronically and allows the direct and unrestricted access of economic operators to documentation from the date of publication of the contract notice, it has the right to reduce the period provided for in paragraph (12) by 5 days.

(14) The reduction provided for in paragraph (13) is only allowed if the participation notice contains specifications on the internet address to which the awarding documentation is available.

**Section a 4-a**

**Other public procurement procedures**

**Article 52.** The competitive dialogue

(1) The competitive dialogue is a three-step procedure applicable to very complex public procurement contracts in so far as their award is not possible through the application of the open tender procedure or restricted procedure. Any economic operator may apply to participate in the competitive dialogue procedure in which the contracting authority conducts a dialogue with the candidates admitted to this procedure in order to develop one or more solutions that meet the needs and on the basis of which the selected candidates are to Be invited to submit their offers.

(2) A public contract is considered particularly complex where the contracting authority is not in a position to:

a) to define, for objective reasons, the technical means that can meet its needs and objectives; and / or

b) to establish, for objective reasons, the legal and / or financial nature of a project.

3. Where the award of a public procurement contract is carried out using the competitive dialogue procedure, the award criterion used shall be the only tender which is the most economically advantageous.

(4) The competitive dialogue procedure is carried out in three stages:

a) pre-selection stage of the candidates;

b) the dialogue stage with the candidates admitted after the pre-selection, in order to identify the solution / solutions that meet the needs of the contracting authority and on the basis of which the candidates will elaborate and submit the final offer;

c) the stage of evaluation of the submitted final offers.

(5) The competitive dialogue shall be initiated by the publication of a notice of participation in the Public Procurement Bulletin in accordance with Article 28 (1), requesting the economic operators concerned to submit their applications.

(6) In the case of public procurement in which the value of the contract to be awarded, estimated according to the provisions of Article 3, is equal to or higher than the thresholds stipulated in Article 2 (3), the participation notice shall also be published in Official Journal of the European Union.

(7) The period between the date of publication in the Public Procurement Bulletin and, as the case may be, between the date of submission of the contract notice for publication in the Official Journal of the European Union and the closing date for the submission of applications must be at least:

a) 20 days in the case of public procurement where the value of the contract to be awarded, estimated in accordance with the provisions of Article 3, is less than the thresholds referred to in Article 2 (3);

b) 37 days in the case of public procurement where the value of the contract to be awarded, estimated according to the provisions of Article 3, is equal to or higher than the thresholds referred to in Article 2 (3).

(8) If the participation notice has been submitted for publication in the Official Journal of the European Union in electronic format, the period provided in paragraph (7) letter b) may be reduced by 7 days.

(9) Any economic operator has the right to apply for participation in the competitive dialogue procedure.

(10) When selecting candidates, the contracting authority has the obligation to apply objective and non-discriminatory criteria, using for this purpose only the pre-selection criteria stipulated in the participation notice.

(11) The contracting authority has the obligation to indicate in the participation notice the pre-selection criteria and the applicable rules, the minimum number of candidates it intends to preselect and, where appropriate, the maximum number of candidates.

(12) The minimum number of candidates indicated in the participation notice under paragraph (11) must be sufficient to ensure real competition and in any case not be less than 3.

(13) The number of candidates admitted to the second stage of the competitive dialogue must be at least equal to the minimum number indicated in the participation notice.

(14) If the number of candidates fulfilling the pre-selection criteria is lower than the minimum number indicated in the participation notice, the contracting authority is entitled to:

a) either to cancel the competitive dialogue procedure;

b) either to continue the competitive dialogue procedure only with the candidate (s) fulfilling the required criteria.

(15) The contracting authority shall have the obligation to simultaneously submit a call for participation to the second stage of the competitive dialogue procedure to all admitted candidates. The invitation to candidates shall include:

a) either a copy of the specification or the descriptive documentation and any additional document;

b) either a reference for accessing the product specification and other documents referred to in subparagraph (a), if they are available directly by electronic means.

(16) It is forbidden to invite, at the second stage of the competitive dialogue, an economic operator who has not applied for the first stage or who has not met the pre-selection criteria.

(17) In addition to the information referred to in paragraph (15), the invitation to tender shall contain at least the following information:

a) references to the published participation notice;

b) the address at which the dialogue will take place and the date and time of its launch;

c) the language / languages ​​in which the dialogue will take place;

d) where appropriate, particulars of the additional documents which economic operators are required to submit for the purpose of verifying declarations or completion of the documents submitted in the first stage to demonstrate technical and / or professional capacity and the economic and financial.

(18) The contracting authority shall have the obligation to send the invitation to tender together with a copy of the tender documentation, which will include the descriptive documentation.

(19) If awarding documentation is directly accessible by electronic means, the contracting authority has the obligation to include in the invitation to participate the Internet address or information on how to access that documentation.

(20) The contracting authority has the obligation to include in the descriptive documentation at least a description of the needs, objectives and constraints of the contracting authority, on the basis of which the dialogue will be conducted to identify viable solutions, as well as, where appropriate, the premiums to be granted Participants in the dialogue.

(21) The contracting authority shall have the right to provide in the descriptive documentation the possibility to carry out the dialogue in successive rounds in order to reduce the number of solutions discussed. The successive reduction of the solutions discussed is made only on the basis of the evaluation factors established in the awarding documentation.

(22) The contracting authority shall carry out the dialogue with each of the admitted candidates. This dialogue discusses options regarding technical, financial, legal issues, and any other elements of the future contract, so that the solutions identified meet the objective needs of the contracting authority.

(23) During the dialogue, the contracting authority shall have the obligation to ensure the application of the principle of equal treatment to all participants. In this respect, the contracting authority is not entitled to provide information in a discriminatory manner that could create one / some of the participants with an advantage over others.

(24) The contracting authority has the obligation not to disclose, without the consent of the participant concerned, the proposed solution and other confidential information submitted by it.

(25) The contracting authority carries out the dialogue until it identifies the solution (s) corresponding to its objective needs.

(26) After declaring the dialogue stage closed and announcing the participants in this respect, the contracting authority has the obligation to invite the selected participants to submit the final tender, which is developed on the basis of the solution (s) identified during this phase and which must contain all the necessary elements to show how the future contract will be fulfilled.

(27) The contracting authority shall have the obligation to send the call for submission of the final offers with a sufficient number of days before the deadline for the submission of tenders, so that each selected participant has a reasonable period for the final offer.

(28) The period awarded for the final tender should not be less than a minimum period agreed with the selected participants during the second stage of the competitive dialogue procedure and, in any event, it may not be less than 15 days.

(29) The invitation to submit the final offer must contain at least the following information:

a) references to the published participation notice;

b) the date and time limit set for the submission of tenders;

c) address at which bids are submitted;

d) the language or languages ​​in which the tender is to be drawn up;

e) address, date and time of the opening of tenders;

f) specifications drawn up following the dialogue;

g) where appropriate, particulars of additional documents which economic operators are required to submit for the purpose of verifying declarations or completion of documents submitted in the first stage to demonstrate technical and / or professional capacity and economic and financial capacity.

(30) During the evaluation phase, the contracting authority has the right to request clarifications regarding the tender. The evaluation of the tenders is based on the criteria provided in the awarding documentation.

(31) The contracting authority has the right to call for the tender identified as the most economically advantageous tender to reconfirm certain elements of the offer or certain commitments assumed in the tender.

(32) In any of the situations referred to in paragraphs (30) and (31), the clarifications, additional information or reconfirmations submitted must not lead to changes in the basic characteristics of the offer or the solutions underlying the launch of the invitation to submit final bids, Changes that would distort competition or create an added advantage over other bidders.

(33) The manner of realization of the public procurement through the competitive dialogue is established in the regulation approved by the Government.

*[Art.52 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 53.** Negotiated procedure with prior publication of a contract notice

(1) The contracting authority may award public contracts in a negotiated procedure following the publication of a contract notice:

a) In the case of incorrect or unacceptable tenders in an open or restricted tender procedure, a request for price offers or a competitive dialogue, unless the original terms of the contract are substantially altered. The contracting authority is entitled not to publish a contract notice if it includes all the tenderers or only the tenderers who meet the qualitative selection criteria in the negotiated procedure and who submitted, during the initially applied procedure, tenders conforming to the formal requirements of the award procedure. Implementation of the negotiated procedure in this case is only possible after the initial open tender procedure, restricted auction, bidding for price offers or competitive dialogue has been cancelled;

b) in duly substantiated exceptional cases, whether goods, works or services the nature or risks of which do not permit prior and definitive pricing;

c) in the field of services, especially those included in the 6th category of Annex no. 1, and those of intellectual property, such as the design of works, to the extent that, owing to the nature of the services to be provided, the technical specifications of the contract cannot be set sufficiently precisely to allow the award of the contract by selecting the tender, in accordance with the open tender or restricted tender rules;

d) in the case of public works contracts exclusively for research, development or experimentation, and not to secure a profit or to cover the costs of research and development.

(2) In the cases specified in paragraph (1), in order to identify the most advantageous tender, the contracting authority shall negotiate with tenderers the tenders submitted by them in order to adapt them to the requirements specified in the participation notice, in the specifications and in the possible documents more.

(3) In the case referred to in paragraph 1 (a), the contracting authority has the right to decide on the organization of a final stage of the electronic auction. The contracting authority has the obligation to announce this decision in the participation notice and in the descriptive documentation.

(4) Negotiation with the prior publication of a contract notice shall be initiated by the publication of a notice of participation, in accordance with Article 28 (1), requesting the economic operators concerned to submit their applications.

(5) In the case of public procurement in which the value of the contract to be awarded, estimated according to the provisions of art. 3, is equal to or higher than the thresholds stipulated in art.2 paragraph (3), the participation notice shall be published also in Official Journal of the European Union.

(6) The period between publication in the Public Procurement Bulletin and, where applicable, between the date of submission of the contract notice for publication in the Official Journal of the European Union and the closing date for the submission of applications must be at least:

a) 20 days in the case of public procurement where the value of the contract to be awarded, estimated according to the provisions of Article 3, is less than the thresholds referred to in Article 2 (3);

b) 37 days in the case of public procurement where the value of the contract to be awarded, estimated according to the provisions of Article 3, is equal to or higher than the thresholds provided in Article 2 paragraph (3).

(7) If the number of days provided for in paragraph (6) cannot be met due to urgency, the contracting authority has the right to reduce the respective period, but not to less than 15 days.

(8) If the participation notice has been submitted for publication in the Official Journal of the European Union in electronic format, the period provided for in paragraph (6) (b) may be reduced by 7 days and the period provided for in paragraph (7) - 5 days.

(9) Any economic operator shall have the right to request and obtain a copy of the descriptive / award documentation.

(10) The contracting authority has the obligation to make the descriptive documentation available to the economic operator as soon as possible, within a period not to exceed 2 days from the receipt of a request from the latter.

(11) The descriptive documentation shall contain a description of the contracting authority's needs, objectives and constraints on which the negotiations will be conducted.

(12) Any economic operator has the right to submit his application for participation in the negotiated procedure with the prior publication of a contract notice.

(13) When selecting candidates, the contracting authority has the obligation to apply objective and non-discriminatory criteria, using for this purpose only the pre-selection criteria stipulated in the participation notice.

(14) The contracting authority shall have the obligation to indicate in the participation notice the pre-selection criteria and the applicable rules, the minimum number of candidates it intends to preselect and, where appropriate, the maximum number of candidates.

(15) The minimum number of candidates indicated in the participation notice under paragraph (14) must be sufficient to ensure real competition and in any case not be less than 3.

(16) The number of preselected candidates must be at least equal to the minimum number indicated in the participation notice.

(17) If the number of candidates fulfilling the pre-selection criteria is less than the minimum number indicated in the participation notice, the contracting authority has the obligation to cancel the negotiation procedure with the prior publication of a contract notice.

(18) The contracting authority is required to send simultaneously a call for participation in the second stage of the negotiated procedure with the prior publication of a contract notice to all pre-selected candidates. The invitation to candidates will include:

a) either a copy of the specification or the descriptive documentation and any additional document;

b) either a reference for accessing the product specification and other documents referred to in subparagraph (a), if they are available directly by electronic means.

(19) It is forbidden to invite to the second stage the negotiation procedure of an economic operator who did not apply in the first stage or who did not fulfil the pre-selection criteria.

(20) In addition to the information provided in paragraph (18), the invitation to tender must contain at least the following information:

a) references to the published participation notice;

b) the address at which the negotiations will take place, as well as the date and time of their launch;

c) the language / languages in which the negotiations will take place;

d) where appropriate, particulars of the additional documents which economic operators are required to submit for the purpose of verifying declarations or completion of the documents submitted in the first stage to demonstrate technical and / or professional capacity and economic and financial capacity;

e) detailed and complete information regarding the award criterion applied for establishing the winning bid, according to the provisions of art.26.

(21) Any selected candidate shall have the right to request clarifications on the descriptive documentation.

(22) The contracting authority has the obligation to answer clearly, completely and without ambiguity, as soon as possible, to any clarification requested, according to the provisions of art.34.

(23) The contracting authority has the obligation to send the answers, together with the related questions, to all the selected candidates, taking care not to disclose the identity of the person who requested the clarifications.

(24) The contracting authority carries out negotiations with each of the preselected candidates, in part. All the technical, financial and legal aspects of the future contract are determined in the negotiations.

(25) During the negotiations, the contracting authority has the obligation to ensure the application of the principle of equal treatment to all candidates. To this end, the contracting authority is not entitled to provide information in a discriminatory manner that could create one / some of the candidates with an advantage over others.

(26) The contracting authority has the obligation not to disclose, without the agreement of the candidate concerned, the offer proposal and other confidential information submitted by it.

(27) The contracting authority has the right to provide in the descriptive documentation the possibility to conduct the negotiations in successive rounds, in order to reduce the number of proposals to be negotiated. The successive reduction of the offer proposals is made only on the basis of the evaluation factors established in the awarding documentation.

(28) The contracting authority shall conduct negotiations until the awarding and establishment of the winning bid, if award is possible.

(29) The manner of realization of the public procurement through a negotiated procedure is laid down in the regulation approved by the Government.

*[Art.53 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 54.** Negotiated procedure without prior publication of a contract notice

(1) In the case of public supply, works and service contracts, the contracting authority may use the negotiated procedure without prior publication of a contract notice if:

a) no offer or no suitable offer or no application has been submitted in response to an open tender or a restricted auction procedure as long as the initial terms of the contract are not substantially altered;

b) to the extent strictly necessary for reasons of extreme urgency as a result of unforeseeable events for the contracting authority concerned, the deadlines for the open tendering or negotiated procedure with the prior publication of a contract notice cannot be complied with. The situations invoked to justify the maximum urgency must not be imputable to the contracting authorities. The contracting authority is not entitled to determine the duration of the contract for a period longer than that required to deal with the emergency situation that has triggered the negotiated procedure without prior publication of a contract notice;

c) for technical, creative or protection-related reasons, only one economic operator has the necessary goods, works and services and there is no alternative.

(2) In the case of public supply contracts, the contracting authority shall make acquisitions by negotiation procedure if:

a) these goods are produced only for the purpose of research-development or experimentation. This provision does not apply to quantitative production intended to establish the commercial viability of the product or to depreciate R & D costs;

b) the public contract refers to the additional deliveries made by the original supplier either for the partial replacement of the goods or of the installations for current use or for the extension of the existing goods or installations if the change of the supplier would oblige the contracting authority to purchase a technical material with different characteristics, leading to incompatibility or disproportionate technical difficulties of use and maintenance. As a rule, the duration of such contracts as well as renewed contracts may not exceed 3 years;

c) the goods to be procured are listed and purchased at a stock exchange of raw materials;

d) the public contract relates to the procurement of goods on particularly advantageous terms either from a supplier who definitively ceases his commercial activities or from an insolvency administrator or under a plan or other procedure Procedures of the same kind under national law.

(3) In the case of public service contracts, the contracting authority carries out procurement procedures if the contract in question is the result of a competition solution and, according to the applicable rules, must be awarded to the winner or one of the winners of the competition solutions. In the latter case, all winners of the contest must be invited to participate in the negotiations.

4. In the case of public works and service contracts, the contracting authority shall carry out procurement by means of a negotiated procedure without prior publication of a contract notice:

a) for additional works or services not provided for in the project initially estimated or in the original contract and which have become necessary for the performance of the works or the performance of the services specified therein as a result of an unforeseeable situation, provided that the economic operator That work or performs the service concerned:

- whether the additional works or services concerned cannot be technically or economically separated from the subject-matter of the original contract without constituting a major inconvenience to the contracting authorities, or

- whether the additional works or services concerned, even if they can be separated from the subject-matter of the original contract, are strictly necessary for its completion. The aggregate value of the contracts awarded for additional works or services must not exceed 15% of the value of the original contract;

b) for new works or services consisting in the repetition of similar works or services entrusted by the same contracting authorities to the economic operator earning the original contract, provided that the works or services concerned are in conformity with a basic project and have been the subject of a contract Initially awarded through the open tender procedure, restricted or requesting price offers.

(5) The possibility to apply the situations specified in paragraph (4) letter b) shall be announced with the launch of the invitation to participate in the first project and the Contracting authorities shall take into account the estimated total value for the continuation of works or services. The situations specified in paragraphs (1) to (4) may be applied only within 3 years of the conclusion of the initial contract.

(6) In the cases referred to in paragraph (2), points (a) and (c), where possible, the contracting authority has the obligation to invite to the negotiations a number of economic operators to ensure real competition.

(7) The manner of realization of the public procurement through a negotiated procedure is laid down in the regulation approved by the Government.

*[Art.54 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 55.** Request for quotations

(1) The contracting authority, through request for quotations, may award public supply, works or service contracts which are submitted in accordance with specific specifications, provided that the estimated value of the procurement does not exceed MDL 400000 for goods and services and 1500000 MDL for works.

(2) The contracting authority may establish, besides the price, other requirements, which shall be taken into account in the evaluation of the price offers. In this case, in the request for quotations, each requirement of this kind and its relative value are indicated.

(3) Each economic operator may submit a single price offer without the right to change it. There is no negotiation between the contracting authority and the tenderer on such a bid.

(4) A bid that satisfies all requirements according to the award criterion specified in the notice / invitation to tender is declared winning.

(5) When purchasing goods or services with an estimated value exceeding 150 000 MDL and for the purchase of works with an estimated value exceeding 200 000 MDL, the contracting authority shall publish in advance a notice of participation in the Public Procurement Bulletin and on the website of the Procurement Agency public.

(6) In the case of bidding procedure, the time limit for the submission of tenders shall be at least 7 days for goods and 12 days for works and services from the date of publication or transmission of the notice / invitation to tender.

(7) The manner of realization of the public procurement through request for quotations is laid down in the regulation approved by the Government.

**Article 56.** Solutions competition

(1) The contracting authority shall have the right to organize a competition solution through which it acquires a plan or a project, especially in the field of spatial planning, urban and landscape design, architecture or data processing, including in other areas, by selecting it on the basis of Competitive by a jury, with or without awards.

(2) The contracting authority has the right to organize a competition solution, as described in paragraph (1), as an independent procedure in which competitors can obtain prizes and / or bonuses, or as part of another procedure Which leads to the award of a public service contract.

(3) The contracting authority has the obligation to specify in the competition documentation any information, requirement, rule, criterion or the like necessary to ensure to potential competitors complete and correct information on how to apply the contest.

(4) The competition documentation shall include at least:

a) general information on the contracting authority;

b) instructions on the deadline to be observed and the formalities to be fulfilled in connection with the participation in the competition;

c) the minimum qualification requirements that the contracting authority has decided to request, as well as the documents to be submitted by the competitors to prove the fulfilment of the respective requirements;

d) The set of requirements on the basis of which competitors are to draw up and submit the project;

e) the number of prizes to be awarded, if the contest is organized as an independent procedure;

f) the commitment of the contracting authority to conclude the contract with the winner or one of the winners of the contest, if the contest is organized as part of another award procedure for the public service contract;

g) detailed and complete information on the criterion applied for establishing the winning / winning project (s).

(5) The Solution Competition shall be initiated by the publication in the Public Procurement Bulletin of a contract notice whereby the contracting authority requests the interested economic operators to submit projects. The announcement must contain at least the information contained in Annex no.3.

(6) The period between the date of publication of the contract notice and the deadline for the submission of projects must be set so that economic operators have a reasonable period for their development but not less than 20 days.

(7). Without prejudice to the provisions of paragraphs 5 and 6, the contracting authority shall also send the publication of the notice to the Official Journal of the European Union at least 52 days before the deadline for submission of the projects, if the estimated value of the acquisition is equal to or greater than that provided for in Article 2 (3).

(8) The contracting authority shall take all necessary measures to ensure that the exchange of messages, communications and archiving of information is carried out in a manner that ensures the full integrity and confidentiality of all information communicated by competitors.

(9) The content of the plans or projects submitted must remain confidential at least until the date set for their opening, the jury having the knowledge of the contents of the plans / projects only after that date.

(10) Where the contracting authority requests the electronic transmission of projects, the conditions set out in Article 32 shall apply accordingly.

(11) The contracting authority has the right to make a preliminary selection of competitors, using clear, objective, non-discriminatory criteria, which must be explicitly specified in the competition documentation.

(12) The number of selected competitors must be sufficient to ensure genuine competition.

(13) For the purpose of evaluating projects submitted in a solution competition, the contracting authority has the obligation to appoint a jury composed of at least 6 members, individuals, independent of competitors, with professional training and relevant experience in the field, and with probity Recognized moral.

(14) Where competitors have been required to have a particular professional qualification, then at least one third of the members of the jury must have that qualification or an equivalent.

(15) Projects must be submitted anonymously, anonymity to be kept until the jury has taken a decision or made an opinion.

(16) The jury is autonomous in the decisions and opinions it issues.

(17) The Jury has the obligation to evaluate the projects submitted solely on the basis of the evaluation criteria indicated in the competition notice.

(18) The jury has the obligation to draw up a report, signed by all its members, which must include the qualitative assessment of each project, specific observations, as well as, where appropriate, the list of issues to be clarified.

(19) The jury has the right to invite competitors to respond to issues that have been reported in the report provided in paragraph (18), in order to clarify any issues related to the proposed solution / project.

(20) The Jury has the obligation to draft complete minutes of the discussions conducted according to the provisions of paragraph (19).

**Article 57.** Procurement of social housing construction designs

(1) In the case of public procurement contracts relating to the design and construction of a set of social housing whose size, complexity and estimated duration of work require that planning be based, from the outset, on strict collaboration within a group of delegates of contracting authorities, Experts and the works executor who is to be responsible for the execution of the works, a special award procedure may be used which would ensure the selection of the most suitable works to be integrated into this group.

(2) The contracting authorities must include in the participation notice a more precise description of the works in order to allow the interested works executors to really appreciate the project to be executed, as well as the qualitative and organizational selection criteria, the economic, social, legal, financial, technical and personal conditions to be met by all bidders.

**Section a 5-a**

**Special procedures for the award of public contracts**

**Article 58.** Framework agreement

(1) A framework agreement is an agreement concluded between one or more contracting authorities and one or more economic operators with a view to establishing the conditions for contracts to be awarded over a specified period, in particular prices and, where appropriate, the quantities envisaged.

(2) For the purpose of concluding the framework agreement, the contracting authority shall comply with the provisions of this law at all stages, until award of contracts based on that framework agreement.

(3) Contracts based on a framework agreement shall be awarded in accordance with the provisions of this law and the regulation approved by the Government.

(4) The contracting authority has the obligation to conclude a framework agreement by applying the open tender or restricted auction procedure.

(5) By way of exception to the provisions of paragraph (4), for the conclusion of a framework agreement, the contracting authority has the right to apply the other procedures only in the specific circumstances provided by the present law.

(6) The contracting authority shall not have the right to misuse or improper use of the framework agreements in such a way as to prevent, restrict or distort competition.

(7) The contracting authority is not entitled to establish that the duration of a framework agreement exceeds 4 years, except in exceptional cases, which may be justified in particular by the specific object of the contracts to be awarded under that framework agreement.

(8) Contracts awarded under a framework agreement may be concluded only between the contracting authority and the operator / economic operators that are party to the agreement.

(9) When awarding a public contract on the basis of the provisions of a framework agreement, the contracting authority is not entitled to impose or accept modifications to the elements / conditions originally set out in the framework agreement.

(10) Where the contracting authority concludes a framework agreement with a single economic operator, the agreement must provide at least:

a) the obligations assumed by the economic operator through the technical proposal;

b) the unit price that the economic operator provided for in the financial proposal and on the basis of which the value of each subsequent contract will be determined.

(11) The contracting authority has the obligation to award public procurement contracts following the framework agreement only in compliance with the technical and financial conditions set out in that framework agreement.

(12) Whenever it intends to award a public contract following a framework agreement, the contracting authority has the obligation to consult in writing with the economic operator requesting it, as necessary, to complete the tender.

(13) Where the contracting authority concludes a framework agreement with several economic operators, the number may not be less than 3, to the extent that there is a sufficient number of economic operators who have met the qualification and selection criteria and have Submitted admissible offers.

(14) If the number of economic operators who have fulfilled the qualification and selection criteria and submitted admissible tenders is less than the minimum number indicated in the notice / invitation to tender, the contracting authority has the obligation to cancel the procedure for the conclusion of the agreement, framework.

(15) Where the contracting authority concludes a framework agreement with several economic operators, the agreement must provide at least:

a) the obligations that each of the economic operators assumed through the technical proposal;

b) the unit price that each economic operator has provided for in the financial proposal.

(16) The contracting authority shall have the right to award public procurement contracts following a framework agreement with several economic operators:

a) without resumption of competition;

b) either by resuming competition between the economic operators signing the framework agreement.

(17) The contracting authority has the right to award public contracts under the conditions provided for in paragraph (16) (a) only if all the elements / conditions governing these contracts are set out in the framework agreement.

(18) The contracting authority has the right to award public contracts under the conditions provided in paragraph (16) letter b):

a) either respecting the elements / conditions provided for in the framework agreement;

b) or, if not all elements / conditions have been clearly provided for in the framework agreement, by detailing them or by using, if deemed necessary, other elements / conditions laid down in the terms of reference drawn up for the conclusion of the framework agreement.

(19) In the case referred to in paragraph (18) (b), the contracting authority has the obligation to resume the competition in accordance with the following procedure:

a) for each contract to be awarded, the contracting authority shall consult in writing the economic operators signing the relevant framework agreement;

b) the contracting authority sets a sufficient deadline for the submission of tenders, having the obligation to take into account aspects such as the complexity of the object and the time needed for the submission of tenders;

c) tenders are submitted in writing and their content remains confidential until the deadline for the opening of the tenders;

d) the contracting authority shall award each contract to the tenderer who has submitted the most advantageous tender according to the award criteria specified in the documentation under which the framework agreement.

**Article 59.** Dynamic acquisition system

(1) The dynamic acquisition system is an entirely electronic process of acquiring current use goods whose characteristics, generally available on the market, meet the requirements of the contracting authority. The dynamic system is limited in time and open for the entire period of any economic operator meeting the selection criteria and offering an indicative tender conforming to the specification.

(2) In order to achieve a dynamic procurement system, the contracting authorities shall comply with the requirements of the open tender at all stages of the procurement before the award of the contracts under that scheme. All tenderers who meet the selection criteria and have submitted an indicative tender in accordance with the specifications and any additional documents are invited and admitted to the system. Indicative bids can be improved at any time, provided they continue to comply with the specifications.

(3) For the purpose of implementing the dynamic purchasing system, Contracting authorities shall:

a) publish a contract notice stating that the award of the contract takes place within a dynamic purchasing system, it also specifies the internet address to which the awarding documentation is available;

b) specify in the contract documents, inter alia, the nature of the purchases covered by the system in question and all necessary information concerning the procurement system, the electronic equipment used, the arrangements and technical specifications for the connection;

c) provide, by electronic means, from the publication of the notice and until the expiry of the system implementation period, free, direct and total access to the specifications and all additional documents.

(4) In order to launch the dynamic purchasing system and the awarding of public procurement contracts under this system, the contracting authority has the obligation to use only electronic means, while respecting the provisions regarding the rules for communication and submission of tenders.

(5) After the launch of the dynamic purchasing system and throughout its lifetime, the contracting authority has the obligation to allow any interested economic operator to submit an indicative tender for the purpose of admission into the system.

(6). After receiving an indicative tender, the contracting authority shall check whether the tenderer meets the qualification criteria and whether the technical proposal submitted complies with the requirements in the tender dossier.

(7) The contracting authority has the obligation to complete the verification referred to in paragraph (6) within 15 days from the receipt of an indicative tender. The verification deadline may be prolonged provided that no invitation to tender is received in the meantime.

(8) Immediately after completion of the verification referred to in paragraph (6), the contracting authority has the obligation to inform the tenderer of its admission to the dynamic acquisition system or, as the case may be, of the decision to reject the indicative tender.

(9) For the purpose of awarding public procurement contracts through the dynamic acquisition system, the contracting authority has the obligation to publish, for each contract, a new simplified contract notice, whereby all interested economic operators are invited to submit indicative tenders.

(10) The contracting authority has the obligation to set a deadline for the submission of indicative tenders which may not exceed 15 days from the date of publication of the simplified notice referred to in paragraph (9).

(11) The contracting authority has the obligation to invite all bidders admitted to the dynamic acquisition system to submit a firm offer for the public contract to be awarded, setting a deadline for submission in this respect.

(12) The contracting authority is not entitled to invite tenderers to submit bids only after finalizing the verification of all indicative tenders submitted within the legal deadline.

(13) The contracting authority has the obligation to award the public contract to the tenderer who presents the most advantageous firm offer on the basis of the award criterion set out in the published notice for the launch of the dynamic purchasing system.

(14) The contracting authority is not entitled to misuse or improperly use the dynamic acquisition system in such a way as to prevent, restrict or distort competition.

(15) It is forbidden to charge interested economic operators or participants in the dynamic acquisition system.

(16) The contracting authority is not entitled to establish that the duration of a dynamic purchasing system exceeds 4 years, except in duly justified exceptional cases.

(17) Contracting authorities may resort to the application of the dynamic purchasing system for the award of the public procurement contract under the terms of this law and in the manner laid down in the regulation approved by the Government.

**Article 60.** Electronic auction

(1) The electronic auction is a repetitive process involving electronic means of presentation, in descending order, of new prices and of new values ​​related to certain elements of the bids, which occur after a first complete evaluation of the bids, allowing their classification based on automatic methods of evaluation. Certain public works contracts and certain public service contracts which have as their object intellectual activities, such as design of works, cannot be the subject of electronic auctions.

(2) The contracting authority may use the electronic auction for the award of the public procurement contract under the terms of this law and according to the manner set out in the regulation approved by the Government.

(3) The contracting authority has the right to use the electronic auction in the following situations:

a) as a final stage of the open tender, the restricted bid, the negotiation with the prior publication of a contract notice or the invitation to tender before the award of the public contract and only if the technical specifications have been precisely defined in the tender dossier Tasks;

b) resumption of competition between economic operators that have signed a framework agreement;

c) when submitting tender offers for the award of a public contract by using a dynamic purchasing system.

(4) The contracting authority has the obligation to announce the decision to use the electronic auction in the participation notice and in the awarding documentation.

(5) The contracting authority shall not be entitled to abuse or improperly use the electronic auction so that to:

a) prevent, restrict or distort competition;

b) modify the subject of the public procurement contract stipulated in the participation notice and in the awarding documentation.

(6) When intending to use an electronic auction, the contracting authority has the obligation to include in the information and instructions provided in art. 38 paragraph (1) the following specifics:

a) the elements of the bid to be subject to the repeat bidding process, provided that these items are quantifiable and can be expressed in figures or percentages;

b) the possible limits of the values ​​up to which the elements mentioned in letter a) can be improved, as they result from the specifications defining the object of the contract;

c) the information to be made available to tenderers during the electronic auction and when this information will be available;

d) relevant information about the electronic auction process;

e) the conditions under which tenderers will be entitled to bid, with particular reference to the minimum bidding step which, if appropriate, will be required to bid for new tenders;

f) the relevant information regarding the electronic equipment used, the technical conditions and the concrete ways of making the connection.

(7) Before launching an electronic auction, the contracting authority has the obligation to carry out an initial evaluation of tenders in accordance with the award criterion.

(8) The contracting authority shall have the obligation to invite all tenderers who have submitted appropriate tenders to submit new prices and / or, as the case may be, new values ​​of the elements of the tender. The invitation is sent electronically, simultaneously, to all these bidders.

(9) The invitation shall specify the date and time of the start of the electronic auction, as well as any information necessary to make the individual connection to the electronic equipment used.

(10) The contracting authority is not entitled to start an electronic auction earlier than 2 working days after the date when the invitations were sent.

(11) Where the contract is to be awarded on the basis of the most advantageous tender from a technical / economic point of view, the invitation must also contain information on:

a) the outcome of the first evaluation of the tender submitted by the successful tenderer;

b) the mathematical formula to be used to automatically determine the final ranking, based on the new prices and / or the new values ​​presented by the bidders. The mathematical formula used incorporates the weighting of the valuation factors to be applied to determine the most economically advantageous tender as specified in the participation notice or awarding documentation.

(12) Within the electronic auction, the repetitive bidding process refers to:

a) only at prices where the award criterion is the lowest price;

b) at prices and / or other elements of the tender, as provided for in the awarding documentation, where the award criterion is the most economically advantageous tender.

(13) Electronic auction takes place in several successive rounds.

(14) During each round of the electronic auction, the contracting authority has the obligation to instantly communicate to all bidders at least the information necessary for them to determine at any time their position in the ranking. The contracting authority has the right to communicate further information on:

a) the number of participants in the respective round of the electronic auction;

b) the prices or new values ​​submitted by the bidders in the bidding round, unless the awarding documentation provided for this possibility.

(15) During the bidding process, the contracting authority is not entitled to disclose the identity of the bidders.

(16) Electronic auction shall be completed by one of the following situations or by a combination thereof:

a) at a specified time in advance and communicated to the tenderers in the invitation to participate;

b) after a number of bidding rounds, the timetable of which has been precisely determined in advance and communicated to the tenderers in the invitation to participate;

c) when no new prices and / or new values ​​are met that meet the requirements for the minimum bidding step imposed. In this case, the invitation to participate must specify a deadline that will run from the receipt of the last tender to the completion of the electronic auction.

(17) The contracting authority shall have the obligation to award the public contract in accordance with art. 68, on the basis of the result obtained after the completion of the electronic auction.

**Chapter VIII**

**CONDUCTING PUBLIC PROCUREMENT PROCEDURES**

**Article 61.** Conditions for the tender presentation

(1) The contracting authority shall fix the place, date and time limit for the submission of tenders in accordance with the provisions of this law.

(2). Where the contracting authority provides clarifications on awarding documentation, modifies this documentation or holds a meeting of economic operators, the time limit for the submission of tenders may be extended so that economic operators have sufficient time to take into account the clarifications, Changes or provisions of the minutes of the meeting.

(3) Upon the expiry of the deadline for the submission of tenders, the contracting authority may, upon its decision, extend this period.

(4) The notice on the extension of the deadline for the submission of tenders shall be sent immediately to each economic operator who has submitted a request for participation or to whom the contracting authority has given him the awarding documentation and to the Public Procurement Agency.

(5) The submission of the offer involves the submission of 2 separate envelopes containing the "technical proposal" and the "financial proposal".

(6) The offer, written, signed and, if necessary, stamped, shall be submitted in accordance with the requirements set out in the awarding documentation. The contracting authority shall issue to the economic operator a receipt indicating the date and time of receipt of the offer or confirming receipt thereof in cases where the offer has been submitted by electronic means.

(7) The tender received by the contracting authority after the expiry of the deadline for the submission of tenders shall not be opened and shall be returned to the economic operator who submitted it.

**Article 62.** Opening of the tenders

(1) Opening of the tenders and their examination, assessment and subsequent comparison shall be carried out within the contracting authority’s competence and under its own responsibility.

2. Tenders shall be opened at the time specified in the awarding documentation as the closing date for the submission of tenders or at the time specified as the deadline for the extended period, irrespective of the number of tenderers, in place and in accordance with the procedures laid down in the awarding documentation. The bidders or their representatives are entitled to participate in the opening of the tenders.

(3) The name and contact details of each tenderer whose tender opens, the qualification documents and the cost of the offer shall be communicated to those present at the opening, as well as to those who have been absent or not represented at the opening, at their request.

**Article 63.** Offer validity, modification and revocation

(1) The offer shall be valid within the deadline specified in awarding documentation.

(2) Until the expiry of the term of validity of the tender, the contracting authority may propose to the tenderer to extend this period. The tenderer shall be entitled to:

a) reject the proposal without losing the right to withdraw the guarantee for its offer;

b) accept the proposal, extending the term of validity of the guarantee for its offer or offering new guarantees for the offer for the term of validity of the extended offer. If the tenderer has not extended the validity of the offer guarantee or has not offered a new offer guarantee, it is deemed to have refused to extend the validity of the offer.

3. Unless otherwise specified in the awarding documentation, the tenderer shall be entitled to amend or withdraw the tender before the expiry of the time limit for the submission of tenders, without losing the right to withdraw the offer guarantee. Such an amendment or notice of withdrawal of the offer shall be valid if it has been received by the contracting authority before the expiry of the time limit for the submission of tenders.

**Article 64.** The offer guarantee and the contract performance guarantee

(1) In the case of the purchase of goods, services and works, the economic operator will submit, together with the offer, the offer guarantee.

(2). The awarding documentation may stipulate the requirements of the contracting authority as to the admissibility of the offer guarantee guarantor or of the party confirming, if any, the form and conditions of the offer guarantee. The contracting authority will not reject the offer on the grounds that the guarantee has been submitted by a foreign issuer, if this does not contradict the law, provided that the offer and the issuer guarantee correspond to the requirements stipulated in the awarding documentation.

(3). Before submitting the tender, the economic operator may require the contracting authority to confirm the admissibility of the offeror of the offer guarantee or of the confirming party. The contracting authority must immediately react to such a request. This confirmation cannot prevent the contracting authority from rejecting the offer guarantee if the issuer or the party confirming it has become insolvent.

(4). The contracting authority shall specify in the awarding documentation the requirements vis-à-vis the issuer, the form, the amount and other basic conditions of the offer guarantee, as well as the requirements towards the economic operator which lodges the offer guarantee, where:

a) the economic operator withdraws or changes the tender after the deadline for the submission of tenders;

b) the successful tenderer does not sign the public contract;

c) the performance guarantee of the contract is not submitted after acceptance of the tender or no condition, specified in the awarding documentation, is executed before the signing of the public procurement contract.

(5) When purchasing goods and services with an estimated value of less than 400,000 MDL and works with an estimated value of less than 1500,000 MDL, the contracting authority is entitled not to require the economic operator to offer a guarantee for the offer. Where the contracting authority requires such a guarantee, the provisions of this Article shall be observed.

(6) The amount of the offer guarantee shall not exceed 2% of the value of the offer without value added tax.

(7) The contracting authority is not entitled to claim the payment of the offer guarantee and will immediately return the tender guarantee document after any of the following events occurred:

a) the expiry of the warranty for the offer;

b) the conclusion of a public contract and the deposit of the performance guarantee of the contract, if such a guarantee is provided in the awarding documentation;

c) suspension of the tender procedure without the conclusion of a public contract;

d) the withdrawal of the tender before the expiry of the time limit for the submission of tenders, if the awarding document does not provide for the inadmissibility of such withdrawal.

(8) Upon the purchase of goods, works and services, the contracting authority shall require that the tenderer submit, on conclusion of the contract, the performance guarantee thereof. The performance guarantee is repaid by the contracting authority at the time of the full execution of the public procurement contract.

(9) The contracting authority shall indicate in the awarding documentation the requirements with regard to the issuer, the form, the amount and other basic conditions of the performance guarantee of the contract.

(10). Before submitting the performance guarantee for the contract, the tenderer may request the contracting authority to confirm the admissibility of a proposed issuer of the guarantee or a party confirming it. The contracting authority must immediately react to such a request.

(11) When purchasing goods and services with an estimated value of less than MDL 400,000 and works with an estimated value of less than 1500,000 MDL, the contracting authority is entitled not to require the tenderers to guarantee the performance of the contract. If the Contracting Authority requires such a guarantee, the provisions of this Article shall be complied with.

(12) The amount of the performance guarantee of the contract shall not exceed 15% of the value of the contract for the procurement. In cases where the commercial additions are limited by a normative act, the amount of the performance guarantee shall not exceed the limit stipulated by the respective normative act.

**Article 65.** Bid examination, evaluation and comparison

(1) Bid examination, evaluation and comparison shall be carried out without the participation of the tenderers or their representatives. In order to facilitate bid examination, evaluation and comparison, the contracting authority may only ask the tenderer for written explanations of its tender. There are no changes to the offer, including its price, which would make the offer meet requirements it initially did not meet. The contracting authority shall correct only the arithmetical errors found in the tender during its examination, and shall notify the tenderer without delay.

(2) The contracting authority has the right to consider the offer in conformity if it contains insignificant deviations from the provisions of the awarding documentation, errors or omissions that can be removed without affecting its essence. Any deviation of this kind will be expressed quantitatively, as far as possible, and will be taken into account when evaluating and comparing bids.

(3) The contracting authority shall not accept the offer if:

a) the tenderer does not meet the qualification requirements;

b) the bidder does not accept the correction of an arithmetical error;

c) the offer does not meet the requirements set out in the awarding documentation;

d) the financial offer has no fixed price;

e) the offer is abnormally low according to art.66;

f) corruption was found to have been committed.

(4) In determining the winning bid, the contracting authority shall evaluate and compare the received offers using the manner and criteria set out in the awarding documentation. No unforeseen criteria will be used in awarding documentation.

(5) Where bid prices are expressed in two or more currencies, for the purpose of facilitating the evaluation and comparison of bids, the prices of all bids shall be recalculated in a single currency according to the rate set in the awarding documentation.

(6) If the tenderer does not execute the request of the contracting authority to reconfirm the qualification data for the conclusion of the contract, the offer is rejected and another winning bid is selected from the remaining tenders. At the same time, the contracting authority has the right to reject all other offers.

(7) The information on bid examination, evaluation and comparison shall not be disclosed to bidders or other persons not officially involved in these procedures or to the determination of the winning bid.

**Article 66.** The abnormally low offer

(1) An abnormally low offer may be the offer of goods, works or services at a significantly lower price compared to offers from other bidders or in relation to the goods, works or services to be supplied, executed or Provided that the tenderer fails to demonstrate his access to a special technology or more favourable market conditions which would enable him to offer such a low price for the offer.

(2) In the case of public works contracts, a tender is significantly lower than the tenders of other tenderers or in relation to the works to be performed if the bid price represents less than 85% of the value of the works, calculated by the authority Contracting entity in the established manner.

(3) The contracting authority is obliged to provide the economic operator with the opportunity to justify the abnormally low price. In the case of an offer with an apparently abnormally low price in relation to what is to be provided, executed or provided, the contracting authority is required to request the tenderer in writing and before taking a decision rejecting that tender, Details and clarifications which it considers relevant to the offer and to verify the responses justifying that price.

(4) The contracting authority has the obligation to take into account the justifications received from the tenderer, in particular those relating to:

a) the economic substantiation of the price formation process, the production process, the methods of execution used or the services rendered;

b) the technical solutions adopted and / or any particularly favourable conditions which the tenderer enjoys for the supply of the products, for the execution of the works or for the rendering of the services;

c) the originality of the offer in terms of meeting all the requirements set out in the specifications;

d) compliance with the provisions on work protection and working conditions applicable to the execution of the work, the provision of the service or the supply of the products;

e) the possibility for the tenderer to benefit from State aid.

(5) Where the contracting authority finds that a tender has an abnormally low price because the tenderer benefits from State aid, that offer will be rejected on that basis only if, following the clarifications requested, the tenderer is unable to demonstrate in a but not less than 3 days, determined by the contracting authority, that the state aid was legally granted.

(6) The provisions of paragraph (5) shall not apply to economic operators from countries which are party to the Government Procurement Agreement of the World Trade Organisation.

**Article 67.** Cancellation of a public procurement procedure

(1) The contracting authority shall, on its own initiative, cancel the procurement procedure if it takes this decision before the date of the communication of the outcome of the procurement procedure in the following cases:

a) it was not possible to ensure a satisfactory level of competition and the number of bidders / candidates is lower than the minimum number foreseen for each procedure;

b) none of the bidders met the qualification requirements provided in the awarding documentation;

c) in the case of public works contracts, the total value of each tender shall be:

- higher by at least 15% than the estimated value of the works, calculated in accordance with the legislation;

- less than 15% of the estimated value of the works, calculated in accordance with the legislation, provided that the tenderers have not been able to provide relevant justifications in accordance with Article 66 (4) and (5);

d) only inappropriate offers were submitted, which:

- are submitted after the deadline for submission of tenders;

- have not been developed and presented in accordance with the requirements of the awarding documentation;

- contain, in the financial proposal, prices which are not the result of free competition and cannot be reasonably substantiated;

- contain proposals on contractual clauses, proposals which are obviously disadvantageous to the contracting authority;

- exceeds by 30% the estimated value of the purchase, calculated according to the present law;

- have a value that exceeds the threshold stipulated by the present law for the public procurement procedure;

- through the value included in the financial proposal, exceed the amount of funds allocated to the public procurement contract;

e) a corrupt act was found, confirmed by the final decision of the court;

f) Bids submitted, although considered, cannot be compared because of the uneven approach to technical and / or financial solutions;

g) the existence of serious deviations from the legal provisions affects the award procedure or makes it impossible to conclude the contract. Serious deviations from the legal provisions mean that:

– the principles or rules on transparency and communication governed by this law have not been complied with; or

- during the analysis, assessment and / or finalization of the award procedure, errors or omissions are found and the contracting authority is unable to take corrective measures without leading to violation of the principles set out in Article 6.

(2) After the communication of the results of the application of the public procurement procedure, the cancellation of the procedure, in the cases provided for in paragraph (1), shall be carried out only by the National Agency for Dispute Settlement, including where an offer has been submitted After the deadline for submission of tenders, and the impossibility of filing in due time is solely due to the actions or inactions of the contracting authority.

(3) The decision to cancel the procurement procedure shall not give rise to any obligation on the part of the contracting authority or the Public Procurement Agency vis-à-vis the participants in the procedure, except for the return of the offer guarantee and the performance guarantee of the contract.

(4) The contracting authority has the obligation to communicate in writing to all the participants in the public procurement procedure, no later than 3 days after the cancellation of the procedure, both the cessation of the obligations they have created by submitting tenders and the reason cancellation.

*[Art.67 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Chapter IX**

**THE PUBLIC CONTRACT. THE REPORT ON THE PUBLIC PROCUREMENT PROCEDURE. CONFLICT OF INTERESTS**

**Article 68.** The principles of awarding the public contract

The public contract shall be awarded on the basis of the following principles:

a) respect for law, order of law, good morals and professional ethics;

b) selecting the most advantageous offer;

c) ensure environmental protection and support for social programs in the execution of the contract.

**Article 69.** Special conditions for the execution of the public contract

The special conditions for the execution of a public contract must be laid down in the notice / invitation to tender or in the tender specifications. They can, in particular, aim at encouraging workplace training, employing the unemployed, young people and people with integration difficulties, reducing unemployment, training the unemployed and young people, protecting the environment, improving conditions Employment and occupational safety, development of the rural environment and training of farmers, protection and support of small and medium-sized enterprises, including during the execution of the contract and under subcontracting.

**Article 70.** The public contract

(1) The public contract shall be concluded in accordance with the procurement procedures provided for by this Law for the full amount of a procurement per year under the procurement plan and within the limits of approved allocations.

(2) The notification of the winning bid and the conclusion of the public procurement contract shall be made in accordance with art.30.

(3) The bidders are informed, when bidding, about the conditions for the conclusion of the public procurement contract.

(4) It shall be forbidden, at the moment of the conclusion of the public procurement contract, to change some elements of the winning bid, to impose new requirements on the winning bidder or to involve any other tenderer than the one who submitted the most advantageous tender.

(5) The term of execution of the public procurement contract shall be established in the awarding documentation and subsequently transposed into the contract taking into account the reasonable needs of the contracting authority. It will be calculated taking into account the complexity of the proposed acquisition, the anticipated subcontracted quantity and the actual time required for the production, storage and transport of the goods at the points of delivery or for the provision of the services.

(6) The conditions for the execution of the public procurement contract shall not include clauses, directly or indirectly, discriminatory.

(7) The public contract and / or the framework agreement shall be concluded between the contracting authority and the tenderer / tenderers whose tender has been awarded the winning bid.

*[Para. (8) and (9) art.70 repealed by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

(10) The public contract and the contract concluded following the bidding procedure are registered in one of the Ministry of Finance's territorial treasuries if the management of the financial sources is carried out through the treasury system.

(11) Contracts not registered under paragraph (10) shall not have legal power.

*[Art.70 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 71.** Subcontracting

In the contract documents, the contracting authority may require the tenderer to indicate in its tender the part of the contract it intends to subcontract to third parties as well as the proposed subcontractors, including small and medium-sized enterprises. This clarification does not exempt the main tenderer from responsibilities.

**Article 72.** Prohibition of division or increase of public procurement

(1) The contracting authority shall not be entitled to divide the acquisition by concluding separate public procurement contracts for the purpose of applying a different public procurement procedure other than the procedure that would have been used in accordance with this law if the acquisition had not been split. The exception is the purchase of seasonal goods and services, which requires the conclusion of separate contracts for different periods of time. For purchases of goods, works and services for a period of more than one year, the contract may be concluded for the entire acquisition, but its performance is to be ensured within the limits of the annual allocations provided for these purposes and specified annually in the contract.

(2) The contracting authority shall not be entitled to increase the volume of goods, works and services established by the public procurement contracts concluded in order to avoid new acquisitions, except in the cases provided by the present law.

(3) The assignment of debt (debt) and the modification of any element of the public procurement contract concluded or the introduction of new elements is prohibited if such actions are such as to change the conditions of the offer which formed the basis for its selection and to increase its value.

(4) In the event of public procurement contracts with a continuous execution of more than one-year period, it is permissible to periodically adjust the value of the contract according to the procedure established by the Government, taking into account the change in prices of the components of the cost price of the goods, works or services Are the subject of the contract.

(5) The economic operator shall unconditionally execute the terms of the concluded public procurement contract, respecting the quality requirements and the established price. Non-fulfilment or inadequate performance of contractual obligations entails the liability of the economic operator under the law and clauses of the public procurement contract.

(6) With regard to the head of the contracting authority who has not applied or failed to take action to impose sanctions on the economic operator who has not or has been inadequately fulfilled the provisions of the public procurement contract, the bodies competent for the control functions shall apply sanctions in accordance with legislation.

**Article 73.** Report on the public procurement procedure

(1) The report on the public procurement procedure, as well as the cancellation of a public procurement procedure shall be drawn up by the contracting authority and submitted to the Public Procurement Agency within 5 days from the date of conclusion of the contract or from the date of issuance of the decision to cancel the procurement procedure. The report will contain:

a) a brief description of the goods, works and services for which the contracting authority has requested tenders;

b) explanation of the reasons for choosing the respective public procurement procedure in the case of procedures other than the open tender;

c) the name and contact details of the tenderers, as well as the name and contact details of the economic operator with whom the public contract is concluded, the price of this contract;

d) the tenderers' qualification data;

e) the price of the bids or the basis of its determination, the brief exposition of other essential conditions of each bid and of the contract;

f) summary of evaluation and comparison of offers;

g) the respective decision with the appropriate arguments, if all offers are rejected;

h) the names of rejected candidates or tenderers and the reasons for their rejection;

i) the reasons for the rejection in the case of rejection of the offer in accordance with the provisions of art.40;

j) reasons for rejection of bids considered abnormally low;

k) a summary of the steps in which clarifications on the pre-selection or awarding documents have been requested, the summaries of the replies to them and the summary of any changes made to these documents;

l) the grounds for cancellation of the public procurement procedure in cases where the procedure has been cancelled.

(2) The report on the public procurement procedure is a public document. The access of persons to this information may be limited, according to the provisions of the Law no.171-XIII of July 6, 1994, regarding the commercial secret or the Law no. 245-XVI of 27 November 2008 on the state secret, only insofar as this information shall include, in particular, technical or commercial secrets or contain confidential aspects of the tenders.

*[Art.73 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 74.** Rules to avoid conflicts of interest

(1) During the procedure for awarding the public procurement contract, the contracting authority has the obligation to take all necessary measures to avoid situations likely to cause the occurrence of a conflict of interest and / or the manifestation of unfair competition.

(2) The natural or legal person who participated in the preparation of the awarding documentation shall be entitled, as an economic operator, to be a tenderer, an associated tenderer or a subcontractor but only if its involvement in the preparation of the awarding documentation is not Nature to distort competition.

(3) The natural or legal person who participates directly in the process of verifying and evaluating tenders / tenders is not entitled to be a candidate, tenderer, associate tenderer or subcontractor, subject to the exclusion from the award procedure.

(4) The member of the working group shall have the obligation to sign, on his / her own responsibility, a confidentiality and impartiality statement, under which he undertakes to comply unconditionally with the provisions of this law and also confirms that:

a) is not a spouse, relative or son, up to the third degree inclusive, with one or more persons employed by the tenderer / bidder or one or more founders thereof;

b) during the last 3 years he has not worked on the basis of the individual labour contract or other document proving the working relations with one of the bidders or not belonging to the board of directors or any other management or administrative body thereof;

c) does not hold shares or shares in the subscribed share capital of the bidders.

(5) Should one of the members of the working group find, before or after the opening of the tenders, that they are in one or more of the situations specified in paragraph (4), they shall immediately request their replacement in the composition of the group with another person.

(6) In case of non-observance of the provisions of paragraphs (4) and (5), The Public Procurement Agency shall have the right to cancel the public procurement procedure.

(7) The working group shall carry out its activities in accordance with the provisions of this law and the regulation approved by the Government.

**Chapter X**

**DISPUTE SETTLEMENT AND LEGAL LIABILITY**

**Article 75.** Organisation and functioning of the National Agency for Dispute Settlement

(1) The National Agency for Dispute Settlement is an independent and autonomous public authority with regards to other public authorities, in relation to natural and legal persons, which examines the objections raised in the public procurement procedures.

(2) The National Agency for Dispute Settlement is a legal entity governed by public law, financed by the state budget within the limits of budgetary allocations approved by the annual budget law, and has a stamp with the image of the State Coat of Arms of the Republic of Moldova.

(3) The National Agency for Dispute Settlement shall have organizational, functional, operational and financial independence. Its budget shall be elaborated, approved and administered in accordance with the principles, rules and procedures laid down in the Public Finance Act and the fiscal-fiscal responsibility no.181 of July 25, 2014.

(4) The National Agency for Dispute Settlement shall submit to the Parliament, by 15 March of each year, an annual performance report, including data and analysis of cases of dispute resolution.

(5) At the request of the Parliament, the National Agency for Dispute Settlement shall submit reports for a period of less than one year. The National Agency for Dispute Settlement may also submit to Parliament other reports deemed necessary.

(6) The report referred to in paragraph (4) shall be published on the website of the National Agency for Solving Complaints within 7 days from the date of its submission to the Parliament.

(7) The National Agency for Dispute Settlement is independent and cannot be subordinated to any other public authority or institution, having the obligation to defend the legitimate rights and interests of all parties involved in appeals submitted for settlement without any privilege or discrimination. Decisions of the National Agency for Settlement of Complaints may be appealed to the court.

(8) The National Agency for Dispute Settlement is apolitical, does not support or assist any political party.

(9) The regulation on the organization and functioning of the Agency, its structure and the limit of its effectiveness shall be approved by Parliament's decision.

*[Art.75 in the wording of* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 751.** Staff of the National Agency for Dispute Settlement

(1) The National Agency for Dispute Settlement shall consist of seven counsellors (hereinafter referred to as counsellors), including the general manager and the deputy general manager, who have the status of persons with public dignity.

(2) The counsellors shall be appointed by Parliament with the vote of the majority of the deputies present at the proposal of the Parliament's Committee on Economy, Budget and Finance.

(3) The selection of advisers is based on professional skills, as a result of an open, impartial and transparent competition organized by the Economic, Budget and Finance Committee.

(4) At least half of the counsellors must hold a law degree.

(5) The person who collectively meets the following requirements may claim as a counsel for the resolution of appeals:

a) holds the citizenship of the Republic of Moldova;

b) has full exercise capacity;

c) holds a higher education diploma;

d) has at least 10 years of work experience in the legal, economic or technical field and at least 3 years' experience in the field of public procurement;

e) possesses the state language;

f) is not private, by a final court decision, of the right to occupy certain positions or to exercise a certain activity;

g) is not a member of a political party.

(6) The counsellor shall not be entitled to:

a) carry out commercial activities directly or through intermediaries;

b) be a shareholder or member of the management, administrative or supervisory body in commercial companies, including banks and other credit institutions, insurance institutions, financial corporations, state-owned or joint stock companies with state capital;

c) hold any other public or private remunerated position, except those related to teaching, scientific research or to literary and artistic creation;

d) carry out any other professional activities.

(7) The counsellor may not participate in the settlement of an appeal against any potential conflict of interest.

(8) The counsellor is not entitled to participate in the appeal procedure if he / she is in one of the following situations, for which reason the decision issued will be hit by absolute nullity:

a) is a spouse, a relative or a son, up to the second degree, including any one of the parties, or the spouse, relative or a relative of the second degree, including where the counsellor has any interest in settling the appeal;

b) there was a business or work relationship between the counsellor and one of the parties in the previous 2 years since the appeal was settled;

c) made public statements related to the appeal to be resolved;

d) has received or has been promised goods or advantages of any kind by one of the parties.

(9) The counsellor shall be required to:

a) carry out its duties objectively, respecting the principles of legality, impartiality, independence, equal treatment, non-discrimination with regard to all economic operators and contracting authorities;

b) vote by "pro" or "against", the abstaining from the vote being excluded, unless it is in a conflict of interests that has been declared;

c) communicate in writing to the President of the Complaints Board any situation that might incite incompatibility with the mandate he exercises;

d) submit, in accordance with the law, a declaration of assets and personal interests.

(10) The counsel's mandate shall cease in the case of:

a) resignation;

b) revocation;

c) expiry of the mandate;

d) reaching the retirement age;

e) death.

(11) Parliament may revoke an adviser in the case of:

a) non-compliance with the requirements of paragraph (5);

b) the final sentence of the conviction;

c) violation of the obligations stipulated in paragraphs (6) - (9);

d) the impossibility for health reasons, ascertained by medical examination, to perform their duties for more than 4 consecutive months;

e) declaring the disappearance without trace, according to the law.

(12) The Director General of the National Agency for Settlement of Complaints shall be obliged to submit to the Parliament a proposal on the termination or, as the case may be, on the revocation of the counselling mandate, including the deputy general manager, immediately after having learned of the situation provided for in paragraph (10); and (11).

(13) If the mandate of an adviser has expired, he shall remain in office until the appointment of his / her successor, but not more than 6 months after the expiry date of the counsellor.

(14) The termination of the counsel's mandate for the settlement of appeals shall be approved by the Parliament.

(15) The proposal to revoke the term of office of the Director-General may be sent to Parliament by a group of at least three councillors if it finds the existence of a situation under paragraph (11).

*[Art.751 introduced by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 76.** The right to appeal

(1) Any person who has or has had an interest in obtaining a public procurement contract and who considers that an act of the contracting authority has, in the course of a public procurement procedure, undermined his right under the law, which he has incurred or can sustain Is entitled to challenge the act in the manner established by this law.

(2) For the purposes of paragraph (1), an act of the contracting authority shall mean any administrative act, any other act or omission which produces or has legal effects in connection with the public procurement procedure.

(3). Any reference in the course of this chapter to the application of the procurement procedure shall include all cases falling within the scope of the provisions of this law.

(4) The settlement of the contestations regarding the assignment of the sectoral contracts for which the specific legislation refers to the application of the present law shall be carried out in accordance with this chapter.

*[Art.76 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 77.** Submitting an appeal

(1) The injured economic operator may refer the matter to the National Agency for Dispute Settlement for the annulment of the act and / or the recognition of the claimed right or of the legitimate interest by filing a challenge within:

a) 10 days from the day following the acknowledgment, under the present law, of an act of the contracting authority considered unlawful, if the value of the contract to be awarded, estimated according to the provisions of Article 3, is equal to or higher than the thresholds provided for in Article 2 (3);

b) 5 days from the day following the acknowledgment, under the present law, of an act of the contracting authority considered unlawful, if the value of the contract to be awarded, estimated according to the provisions of Article 3, is less than the thresholds Referred to in Article 2 (3).

(2) The submission of an appeal relating to acts of the contracting authority which are issued or held prior to the opening of the tenders shall be performed in compliance with the time limits set out in paragraph (1) of this article, but not later than the deadline for the submission of tenders established by the contracting authority, and in compliance with the provisions of Article 34.

(3) Where the objection referred to in paragraph (1) concerns documents published electronically, the date of acknowledgment shall be considered the date of their publication.

(4) The complaint shall be filed in written form in the state language, signed and stamped, as appropriate, and shall contain:

a) the name, domicile or residence of the contestant or, for legal persons, the full name of the economic operator, the name and surname of his representative, a copy of the document confirming the powers of attorney, the legal address and the contact details;

b) name of contracting authority, legal address and contact details;

c) the name of the object of the public procurement contract and the award procedure applied;

d) the essence and basis of the appeal, indicating the rights and legitimate interests of the contestant violated in the public procurement procedure;

e) the nomenclature of the documents attached to the appeal.

(5) The contestant shall attach to the appeal and the copy of the contested act, if it has been issued, as well as copies of the documents referred to in paragraph (4), if available.

(6) If the National Agency for Dispute Settlement considers that the information contained in paragraph (4) is not included in the appeal, it will ask the contestant to complete the appeal within 5 days of the notification to know this situation. If the contestant does not comply with the obligation imposed by The National Agency for Dispute Settlement, the appeal is rejected. The appeal filed in breach of the time limits set out in paragraphs (1) and (2) shall also be rejected.

**Article 78.** The procedure for examining appeals

(1) The National Agency for Dispute Settlement shall be competent to resolve disputes concerning public procurement procedures under its organization and operation regulations.

(2) In the exercise of its duties, the National Agency for Dispute Settlement shall take decisions.

(3) The procedure for the examination of appeals shall be conducted in accordance with the principles of legality, simplicity, contradictory nature and the right to a fair hearing.

(4) In order to resolve the dispute, the National Agency for Dispute Settlement may request the contracting authority's point of view.

(5) Within one working day of receipt of the request referred to in paragraph (4), the contracting authority shall notify it and the other participants in the award procedure. The notice must be accompanied by a copy of the appeal.

(6) All notifications or communications of procedural documents are made with an acknowledgment of receipt.

(7) Complaints made under the same award procedure may be joined by the National Agency for Dispute Settlement to pronounce a unitary solution.

(8) Until the Dispute Settlement has been resolved by the National Agency for Dispute Settlement, participants in the same award procedure may be associated with the appeal through a personal appeal which must contain all the elements provided in Article 77 (4).

(9) The contracting authority has the obligation to send to the National Agency for Solving Complaints its point of view of the contestation within maximum 5 working days from the date of receipt of such a request, accompanied by any other documents considered as edifying, as well as the public Procurement file, with the exception of the advertisements published in the "SRPP" AIS and the awarding documentation when it is available and can be downloaded directly from the Internet. The absence of the contracting authority's point of view does not prevent the appeal from being settled.

(10) The contracting authority shall notify its point of view and the contestant within the time limit provided for in paragraph (9).

**Article 79.** The appeals settlement process

(1) In order to resolve the dispute, the National Agency for Dispute Settlement has the right to request clarification from parties, to administer evidence and to request any other data / documents insofar as they are relevant to the subject matter of the dispute. Also, the National Agency for Dispute Settlement has the right to request any data necessary to resolve the dispute and from other natural or legal persons.

(2) The application of the provisions of paragraph (1) shall not lead to the exceeding of the deadline for solving the contestation provided in paragraph (10).

(3) The contracting authority has the obligation to respond to any request of the National Agency for Solving Complaints and to send to it any documents other than those mentioned in art.78 paragraph (9), which are relevant for the settlement of the appeal, in a Which may not exceed 5 working days from the date of receipt of the request.

(4) The National Agency for Dispute Settlement may designate an independent expert to clarify technical or financial issues. The duration of the expertise must be within the deadline set by the National Agency for Dispute Settlement for the settlement of the appeal. The cost of the expertise will be borne by the requesting party.

(41) The counsellors shall operate in panels of three members. The president of each faculty must hold a law degree.

(42) The composition of the panels, including the Chairmen, shall be approved by order of the Director-General of the Agency for a specified period. The same composition of the panel, including the Chair, may be kept for not more than two consecutive periods.

(43) The meetings of the groups shall be led by their presidents and recorded in the minutes, signed by all members.

(44) The meetings of the panels shall be deliberative with the presence of all the members.

(45) Decisions within the panels shall be adopted by majority vote. Members who voted against may register a separate opinion in the minutes of that meeting. No one has the right to influence decisions or to interfere with the decisions of the completeness for the resolution of appeals, each counsellor voting in his own conviction based on the legal provisions.

(46) The secretarial works of the teams are provided by the responsible subdivision in accordance with the regulations of the National Agency for the Solving of Complaints.

(5) The correspondence on the procedure for settling the appeal shall only be made in writing.

(6) Parties may be represented by lawyers and may make written submissions during the proceedings. The parties may also request to make oral submissions to the National Agency for Settlement of Complaints without prejudice to the deadlines provided for in paragraph (10).

(61) The National Agency for Dispute Settlement will hold open sessions for the examination of appeals and will ensure the publication on the website of the information on the date and venue of the sessions with 3 working days before the date on which they will take place.

(7) In duly justified cases and to prevent imminent damage, the National Agency for Dispute Settlement may decide to suspend the procurement procedure by decision within 3 days, including at the request of the interested party.

(8) For the purposes of paragraph (7), the National Agency for Dispute Settlement shall resolve the request for suspension, taking into account the consequences of this measure on all categories of interests that may be harmed, including the public interest.

(9) The decision provided for in paragraph (7) may be challenged in the competent court, separately, within 5 days from the communication.

(10) The National Agency for Dispute Settlement shall settle the appeal within 20 working days from the date of receipt of the appeal, and in the event of an exception preventing the substantive examination of the appeal under Article 80 (1) shall be displayed within 10 days. In duly justified cases, the deadline for settling the appeal may be extended once only by 10 days.

(11) The contracting authority is not entitled to conclude the public contract until a final decision on the appeal has been issued by the National Agency for Dispute Settlement.

*[Art.79 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 80.** Solutions that the National Agency for Dispute Settlement may issue

(1) The National Agency for Dispute Settlement first takes a decision on the cases of restitution of the appeal, and when it is found that they are well founded, the substantive examination of the case is no longer under way.

(2) In the examination of the appeal, The National Agency for Dispute Settlement:

A) allows the contestation, in whole or in part;

B) dismiss the appeal.

(3) The National Agency for Dispute Settlement examines the lawfulness and merits of the contested act and may take a decision annulling it in whole or in part, obliging the contracting authority to issue an act or order any other measure necessary to remedy the acts affecting the award procedure. Where the National Agency for Dispute Settlement has amended / removed any technical specifications in the specifications or other documents issued in connection with the award procedure, the contracting authority has the right to cancel the award procedure under the conditions of Article 67.

(4) If the National Agency for Dispute Settlement considers that, other than the acts contested in the award procedure, there are other acts that are in breach of the provisions of the present law not referred to in the appeal, it will refer the matter to the Public Procurement Agency, transmitting to them all relevant data / documents in support of the referral.

(5) If the National Agency for Dispute Settlement accepts the appeal and orders that a remedy be taken to remedy the contested act, it shall also specify the period within which that measure must be carried out and which shall not be longer than the exercise period of the appeal against the decision of the National Agency for Solving Complaints.

(6) Depending on the solution, the National Agency for Dispute Settlement will decide on the continuation or cancellation of the public procurement procedure, including the cancellation of the concluded public procurement contract. In cases where it decides to cancel, it shall be carried out under the conditions of Art.67.

(7) The National Agency for Dispute Settlement may take action, at any time during the settlement of the appeal, to waive it by the contestant.

(8) The National Agency for Dispute Settlement may not decide to award a contract to a particular economic operator.

(9) The decision of the National Agency for Solving Complaints, including the justification of the decision, shall be communicated to the parties in writing, within 3 days from the date of the decision. The decision is published on the website of the National Agency for Solving Complaints in the same term.

(10) The decision by which the National Agency for Dispute Settlement has ordered remedial measures shall be submitted to the Public Procurement Agency, which shall be obliged to monitor the fulfilment of the remedial measures.

(11) The decision by which the National Agency for Dispute Settlement annuls in whole or in part the contested act is binding on the contracting authority.

(12) The decision of the National Agency for Solving Complaints shall be binding on the parties. The public contract concluded with non-compliance with the decision of the National Agency for Solving Complaints is hit by absolute nullity.

(13) The decision of the National Agency for Solving Complaints on the settlement of the appeal may be appealed in the competent court.

*[Art.80 amended by* *Law no.229 of 23.09.2016**, in force 01.01.2017]*

**Article 81.** Disputes

The proceedings and requests for the execution, nullity, annulment, rescission, termination or unilateral termination of public procurement contracts shall be settled by the competent court.

**Article 82.** Dispute settlement

(1) In duly justified cases and in order to prevent imminent damage, the competent court may, pending the outcome of the case, order the suspension of the performance of the public procurement contract, including at the request of the interested party.

(2) The court finds the nullity of the public procurement contract in the following cases:

a) the contracting authority has awarded the contract without complying with the obligations related to the publication of a notice or an invitation to participate, according to the provisions of the present law;

b) the provisions of Article 31 have been breached if the violation has deprived the economic operator concerned of the possibility to lodge an appeal before the conclusion of the contract if this infringement is combined with the violation of other provisions on public procurement, the latter infringement has affected the chances of the economic operator concerned to obtain the contract;

c) the contracting authority has not complied with the provisions of art.58 paragraph (19) or of art.59 (13) - (17).

(3) By way of exception to the provisions of paragraph (2), if, after considering all relevant aspects, the court considers that overriding reasons of general interest require that the effects of the public procurement contract be maintained, it shall impose alternative sanctions as follows:

a) limiting the effects of the contract by reducing its execution time; and / or

b) the application of a fine to the contracting authority between 2% and 15% of the value of the contract, the amount of which is inversely proportional to the possibility to limit the effects of the contract according to the provisions of letter a).

(4) When applying the alternative sanctions provided for in paragraph (3), the court shall take into account that they are effective, proportionate and dissuasive.

(5) The economic interests related to the capacity of the public procurement contract to take effect shall be taken into account as an imperative reason only if, in exceptional circumstances, the absence of effects would lead to disproportionate consequences. Economic interests directly related to the contract, such as the costs arising from delays in the execution of the contract, the costs generated by the launch of a new award procedure, the costs of changing the economic operator who will fulfil the contract or the costs of legal obligations arising from the absence the effects of the contract, are not overriding reasons of general interest.

(6) In all cases where the sanction of invalidity provided for in paragraph (2) cannot have retroactive effect, since the abolition of already fulfilled contractual obligations is impossible, the court shall also apply the sanction provided in paragraph (3).

(7) In the event of a violation of the provisions of Article 31 which is not subject to paragraph (2) (b) of this Article, the court may decide, after examining all relevant aspects, whether it will find the nullity of the contract or whether it is sufficient to have alternative sanctions, such as those referred to in paragraph 3 of this Article.

(8) The provisions of paragraph (2) letter a) shall not apply when the contracting authority, considering it to be in one of the situations provided by the present law in which it is entitled not to submit for publication a notice / invitation to participate, proceeded as follows:

a) has voluntarily published a notice in the Public Procurement Bulletin, AIS "SRPP" and / or in the Official Journal of the European Union to ensure transparency, expressing its intention to conclude the public contract;

b) has concluded the contract by observing, on its own initiative, the provisions of art.31 paragraph (1), the terms flowing in this case from the date of publication of the notice referred to in letter a) of this paragraph.

(9) The provisions of paragraph (2) letter c) shall not apply when the contracting authority, considering that it has complied with the provisions of Article 58 (19) or, as the case may be, of Article 59 (13) - (17), proceeded as follows:

a) has communicated to the tenderers involved the decision to award the public procurement contract, subject to the provisions of Article 30 (1), (4) and (5), subject to the provisions of Article 73 (3); and

b) has concluded the contract by observing, on its own initiative, the provisions of art.31 paragraph (1) and art.30 paragraph (4), the terms flowing in this case from the date of transmission of the communication referred to in letter a) of this paragraph.

(10) The declaration of nullity of the public procurement contract in accordance with paragraph (2) may also be requested by a separate application within:

a) no more than 30 days starting the following day:

- the publication of the contract award notice in accordance with the provisions of Article 29, provided that such notice contains the justification of the contracting authority's decision to award the contract without prior publication of a contract notice in the Procurement Notice or, as the case may be, in the Journal Official Journal of the European Union; or

- informing the contracting authority of the tenderers and candidates concerned about the conclusion of the contract, provided that the information is accompanied by a summary of the relevant reasons set out in Article 30. This option also applies in the cases referred to in Article 31 (3) (c);

b) at most 6 months from the day following the conclusion of the contract, in cases where the conditions stipulated in letter a) have not been met.

(11) To the extent that an economic operator has not used an appeal, the Public Procurement Agency and other competent authorities have the right to request the court to find the absolute nullity of the public procurement contract for the following reasons:

a) the contracting authority has awarded the contract without complying with the obligations related to the publication of an announcement / invitation to participate in accordance with the provisions of the present law;

b) the provisions of art.31 paragraph (1) and art.30 paragraph (3) have been violated;

c) the contracting authority has not complied with the provisions of art.58 paragraph (19) or of art.59 paragraphs (13) - (17);

d) the public contract was concluded in breach of the minimum requirements stipulated by the contracting authority in the tender book or, although the respective requirements are met, the contract was concluded under conditions less favourable than those provided in the technical and / or financial proposals that constituted the declared winning bid;

e) when, while pursuing the acquisition of the supply of a product, the execution of a works or the performance of a service which would constitute the contract in the category of public contracts, the contracting authority concludes another type of contract or does not conclude any contract, the award procedures provided by this law;

f) the public contract was concluded in disregard of the provisions of art.74 paragraph (5);

g) the required qualification and selection criteria and / or the assessment factors provided in the notice / invitation to participate have not been met;

h) the modification of the contract has led to the diminution of the advantages and, where appropriate, of the valuation factors underlying the declaration of the winning bid.

(12) In the case of the request referred to in paragraph (11), the court may, pending the settlement of the case, order suspension of the execution of the public procurement contract.

**Chapter XI**

**FINAL AND TRANSITIONAL PROVISIONS**

**Article 83.** Entry into force

(1) This law shall enter into force within 9 months of the date of publication.

(2) The provisions of Article 4 (2) - (4), Article 27 (2), Article 28 paragraph (2), Article 29 paragraph (3), Article 45 paragraph (2), Article 49 (2), Article 52 (6), Article 53 (5), Article 56 (7) shall enter into force on 1 January 2019.

(3) The public procurement contracts in progress and the awarding procedures in progress at the date of entry into force of this law shall be finalized on the basis of the legal provisions in force at the date of their initiation.

*[Art.83 amended by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

**Article 84.** Repeal

On the date of entry into force of this law, Law no.96-XVI of 13 April 2007 on public procurement, with its subsequent amendments and supplements, shall be repealed.

**Article 85.** Organisation of execution

The Government, within 9 months from the date of publication of this law, shall:

- submit to the Parliament proposals to bring the legislation into line with this law;

- bring its normative acts in accordance with this law;

- ensure the elaboration and approval of the normative acts provided by the present law.

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| **THE PRESIDENT OF THE PARLIAMENT** | **Andrian CANDU** |
| **No.131. Chisinau, 3 July 2015.** |

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| Annex no.1  |
| **Category number** | **Services** | **CPC reference numbers 1)** | **CPV reference numbers** |
| 1 | Repair and maintenance services | 6112, 6122, 633, 886 | from 50100000-6 to 50884000-5 (except from 50310000-1 to 50324200-4 and 50116510-9, 50190000-3, 50229000-6, 50243000-0) and from 51000000-9 to 51900000-1 |
| 2 | Land transport services 2), including armoured vehicles and courier services, except for mail transport | 712(except 71235), 7512, 87304 | from 60100000-9 to 60183000-4 (except 60160000-7, 60161000-4, 60220000-6) and from 64120000-3 to 64121200-2 |
| 3 | Air transport services: passenger and freight transport, except mail transport | 73(except 7321) | from 60410000-5 to 60424120-3 (except 60411000-2, 60421000-5) and 60500000-3; from 60440000-4 to 60445000-9 |
| 4 | Transport of mail by land 2) and plane | 71235, 7321 | 60160000-7, 60161000-4, 60411000-2, 60421000-5 |
| 5 | Telecommunication services | 752 | from 64200000-8 to 64228200-2, 72318000-7 and from 72700000-7 to 72720000-3 |
| 6 | Financial services:a) insurance services;b) banking and investment services3) | ex.81, 812, 814 | from 66100000-1 to 66720000-33) |
| 7 | Computer services and related services | 84 | from 50310000-1 to 50324200-4;from 72000000-5 to 72920000-5 (except 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4 |
| 8 | Research and development services 4) | 85 | from 73000000-2 to 73436000-7 (except 73200000-4, 73210000-7, 73220000-0) |
| 9 | Accounting, auditing and bookkeeping services | 862 | from 79210000-9 to 79223000-3 |
| 10 | Market research and opinion polling services | 864 | from 79300000-7 to 79330000-6 and 79342310-9, 79342311-6 |
| 11 | Management consulting 5) and related services | 865, 866 | from 73200000-4 to 73220000-0; from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4, 79342300-6, 79342320-2, 79342321-9, 79910000-6, 79991000-7, 98362000-8 |
| 12 | Architectural services; Engineering services and integrated engineering services; Urban planning services and landscaping architectural services; Related scientific and technical consultancy services; Testing and technical analysis services | 867 | from 71000000-8 to 71900000-7 (except 71550000-8) and 79994000-8 |
| 13 | Advertising services | 871 | from 79341000-6 to 79342200-5 (except 79342000-3 and 79342100-4) |
| 14 | Cleaning services for buildings and property management services | 874, 82201-82206 | from 70300000-4 to 70340000-6 and from 90900000-6 to 90924000-0 |
| 15 | Publishing and printing services against a fee or contract | 88442 | from 79800000-2 to 79824000-6;from 79970000-6 to 79980000-7 |
| 16 | Domestic and household waste disposal services; Hygiene services and similar services | 94 | from 90400000-1 to 90743200-9 (except 90712200-3);from 90910000-9 to 90920000-2 and 50190000-3, 50229000-6, 50243000-0 |
|  **Note:**1) CPC nomenclature (provisional version) used to define the scope of Directive 92/50 / EEC.2)Except for rail transport services covered by CPC category 18 (provisional version).3) Except for contracts for the purchase of financial services relating to the issue, purchase, sale and transfer of securities or other financial instruments and services provided by central banks. Contracts which have as their object the acquisition or putting into service, whether financial, land, existing or other immovable property, or which concern rights thereon, are also exempt; However, financial service contracts entered into at the same time, before or after the conclusion of the contract which concerns the acquisition or putting into service in any form, is governed by this law.4) Except for research and development procurement contracts other than those where the benefits are exclusively for the contracting authority for use in the conduct of their own activities, provided that the service provided is fully remunerated by the contracting authority.5) Except arbitration and conciliation services. |

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| Annex no.11  |
| **NACE1)** | **CPV CODE** |
| **SECTION F** | **CONSTRUCTION** |
| **Division** | **Group** | **Class** | **Description** | **Note** |
| 45 |  |  | Construction | This division includes: building construction and new works, restoration and current repairs | 45000000 |
|  | 45.1 |  | Site preparation |  | 45100000 |
|  |  | 45.11 | Demolition and earthworks | This class includes:- demolition of buildings and other constructions;- building sites;- earthworks: excavation, filling, levelling of construction sites, digging ditches, removing rocks, dynamics, etc.;- Preparation of mining sites;- Soil removal and other development and preparation of land and mining sitesThis class also includes:- drainage of construction sites;- drainage of agricultural and forestry land | 45110000 |
|  |  | 45.12 | Drives and surveys | This class includes:- experimental surveys;- experimental drilling and excavation drills for geological, geological, geological or other similar studies.This class does not include:- drilling of oil or natural gas extraction wells, see 11.2;- drilling of water wells, see 45.25;- digging wells, see 45.25;- prospecting of oil and natural gas fields as well as geophysical, geological and seismic studies, see 74.2 | 45120000 |
|  | 45.2 |  | Works for complete or partial construction and civil engineering work |  | 45200000 |
|  |  | 45.21 | Construction work | This class includes:- construction of buildings of all types and construction of public works;- bridges (including those designed to support suspended roads), viaducts, tunnels and underground passages;- transport pipelines, communication lines and long-distance electricity transmission lines;- transport pipelines, communications and power lines for urban networks;- related urban development works;- assembling and building prefabricated works on site.This class does not include:- services related to the extraction of crude oil and natural gas, see 11.20;- the construction of prefabricated works of elements other than concrete, manufactured by the work unit, see 20, 26 and 28;- construction of equipment (other than buildings) for stadiums, swimming pools, sports halls, tennis courts, golf courses and other sports facilities, see 45.23;- installation works, see 45.3;- finishing work, see 45.4;- architectural and engineering activities, see 74.20;- management of construction projects, see 74.20 | 45210000 (except: 45213316 45220000 45231000 45232000) |
|  |  | 45.22 | Scaffold and roofs | This class includes:- lifting slings;- mounting of roofs;- sealing works | 45261000 |
|  |  | 45.23 | Construction of roads | This class includes:- construction of motorways, roads, roads and other transport routes for vehicles and pedestrians;- construction of railways;- construction of landing-take-offs;- construction of equipment (other than buildings) for stadiums, swimming pools, sports halls, tennis courts, golf courses and other sports facilities;- Painting of road surfaces and parking spaces.This class does not include pre-earthing, see 45.11 | 45212212 and DA03 45230000 (except: 45231000 45232000 45234115) |
|  |  | 45.24 | Hydrotechnical works | This class includes:- construction of waterways, harbours, river works, marinas, locks, etc;- construction of dams and dykes;- dredging;- underwater works | 45240000 |
|  |  | 45.25 | Other construction works | This class includes specialized construction activities related to a common aspect for several types of works and requiring specialized skills or equipment;- achievement: foundations, including pilots;- drilling and construction of water wells, digging wells; - mounting of metal structures not manufactured by the unit performing the works;- arcing of metallic structures;- laying bricks and stoning;- installing and dismantling scaffolds and their own or leased work platforms;- the construction of fireplaces and industrial furnaces.This class excludes the renting of scaffolds without fitting and dismantling, see 71.32 | 45250000 45262000 |
|  | 45.3 |  | Installation works |  | 45300000 |
|  |  | 45.31 | Electrical works | This class includes the installation, in buildings or other construction projects, of the following:- electric cables and apparatus;- telecommunication systems;- electric heating installations;- antennas for residential buildings;- fire alarm systems;- anti-burglary alarm systems;- lifts and escalators;- paratroopers etc. | 45213316 45310000 (except: 45316000) |
|  |  | 45.32 | Insulation work | This class includes:- the installation of thermal, acoustic and vibration insulation materials in buildings or other construction projects.This class does not cover sealing work, see 45.22 | 45320000 |
|  |  | 45.33 | Installations | This class includes:- installation in buildings or other construction projects of the following items:- sanitary installations and equipment;- gas distribution equipment;Heating and ventilation, refrigeration or air conditioning equipment- automatic fire sprinklers.This class does not cover the installation of heating systems, see 45.31 | 45330000 |
|  |  | 45.34 | Other installation works | This class includes:- installation of lighting and signalling systems for roads, railways, airports and ports;- installation in buildings or other construction projects of installations and equipment not elsewhere classified | 45234115 45316000 45340000 |
|  | 45.4 |  | Finishing work |  | 45400000 |
|  |  | 45.41 | Plastering work | This class includes the application, in buildings or other construction projects, of plaster and stucco for interior and exterior structures or ornaments, including associated facing materials | 45410000 |
|  |  | 45.42 | Joinery and carpentry | This class includes:- the installation of doors, windows, frames and door and window frames, fitted kitchens, stairways, shop equipment and similar equipment, of wood or other materials, not made by the unit performing the works;- interior fittings, such as ceilings, wood panelling, mobile compartments, etc. This class does not cover parquet or other floor coverings of wood, see 45.43 | 45420000 |
|  |  | 45.43 | Dressing floors and walls | This class includes the installation in buildings or other construction projects of the following:- Plates of ceramic, concrete or stone walls;- parquet and other floor coverings of wood and carpets and other linoleum flooring materials, including rubber or other plastics;- flooring materials and granite, marble or slate flooring materials;- wallpaper | 45430000 |
|  |  | 45.44 | Dyeing and mounting of windows | This class includes:- interior and exterior painting of buildings;- painting public buildings;- mounting of glass, mirrors, etc.This class does not include the installation of windows, see 45.42 | 45440000 |
|  |  | 45.45 | Other finishing work | This class includes: - installation of private pools;- cleaning of exterior walls of buildings by steam, blasting or other similar methods;- other finishing and finishing works for buildings not included elsewhere.This class does not cover the cleaning of interior walls of buildings and other structures, see 74.70 | 45212212 and DA04 45450000 |
|  | 45.5 |  | Rental of construction equipment with operator |  | 45500000 |
|  |  | 45.50 | Rental of construction equipment with operator | This class does not cover the rental of machinery and of construction or demolition materials without operator, see 71.32 |  |
|  **Note:** 1) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (Official Journal of the European Communities L 293 of 24 October 1990), Regulation amended by Regulation (EEC) No 761/90 / 93 of the Commission of the European Communities of 24 March 1993 (Official Journal of the European Communities L 83,3 April 1993). |

*[Annex no.11 introduced by* *Law no.229 of 23.09.2016**, in force 04.11.2016]*

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| Annex no.2  |
| **Category number** | **Services** | **CPC reference numbers 1)** | **CPV reference numbers** |
| 17 | Hotel and restaurant services | 64 | from 55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6 |
| 18 | Rail transport services | 711 | from 60200000-0 to 60220000-6 |
| 19 | Shipping services | 72 | from 60600000-4 to 60653000-0 and from 63727000-1 to 63727200-3 |
| 20 | Ancillary and auxiliary transport services | 74 | from 63000000-9 to 63734000-3 (except 63711200-8, 63712700-0, 63712710-3 and from 63727000-1 to 63727200-3) and 98361000-1 |
| 21 | Legal services | 861 | from 79100000-5 to 79140000-7 |
| 22 | Recruitment and placement services 2) | 872 | from 79600000-0 to 79635000-4 (except 79611000-0, 79632000-3, 79633000-0) and from 98500000-8 to 98514000-9 |
| 23 | Investigation and security services, except armoured vehicles | 873(except 87304) | from 79700000-1 to 79723000-8 |
| 24 | Education and training services | 92 | from 80100000-5 to 80660000-8 (except 80533000-9, 80533100-0, 80533200-1) |
| 25 | Health and social assistance service | 93 | 79611000-0 and from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2) |
| 26 | Cultural and sport recreation service 3) | 96 | from 79995000-5 to 79995200-7 and from 92000000-1 to 92700000-8 (except 92230000-2, 92231000-9, 92232000-6) |
| 27 | Other services |  |  |
|  **Note:**1) CPC nomenclature (provisional version) used to define the scope of Directive 92/50/EEC.2) Except employment contracts.3) Except for procurement contracts relating to the purchase, development, production or co-production of programs by broadcasters and broadcasting acquisition contracts. |

Annex no.3

**INFORMATION**

**to be included in the public procurement notice**

**Notice of intent**

**1.** The name, address, fax number, e-mail address of the contracting authority and the office from which additional information may be obtained, as appropriate. Where a public service or works contract is to be awarded, specify the competent institutions and contact details (including the internet address) from which further information can be obtained on the general legislative framework on taxation, environmental protection, labour protection and working conditions applicable in the place where the benefit is to be performed.

**2.** Where applicable, it shall be stated whether the contract is reserved for sheltered workshops or whose execution is provided under a sheltered employment program.

**3.** In the event of the purchase of works - the nature and size of the works; Place of execution; If the work is divided into several batches - the essential characteristics of the batches; If possible, an estimate of the costs involved in the work in question; Nomenclature reference number (s).

In the case of the purchase of products - the nature and quantity or value of the products to be supplied; Nomenclature reference number (s).

In the case of the acquisition of services - the estimated total value of purchases in each of the service categories set out in Annex no.1; Nomenclature reference number (s).

**4.** Provisional data to be used to initiate contract or contract award procedures in the case of public service contracts specifying the category of each service.

**5.** Where appropriate, specify whether a framework agreement is to be concluded.

**6.** Where appropriate, other information.

**7.** The date of transmission of the Notice of Intention.

**8.** Indicate whether the contract is covered by the Government Procurement Agreement of the World Trade Organization (only for advertisements for publication in the Official Journal of the European Union).

**Announcement of participation to public procurement**

For the open, restricted tendering, competitive dialogue, negotiated procedure:

**1.** The name, address, telephone and fax number, e-mail address of the contracting authority.

**2.** Where applicable, it shall be stated whether the contract is reserved for sheltered workshops or whose execution is provided under a sheltered employment program.

**3.** The selected award procedure:

a) where appropriate, the reason for recourse to the accelerated procedure (in the case of restricted tenders and the negotiated procedure);

b) where applicable, whether a framework agreement is to be concluded;

c) where applicable, whether a dynamic purchasing system is to be used;

d) where applicable, whether an electronic auction is to be applied.

**4.** The form of the contract.

**5**. Where applicable, the place where the works were to be carried out, the place of delivery of the goods or the place of supply of the services.

**6**. a) For the purchase of works:

- nature and size of works, general characteristics of the work; Where appropriate, the option to purchase new similar works and, if known, the provisional timetable for recourse to these options and the number of possible renewals; Where the contract is divided into several batches, the size of the lots concerned; Reference number (s) in the nomenclature;

- information on the purpose of the work or contract, if it involves design;

- in the case of a framework agreement, the envisaged duration of the framework agreement, the estimated total value of the works to be executed during the duration of the framework agreement and, as far as possible, the individual value and frequency of the contracts to be awarded or assigned.

b) For the purchase of products:

- the nature of the products to be supplied, while specifying whether the purchase will be by purchase, hire purchase, hire, leasing or any combination thereof; The quantity of products to be supplied; Where appropriate, the option to purchase additional quantities and, if known, the provisional timetable for recourse to these options and the number of possible renewals; Reference number (s) in the nomenclature;

- in the case of contracts of a regularity nature or which may be renewed within a given period, it is specified, if known, the timetable for the award of subsequent contracts;

- in the case of a framework agreement, the expected duration of the framework agreement, the estimated total value of the products to be delivered during the duration of the framework agreement and, as far as possible, the individual value and frequency of the contracts to be awarded or assigned.

c) For the purchase of services:

- the category and description of the service, Reference number (s) in the nomenclature; The amount of services to be provided; Specify, where appropriate, the option to purchase similar new services and, if known, the provisional timetable for recourse to these options and the number of possible renewals;

- in the case of contracts of a regularity nature or which may be renewed within a given period, it is specified, if known, the timetable for the award of subsequent contracts;

- in the case of a framework agreement, the expected duration of the framework agreement, the estimated total value of the supplies over the duration of the framework agreement and, as far as possible, the individual value and frequency of the contracts to be awarded;

- it is stated whether the provision of the service is reserved, by means of normative acts, to a specific profession (indicate the respective normative acts);

- specify whether legal persons must indicate the names and professional qualifications of the staff responsible for providing the service.

**7.** Where the contract is divided into lots, the possibility for economic operators to submit tenders for one, several or all lots.

**8.** Term of completion or duration of the public works / goods / services contract. If possible, the term of commencement of the works to which the products are delivered or, where appropriate, to which the services are delivered.

**9.** Admission or prohibition of alternative offers.

**10**. Where appropriate, special conditions on which the performance of the contract depends.

**11**. In the case of an open tender:

a) the name, address, telephone and fax number and e-mail address of the office from which the awarding documentation may be requested (specifications and any additional documents);

b) where applicable, the deadline for submitting such request;

c) where applicable, the cost and terms of payment for obtaining such documentation.

**12.** a) The time limit for the submission of tenders or indicative tenders where a dynamic purchasing system or open tender is used;

b) in the case of restricted tenders or the negotiated procedure, the closing date for the submission of requests to participate;

c) the address to which tenders and requests must be sent;

d) the language (s) in which they must be drafted.

**13**. In the case of an open tender:

a) persons authorized to assist with the opening of tenders;

b) date, time and place of opening of bids.

**14**. Where applicable, the required guarantees.

**15**. Funding and payment modalities and / or references to the provisions governing them.

**16**. Where appropriate, the legal form of organization to be associated with the group of economic operators to whom the contract has been awarded.

**17.** Qualification / selection criteria regarding the personal situation of economic operators that may entail the exclusion of the latter, as well as the information / documents proving that they do not fit in the cases justifying the exclusion. Qualification / Selection Criteria for the Economic and Financial Capacity, as well as the technical and / or professional capacity of the economic operator; Information / documents that the economic operator must provide for the assessment of the minimum economic and technical capacity, if these have been imposed. Minimum specific level / minimum specific levels for capacities required.

**18.** For the framework agreement, the number or, where appropriate, the maximum number of economic operators with which the framework agreement will be concluded, the duration of the framework agreement, stating, where appropriate, the reasons justifying a duration of the framework agreement of more than 4 years.

**19.** For the competitive dialogue and negotiated procedure with prior publication of a contract notice, it shall be specified, if necessary, that the procedure is progressively carried out in several successive phases to progressively reduce the number of solutions to be discussed or offers to be negotiated.

**20.** In the case of restricted tenders, where the option of reducing the number of candidates to be invited to submit a tender is invoked, to participate in consultations or to negotiate - the number of the minimum and, where appropriate, the maximum number of candidates proposed and the objective criteria to be applied to select the proposed number of candidates.

**21.** The time period during which the tenderer must maintain its valid offer.

**22.** Where applicable, the name and address of the economic operators already selected by the contracting authority (negotiated procedure).

**23.** Award criteria: The lowest price or the most economically advantageous tender.

The most economically advantageous tender assessment criteria, as well as their weighting, are mentioned when they are not included in the tender specifications or, in the case of competitive dialogue, in the descriptive documentation.

**24.** The name and address of the competent appeal body. The exact information on the time-limits for filing the appeal and, where applicable, the name, address, telephone number, fax number and e-mail address of the office from which this information can be obtained.

**25.** The date of publication of the notice of intention or, where appropriate, the indication that no such notice has been published.

**26.** Date of the participation notice submission for publication.

**27.** Indicate whether the contract is covered by the Government Procurement Agreement of the World Trade Organization (only for advertisements for publication in the Official Journal of the European Union).

**Simplified participation announcement to the dynamic acquisition system**

**1.** The country of the contracting authority.

**2.** The name and e-mail address of the contracting authority.

**3.** References for the publication of the announcement for participation to the dynamic purchasing system.

**4.** The e-mail address to which awarding documentation is available (specifications and additional documents) relating to the dynamic purchasing system.

**5.** Object of the contract: description by reference number (s) in the CPV nomenclature and the quantities to be purchased or the size of the contract to be awarded.

**6.** Deadline for submission of indicative tenders.

**The participation notice to solutions competition**

**1.** The name, address, fax number, e-mail address of the contracted authority and the office from which additional documents can be obtained.

**2**. Description of the project.

**3**. Type of contest: open or restricted.

**4**. In the case of an open competition: the deadline for the submission of projects.

**5**. In the case of a restricted competition:

a) the number of participants to be selected;

b) where applicable, the names of the participants already selected;

c) the selection criteria for the participants;

d) the deadline for the submission of applications.

**6**. Where applicable, whether participation is reserved for a specific profession.

**7**. Criteria to be applied to project evaluation.

**8**. Name of jury members.

**9**. It shall be specified whether the decision of the jury is binding on the contracting authority.

**10**. Where appropriate, the number and number of prizes.

**11**. Where applicable, the payments to be made to all participants shall be specified.

**12.** It is clarified whether, following the contest, the contract / contracts will / will be awarded / awarded to the winner or winners of the contest.

**13**. Date of transmission of the ad notice for publication.

**Announcement of the solution competition result**

**1.** The name, address, fax number, e-mail address of the contracting authority.

2. Description of the project.

3. Total number of participants.

4. Number of foreign participants.

5. Winner / winners of the competition.

6. Where applicable, award (s) awarded.

7. References concerning the publication of the competition notice.

8. Date of submission of the announcement of the outcome of the contest.

**Award notices**

**1.** Name and address of the contracting authority.

**2**. Award procedure applied. In the case of the application of the negotiated procedure without prior publication of an announcement of participation, justifying reasons shall be given.

**3.** The public works contract - the nature and size of the benefits, the general characteristics of the work.

- the nature and quantity of the products supplied, as the case may be, by the supplier; The reference number in the nomenclature.

The public service contract - the category and description of the service; The reference number in the nomenclature; The amount of services purchased.

**4**. Date of award of the public procurement contract.

**5**. The award criterion of the public procurement contract.

**6.** Number of offers received.

**7**. Name and address of winning bid / bidder.

**8.** Price or range of paid prices.

**9**. Value of the highest bid and lowest bid considered for the award of the public contract.

**10**. Where applicable, the value and the part of the contract to be subcontracted.

**11**. Date of publication of the contract notice.

**12**. Date of submission of the award notice for publication.

**13**. Name and address of the competent appeal body. Exact information on the time-limits for filing the appeal and, where appropriate, the name, address, telephone number, fax number and e-mail address of the office from which this information can be obtained.

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The Laws of the Republic of Moldova
131/03.07.2015 Law on Public Procurement *//* *The* *Official Gazette 197-205/402, 31.07.2015*