

LAW ON PROCUREMENT

SECTION 1 GENERAL PROVISIONS

Article 1. Subject Regulated by the Law

1. This Law regulates relationships pertaining to the process of Requesters procuring goods, works, and services, and prescribes the main rights and responsibilities of parties to such relationships.

Article 2. Key Terms Used in the Law

1. The following key terms are used in this Law:

1) Requester:

a. State administration bodies and local self-government bodies, and institutions of the state and communities, which are envisaged by the Republic of Armenia Constitution and laws;

b. The Central Bank of the Republic of Armenia;

c. State or community non-commercial organizations;

d. Organizations in which the share of the state or communities exceeds 50 percent;

e. Foundations or associations (unions) created by the state, a community, a state or community non-commercial organization, or organizations in which the share of the state or communities exceeds 50 percent;

f. Legal entities that have received funds in the form of a donation or grant from the state or a community, or from the Republic of Armenia Central Bank, or from state or community non-commercial organizations, or from organizations in which the share of the state or communities exceeds 50 percent—with respect to procurements financed through such donation or grant;

g. Foundations formed as a result of reorganization of state or community non-commercial organizations, or of organizations in which the share of the state or communities exceeds 50 percent;

h. Public Undertakings.

2) Public Undertakings:

a. Physical or legal entities included in the list approved by the Republic of Armenia Public Services Regulatory Commission, which are operating in the regulated public services sector, save for entities that were included in such list because of having a dominant position with respect to services rendered in the field of electronic communication through the public network;

b. Other entities operating in the public services sector and carrying out one or more of the relevant activities stipulated by this Article, based on a Special or Exclusive Right, when the procurement is conducted for the purpose of exercising such activities;

3) **Procurement:** the purchase of all types of goods, works, and services, against reimbursement by the Requester, by means of entering into a Contract with a Selected Bidder; leasing, and the acquisition of goods, works, and services against funds donated by a Requester to a legal entity; the acquisition of goods, works, and services in the form of barter; as well as the granting of rights to a private sector partner under a public-private partnership, including asset management or concession transactions;

4) **Contract:** a written transaction concluded for the purpose of making a procurement;

5) **Bidder:** an entity participating in the Procurement Process with the aim of concluding a Contract with a Requester;

6) **Selected Bidder:** a bidder(s) to which the Requester offers concluding a Contract;

7) **Invitation:** terms offered to the Bidder for the purposes of concluding a contract;

8) **Bid:** an offer submitted by the Bidder based on the Invitation;

9) **Bid Security:** in cases stipulated by this law, a means securing performance of obligations assumed by the Bidder in the bid;

10) **Contract Security:** in cases stipulated by this law, a means securing performance of obligations being assumed by the Selected Bidder under the Contract;

11) **Electronic Auction:** a process involving electronic devices for presenting new, reduced prices, which enables, through automatic evaluation methods (means), to rank in descending order the Bidders that submitted bids;

12) **Electronic Means:** electronic means, including software and hardware, which are necessary for the processing and storage of data transmitted, conveyed, and received by wire, radio, optical means, or other electromagnetic means, as well as for the electronic organization of Procurement procedures;

13) **Authorized Body:** a state body of the executive power of the Republic of Armenia, which develops and implements the Republic of Armenia Government's policy in the area of public finance management.

14) **Bulletin:** the website operating at www.procurement.am for the purpose of publishing information subject to disclosure under this Law;

15) **Special or Exclusive Right:** the right that results from authorizations granted by a competent authority by the way of a legal or administrative act, the aim of which is to reserve the right to carry out certain activities (including in the field of public services) to one or to a limited number of entities, and which substantially limits the ability of other entities to carry out such activities. Special or Exclusive Rights do not include rights that were granted as a result of a public tender and their granting was based on non-discriminatory criteria, except when the right granted as a result of a public tender is deemed exclusive under a procedure stipulated by law;

16) **Procurement Subject:** the goods, works, or services being purchased;

17) **Description of the Procurement Subject:** technical specifications of the Procurement Subject, and their procurement and payment terms;

18) **Consulting Services:** services the provision of which creates non-tangible assets (values), i.e. assets (values) that do not have physical substance;

19) **Consultant:** an entity that participates in the Procurement Process for the purpose of concluding a Consulting Services Contract with the Requester;

20) **Selected Consultant:** a Consultant(s) to which the Requester offers concluding a Consulting Services Contract;

21) **Procurement Base Unit:** the amount equal to one million Armenian Drams;

22) **Relevant Activities:** the following activities in the field of public services, which involve procurements to which this Law shall apply. They are:

a. The generation of electricity and heat (including their combined-cycle generation), the transmission (transport) and distribution of electricity, heat, and natural gas, the provision of electricity and natural gas systems operator services, the construction of new or rehabilitation of electricity and heat generation capacities, the construction of transmission (transport) or distribution networks for electricity, heat or natural gas;

b. The supply of drinking, irrigation, and industrial water, wastewater removal, and wastewater treatment;

c. The operation of the public network in the field of electronic communication;

d. Postal, railway transportation, and mandatory motor vehicle technical inspection services subject to tariff regulation by the Republic of Armenia Public Services Regulatory Commission;

e. The provision or operation of networks intended (existing) for providing public services in the field of transport: a network for providing transport services is deemed to exist when a competent government authority sets its operation conditions, including the routes to be served, the capacity to be made available, or the frequency of the service;

f. Exploitation of a geographical site:

- For the purpose of exploring for or extracting oil, gas, coal, or other solid fuels;

- For the purpose of providing airports and other terminal facilities to entities performing carriage by air or waterways;

23) **Procurement Process:** the entirety of actions aimed at executing procedures, rights, and responsibilities stipulated by the Republic of Armenia legislation on procurement with respect to making procurement, including procurement planning, approval of the Description of the Procurement Subject, and Contract execution and administration; and

24) **Procurement Price:** the pre-estimated price calculated under the procedure approved by the Republic of Armenia Government for procuring a good, work, or service.

Article 3. Purpose, Principles, and Scope of the Law

1. The purpose of this law is to ensure value-for-money in the Procurement Process, namely:

1) The purchase, subject to adequate reimbursement, of goods, works, and services in line with the Requester's needs, which are necessary for exercising powers reserved for the Requester;

2) The implementation of Procurements and the Procurement Process in an efficient, effective, and economical manner.

2. The Procurement Process shall be based on the following principles:

1) Administration of the Procurement Process based on consistent rules and in a competitive, transparent, open, and non-discriminatory manner;

2) Expansion of the Bidders' circle and promotion of competition among them for the purposes of Contract signing; and

3) Equal right for every person to participate in the Procurement Process, irrespective of being a foreign individual or entity or a stateless person.

3. For purposes of this Law, a procurement is deemed conducted outside the Republic of Armenia if the Contract is concluded and works, goods, or services thereunder are purchased and used outside the Republic of Armenia territory.

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

1) Employment contracts;

2) The purchase of services rendered by specific persons foreseen in decisions of officials carrying out criminal, administrative, or judicial proceedings in cases stipulated by law, and

3) Transactions related to trust management of securities.

Article 4. The Republic of Armenia Legislation on Procurement

1. The Republic of Armenia legislation on procurement is comprised of the Republic of Armenia Civil Code, this law, and other legal acts. Other legal acts on Procurement shall be published in the Official Gazette, as well.

Article 5. Other Legal Acts Adopted by the Republic of Armenia Government

1. To ensure compliance with the purpose and requirements of this Law, the Republic of Armenia Government shall approve:

1) The procedure of making Procurement outside of the Republic of Armenia territory;

2) The procedure of making Procurement electronically;

3) The procedure of conducting Electronic Auctions;

4) The procedure of procurement planning, approval of the Procurement Subject specifications, prior screening of Procurement, and Contract execution, administration, and financing;

5) The types of public-private partnership transactions, the specification requirements on such transactions, and the procedure of developing and approving the specifications;

6) The procedure of enforcing the Procurement procedures stipulated by this law and the peculiarities of such procedures;

7) The procedure of formation and operation of the evaluation commission;

8) The main terms of the Invitation and Contract;

9) The plan of Procurements to be financed from the state budget;

10) The procedure of granting qualification to the Procurement coordinators and conducting their continuing professional training;

11) The Procurement plan form and the procedure of filling out, approving, and publishing it;

12) The notion of "related parties" stipulated by this Law and the cases of limiting their participation in Procurement procedures;

13) A sample of specifications of Requester-approved Procurement Subjects and Bidder qualification requirements—the procedure of evaluation from the viewpoint of compliance with the competition and non-discrimination requirements of this Law;

- 14) The list of goods, works, and services purchased through an Electronic Auction;
- 15) The list of goods, works, and services purchased through a restricted regular tender;
- 16) The procedure of refunding the appeal fee; and
- 17) For the different types of Procurements, the requirements on Bid Security and Contract Security, which are presented to Bidders in the Invitation.

Article 6. Eligibility to Participate in Procurement; Qualification Criteria

1. With the exception of procurement carried out in accordance with the procedure set out in Paragraphs 1(1), 1(3), 1(4), and 1(5) of Article 23 of this Law, the following persons shall not have the right to participate in the Procurement procedures:

1) Persons that had been declared bankrupt by court by the date of submitting the Bid;

2) Persons that, by the date of submitting the Bid, have outstanding arrears for revenue overseen by the tax authority, which is up to 1 percent of their price proposal, but not more than 50,000 Armenian drams;

3) A person who, or whose executive officer, was convicted, in the three years preceding the Bid submission, for a crime involving terrorism financing, child exploitation, or trafficking in persons, or for creating or participating in a criminal enterprise, or for receiving or giving or intermediating a bribe, or for crimes against economic activities stipulated by law, except when such has been lifted or extinguished under the procedure stipulated by law;

4) A person with respect to whom there is, in the year preceding the Bid submission date, a final administrative act rendered under the procedure stipulated by law, which was rendered for anti-competitive collusion or for abuse of dominant position in the sphere of Procurement;

5) A person who, on the Bid submission date, is included in the list of Bidders that are not eligible to participate in the Procurement Process published under the Procurement legislation of countries participating in the Eurasian Economic Union;

6) A person who, on the Bid submission date, is included in the list of Bidders that are not eligible to participate in the Procurement Process. A Bidder shall be included in such list if:

- a. The Bidder has breached an obligation assumed under a Contract or a Procurement Process, which led to unilateral termination of the Contract by the Requester or barring such Bidder from further participation in the Procurement Process;
- b. As a Selected Bidder, refused to sign the Contract; or
- c. Refused further participation in the Procurement Process after the opening of the Bids.

2. The Authorized Body shall publish the list specified in paragraph 1(6) of this Article, including also in the Russian language. The Authorized Body shall formally initiate, free of charge, a procedure at the Procurement Complaints Board based on information about a Bidder barred from participating in the Procurement Process. After hearing the opinion of the Bidder concerned, the Procurement Complaints Board shall decide whether the Bidder shall be included in the list stipulated by this Article. The person shall be included in the list for a term of two years.

3. A Bidder shall meet the qualification criteria set out in the Invitation. A Bidder shall have the following, as required for fulfilling the obligations prescribed by the Contract:

1) Compliance of the Bidder's professional activity to the activities stipulated in the Contract;

2) Professional experience;

3) Technical means;

4) Financial means; and

5) Labor resources.

4. No other criteria related to Bidder eligibility and qualification for participation in the procurement may be established if such criteria:

1) Are not stipulated by this Article;

2) Are discriminatory and limit competition by unduly complicating or simplifying potential participation in the Procurement Process; or

3) Are inadequate in that they are not directly required for execution of obligations prescribed by the Contract.

5. With a view to ensuring the compliance of its data with the qualification criteria specified in the Invitation, a Bidder may, if necessary, rely on financial and technical means of other persons on the basis of an appropriate legal contractual relationship.

6. The Invitation shall set out the procedure and criteria for evaluating a Bidder's eligibility and qualification to participate in a particular Procurement, as well as the requirements on documents (information) required for it.

Article 7. Equality of Participation in Procurement

1. Any entity, irrespective of being a foreign natural person or organization or a stateless person, shall have an equal right to participate in a Procurement Process.

2. The participation of an entity that is a resident of any country in the Procurement Process may be restricted only by decision of the Republic of Armenia Government, if it is necessary for the national security or defense of the Republic of Armenia.

3. If Paragraph 2 of this Article is not applied, the Procurement or prequalification announcement shall contain notice that bids may be submitted by any person, irrespective of being a foreign individual or entity or a stateless person. Moreover, such notice may not be changed. If Paragraph 2 of this Article is applied, the Procurement or prequalification announcement shall contain notice of such restriction.

4. The concurrent participation, in the same Procurement Process, of related parties and/or entities founded by the same person(s) or entities with over fifty percent of shares owned by the same person(s), as defined by this Law and other legal acts adopted on its basis, shall be prohibited, with the exception of:

1) Entities founded by the state or communities; or

2) The participation cases stipulated by Paragraph 6 of Article 30 of this Law.

5. Legal entities in which the Requester has a stake shall participate in the Procurement with equal rights with other Bidders, and the Requester's stake therein may not lead to any preferential treatment or to setting or applying any other favorable conditions for such entities.

Article 8. Documents, Their Validity, and E-Procurement

1. Recording and maintaining of procurement-related information shall be ensured by developing the relevant documents, including electronic ones.
2. If the Invitation sets out a condition for the Bidder to submit information, it shall also contain the validity terms for such information. In the framework of functions set out in this law, the communication may be carried out electronically, namely:
 - 1) The announcement and the invitation may be provided electronically; and
 - 2) In the case and procedure set out in the Invitation, Bids may be submitted electronically.
3. The means to be used for electronic communication shall be non-discriminatory, generally available to any potential Bidder, and interoperable with information and communication technologies of general use.
4. The following rules shall apply in a binding manner to the means for the electronic transmission and receipt of Bids:
 - 1) The information concerning the specifications necessary for the electronic submission of Bids (including encryption) shall be available to interested Bidders; and
 - 2) The electronic devices for electronic receipt of Bids shall guarantee the integrity and confidentiality of the received data, fulfilling at least the following conditions:
 - a. The exact time and date of the receipt of Bids can be precisely determined;
 - b. Before the time limits laid down for the transmission of the data, no one may have access to the transmitted data;
 - c. When the prohibition of access to the transmitted data has been breached, the unauthorized access can be clearly detected;
 - d. Only authorized persons may set or modify the dates for opening the data received;
 - e. During different stages of the Procurement procedure, access to the received data is possible only by a simultaneous action of at least two authorized persons (systems) and only after the deadline established by this Paragraph; and
 - f. Data received and opened in accordance with the requirements of this Paragraph shall remain accessible only to persons authorized to have access to them.
5. The Government of the Republic of Armenia may set a fee for participating in electronic Procurements.

Article 9. Minutes of and Reports on the Procurement Procedure

1. If the Procurement Price exceeds the Procurement Base Unit, the Requester shall, within three working days of concluding the Contract or declaring that the Procurement procedure has failed, draft minutes of the procurement procedure. In accordance with the Procurement method, the minutes of the Procurement Procedure shall contain:
 - 1) The name and location of the Requester;
 - 2) The need for the Procurement and the justification of the Procurement method selection;
 - 3) The Invitation and changes made therein;
 - 4) Procurement-related inquiries and explanations provided;
 - 5) Information on the Bidders, including name, location or residence address and, contacts;
 - 6) Prices offered in the Bids;
 - 7) The Bid evaluation procedure and the evaluation results;

- 8) If a bid is rejected, the justification;
- 9) The Contract, and if no Contract is awarded as a result of the Procurement Process, then the justification of such decision;
- 10) If illegal actions are identified during the Procurement Process, a brief description of such actions and of measures undertaken with respect to them;
- 11) Complaints filed related to the Procurement Process and decisions made with respect to them; and
- 12) Other necessary information.

2. Within seven working days of signing a Procurement Contract financed by the state budget or a state budget grant (including subsidy) or of declaring that the Procurement Process has failed, the Requester shall present to the Authorized Body a report on the Procurement Process, for the purpose of recording Procurement transactions creating liabilities for the state.

3. If the Procurement Price does not exceed the Procurement Base Unit, the Requester shall ensure that the relevant documents (or electronic documents) on activities implemented for Procurement purposes and on their grounds exist and are kept.

4. The Requester shall provide a copy of the Procurement procedure minutes or an extract therefrom, except for Procurements containing state secrecy, to any person within five working days of receiving such a request.

5. For the purpose of preparing and publishing the annual Procurement Report, Requesters shall furnish to the Authorized Body reports. The annual Procurement Report shall be published in the Bulletin by 1 May of the following year.

Article 10. Contract Award Decision; Standstill Period; Contract Signing and Conditions

1. Prior to Contract signature, the Requester shall publish an announcement on Contract award decision in the Bulletin no later than on the first day following the adoption of the Contract award decision. In case of making Procurement containing state secrecy, the announcement stipulated by this Paragraph shall be sent to all the Bidders that submitted Bids on the first working day following the Contract award decision.

2. The Contract award decision shall contain brief information on evaluation of the Bids and the relevant reasons for selection of a particular Bidder, as well as a statement on the standstill period. The standstill period is the period from the day following the date on which the Contract award decision is announced up to the day on which the Requester acquires the right to conclude the Contract.

3. The standstill period shall be at least 10 calendar days in case of a tender or an electronic auction. The standstill period shall be at least five calendar days in case of other Procurement procedures.

4. The standstill periods stipulated by Paragraph 3 of this Article shall not apply if there was only one Bidder in the tender, who was awarded the Contract.

5. The Requester shall conclude the Contract if no Bidder complains against the award decision at the Procurement Complaints Board within the standstill period stipulated by Paragraph 3 of this Article. A Contract concluded before the expiry of the standstill period is null and void. Any Contract concluded before the end of the standstill

period or without publishing the announcement on the Contract award shall be null and void.

6. Relations between the Procurement parties, which are not regulated by the Republic of Armenia legislation on procurement, shall be regulated by Contract.

Article 11. Publication of Announcement on Concluding the Contract

1. The Requester shall publish in the Bulletin an announcement on concluding the Contract no later than on the first working day following its conclusion. In case of making Procurements containing state secrecy, the announcement stipulated by this Paragraph shall be sent to all the Bidders that submitted Bids on the first working day following the Contract conclusion.

2. The announcement about the concluded Contract shall contain the following information:

- 1) A brief description of the Procurement Subject;
- 2) The Requester's name and address;
- 3) The Contract conclusion date;
- 4) The name and residence or location address of the Selected Bidder(s);
- 5) The price offers of Bidders and the Contract price;
- 6) Information about announcements published in accordance with this Law in order to attract Bidders (if applicable); and
- 7) The Procurement method used and the justification of its selection.

Article 12. Consequences of Bidders' Illegal Actions

1. If an illegal act committed by a Bidder or a representative of its management body commits is found in the framework of the Procurement Process the Procurement Process, then the Requester shall, on the day of finding it, notify law-enforcement bodies thereof in writing.

Article 13. Description of the Procurement Subject

1. The Description of the Procurement Subject shall fully and clearly describe the technical specifications of the goods, works, or services being procured, as well as their purchase and payment terms, precluding any ambiguous interpretation. The Description of the Procurement Subject, which includes also the Contract price, shall be included in the Contract.

2. The Description of Procurement Subject shall:

- 1) Ensure equal conditions of competition for potential Bidders;
- 2) Not lead to creating unjustified obstacles to competition in the Procurement Process;
- 3) Be objectively justified and adequate to the need for which the particular procurement is carried out; and
- 4) Include the full and adequate description of specifications and technical data of the Procurement Subject, while in case of works Procurement, also include the bill of quantities, the timetable, and other non-price conditions.

3. Based on specific features of the Procurement Subject, its technical specifications shall, to the possible extent, include a clear description of the conditions concerning the quality, standard, safety, conditional signs, terminology, labeling, packing, offloading, dimension, design, and other characteristics related to the goods,

works, or services being procured; the descriptions are based on the international standards and the existing Republic of Armenia normative-technical documents and standards or, if such documents and standards are missing, on temporary technical references.

4. The technical specifications of the Procurement Subject may also be defined in terms of performance or functional requirements, which shall be described with sufficient accuracy in order to allow Bidders and the Requester to understand exactly the subject-matter of the Contract.

5. The technical specifications of the Procurement Subject shall not require or refer to any trademark, brand name, license, design or model, country of origin or a specific source or a manufacturer, except when the description of the Procurement Subject is impossible without such requirement or reference. When references are used, the technical specifications shall contain the words “or equivalent.”

Article 14. Official Language of the Procurement Procedure

1. Procurement-related documents shall be drafted and, in cases stipulated by this Law, published in the Bulletin in Armenian, while announcements related to Procurement, including announcements related to prequalification shall also published in English and Russian.

2. The bids may, besides Armenian, be submitted also in English or Russian.

Article 15. Procurement Planning and Financing

1. The plan of Procurements to be funded from the State Budget shall be approved according to the administrative and functional classification of budget expenditures.

2. A Procurement plan that contains state secrecy shall include the goods, works, and services required for providing national security, the protocol costs, accommodation, meals, and transportation of officials specified in Paragraph 2 of Article 5 of the Republic of Armenia Law on Security of Persons Subject to Special State Protection, including the technical maintenance and repairs of vehicles, and for providing special hardware and software, military equipment, weapons, ammunition, and armament.

3. Procurement plans, including changes therein, shall, within two working days of being approved, be published in the Bulletin by the Requester, save for a Procurement plan that contains state secrecy.

4. Funds for the Procurement of construction works shall be allocated on the basis of design documents that have been approved and expert-reviewed in accordance with the established procedure. Funds for the Procurement of construction works may not be allocated without design estimates, unless otherwise stipulated by law or by community council decision.

5. If the Procurement Price exceeds the amount allocated for such Procurement during the specified period, then, in case of concluding a Contract, funds shall be earmarked for the period following this period in order to carry out the Procurement stipulated under the Procurement Contract, or in order to temporarily suspend such Procurement (if funds are required for temporary suspension).

6. Pursuant to the procedure stipulated by this Law, a Contract may be concluded prior to the allocation of funds, provided that Procurement may be made under such

Contract if the necessary funds are allocated. A Contract concluded under this Paragraph shall be terminated if the funds for Contract execution are not allocated during the six months following the Contract conclusion. This Paragraph may be applied if:

1) The Requester is unable to envisage (calculate) the funds required for the Procurement in advance; or

2) The supply of goods, the performance of works, or the provision of services is to begin within such a period of the date of allocating the funds for such Procurement, which renders impossible the use of any competitive Procurement method impossible in terms of timing.

7. The Requester shall assume financial obligations under a Contract if the financial allocations required to carry out such Procurement have been earmarked, and within the framework of such allocations.

8. Funds for Procurement shall be planned under the corresponding budget line items of the economic classification of budgetary expenses specified for purchase of works, goods and services. It shall be prohibited to plan funds under different budget line items of the economic classification of budgetary expenses, if the Procurement is to be carried out at the cost of such funds.

SECTION 2

REGULATION AND COORDINATION OF THE PROCUREMENT PROCESS

Article 16. Regulation and Coordination of the Procurement Process

1. The Authorized Body shall carry out the regulation and coordination of the Procurement Process. The Authorized Body may not be involved in Procurement Processes or be a Contract party, except for Procurement carried out for its own needs.

2. To facilitate the activities of regulation and coordination of the Procurement Process, the Authorized Body shall:

1) Coordinate the efforts of drafting legal acts on Procurement and adopt them or submit them to the Republic of Armenia Government for approval;

2) Provide methodological support to the Requesters in the organization of Procurement activities;

3) Ensure the granting of qualification to the Procurement coordinators and the existence of a system for their continuing professional education;

4) Organize publication of the Bulletin;

5) Coordinate the Procurement-related collaboration with international organizations, foreign states, and the Republic of Armenia central government and local self-government bodies;

6) Register Procurement Contracts that create liabilities for the state;

7) Publish:

a. The annual report on public Procurements; and

b. The list of qualified Procurement specialists (persons);

8) Approve the templates of documents used in the Procurement Process, including the Invitation and Contract;

9) Approve the forms and submission deadlines of documents, including reports submitted to the Authorized Body under this Law;

- 10) Approve the Register form and compilation procedure;
 - 11) Carry out the maintenance and coordination of the electronic Procurement system; and
 - 12) With a view to documenting calls concerning Procurements and rapidly responding to issues, secure the existence of a Procurement support service (hotline).
3. The head of the Requester shall appoint a Procurement coordinator, which shall:
- 1) Be responsible for the organization and coordination of the Requester's Procurement Process;
 - 2) Provide an opinion on Procurement-related documents approved by the Requester;
 - 3) Exercise the powers of the secretary of the evaluation commission; and
 - 4) Drafts the minutes of a particular Procurement procedure and the Procurement Contract and submit them to the Requester's head for approval.
4. The following may be appointed as the Procurement coordinator:
- 1) The relevant unit of the Requester;
 - 2) An official(s) of the Requester; and
 - 3) An invited Consultant(s).
5. The Procurement coordination unit staff, officials, and invited Consultants shall be included in the list of qualified Procurement coordinators published by the Authorized Body. Individuals shall be included in the aforementioned list after receiving a passing score in the Procurement coordinators' qualification process organized by the Authorized Body.

Article 17. Centralized Procurements

1. For Requesters or specific groups of Requesters, Procurements may be made in a centralized manner in accordance with the procedure approved by the Republic of Armenia Government.
2. Centralized Procurements shall be made through the Authorized Body or legal entity authorized by the Republic of Armenia Government.

SECTION 3

THE PROCUREMENT PROCEDURES AND THEIR APPLICATION CONDITIONS

Article 18. The Procurement Procedures

1. The following are the Procurement procedures:
 - 1) Electronic Auction;
 - 2) Tender;
 - 3) Price inquiry; and
 - 4) Procurement from a single source.
2. The tender may be open and closed. A restricted tender may be specific or regular.
3. The Procurement shall be carried out through an Electronic Auction procedure if the Procurement Subject is included in the list stipulated by Paragraph 1(14) of Article 5 of this Law.
4. In the cases stipulated by this Law, the tender may be conducted in two stages.

5. A tender is the preferred Procurement method, unless the Procurement Subject is stipulated by Paragraph 1(14) of Article 5 of this Law or, in case of Procurement containing state secrecy, in the list stipulated by Paragraph 1(15) of Article 5. Procurement may be carried out through other Procurement methods, save for cases stipulated by this Law.

6. A Contract shall be concluded as a result of a Procurement procedure.

7. Procurement may be performed from exchanges of goods, works, or services through a procedure of making Procurement.

Article 19. Conditions for Applying a Two-Stage Tender

1. A tender may be carried out in two stages:

1) If the Requester cannot correctly (objectively) set the specifications of the Procurement Subject in accordance with the requirements of this Law;

2) If the Requester allows the Bidders to present alternative proposals on the potential specifications of the Procurement Subject;

3) If negotiation with the Bidders has become necessary for the purpose of clarifying certain peculiarities of the specifications of the Procurement Subject; or

4) In cases of public-private partnership, including asset management or concession transactions

2. In case of a two-stage tender procedure, a prequalification procedure shall be organized. Any Bidder may participate in a prequalification procedure. The Requester shall send an invitation and invite only prequalified Bidders to the negotiations. The goal of the negotiations is to develop one or more alternatives of the specifications of the Procurement Subject meeting the Requester's requirements. As a result of the negotiations, the Requester shall issue the final invitation to the prequalified Bidders.

Article 20. Conditions for Applying an Open Tender

1. In case of an open tender, the Bid submission deadline shall be calculated from the day of publishing the Procurement announcement and Invitation in the Bulletin.

2. Save for the Requesters specified in Paragraphs 1(1.d) and 1(1.e) of Article 2 of this Law, the Bid submission deadline shall be at least 40 calendar days.

3. For the Requesters specified in Paragraphs 1(1.d) and 1(1.e) of Article 2 of this Law, the Bid submission deadline shall be at least:

1) 15 calendar days if the Procurement Price does not exceed 200-fold the Procurement Base Unit;

2) 40 calendar days if the Procurement Price exceeds 200-fold the Procurement Base Unit.

4. If an urgent need for Procurement has arisen due to an emergency or another unforeseen situation, and applying the Bid submission deadline prescribed by Paragraph 2 or Paragraph 3(2) of this Article is impossible, provided that such need objectively could not have been foreseen, then the Bid submission deadline shall be at least 15 calendar days.

Article 21. Conditions for Applying a Restricted Tender

1. A restricted tender shall be applied if the Procurement Process contains state secrecy.

2. A restricted tender shall be regular if the Procurement Subject is procured regularly and is included in the list stipulated by Paragraph 1(15) of Article 5 of this Law. A restricted tender shall be specific if the Procurement Subject is not included in the said list.

3. In case of applying a restricted tender, a prequalification procedure shall be organized. Any Bidder may participate in the prequalification procedure. Only prequalified Bidders invited by the Requester may submit Bids.

4. In case of a restricted specific tender, the Bid submission deadline shall be calculated from the day of providing the invitation to the prequalified Bidders.

5. Save for the Requesters specified in Paragraphs 1(1.d) and 1(1.e) of Article 2 of this Law, the Bid submission deadline shall be at least 30 calendar days.

6. For the Requesters specified in Paragraphs 1(1.d) and 1(1.e) of Article 2 of this Law, the Bid submission deadline shall be at least:

1) 15 calendar days if the Procurement Price does not exceed 200-fold the Procurement Base Unit;

2) 30 calendar days if the Procurement Price exceeds 200-fold the Procurement Base Unit.

7. If an urgent need for Procurement has arisen due to an emergency or another unforeseen situation, and applying the Bid submission deadline prescribed by Paragraph 5 or Paragraph 6(2) of this Article is impossible, provided that such requirement could not objectively have been foreseen, then the Bid submission deadline shall be at least 15 calendar days.

8. In case of a restricted regular tender, the Bid submission deadline shall be at least five calendar days, which shall be calculated from the day of providing the invitation to the prequalified Bidders.

Article 22. Conditions for Applying a Price Inquiry

1. Procurement may be carried out in the form of a price inquiry if the Procurement Price does not exceed 70-fold the Procurement Base Unit, and the Procurement Subject is not included in the list stipulated by Paragraph 1(14) of Article 5 of this Law or, in case of Procurement containing state secrecy, in the list stipulated by Paragraph 1(15) of Article 5.

2. If a Procurement containing state secrecy is carried out through a price inquiry, a prequalification procedure shall be organized. Any Bidder may participate in the prequalification procedure. Only prequalified Bidders invited by the Requester may submit Bids.

3. In case of applying a price inquiry procedure, the Bid submission deadline shall be at least four working days, which shall be calculated from the day of publishing the Procurement announcement and Invitation in the Bulletin, and in case of Procurements containing state secrecy, from the day of providing the Invitation to the prequalified Bidders.

Article 23. Conditions for Applying Procurement from a Single Source

1. Procurement may be made from a single source if:

1) The goods, works, or services to be procured can be obtained only from one source, which is due to the copyright and related rights or special or exclusive rights of such source;

2) An urgent need for Procurement has arisen due to an emergency or another unforeseen situation, and applying other Procurement forms is impossible in terms of timing, provided that such need objectively could not have been foreseen;

3) The Requester, when making a procurement of goods from any entity, decides, because of circumstances that were objectively not foreseen and not included in the initial Contract, to make additional Procurement from the same entity of goods that became necessary for execution of the initial Contract, provided that:

a. The Contract on additional goods cannot be technically or economically separated from the initial Contract without creating significant difficulty for the Requester; or

b. Its price shall not exceed 10 percent of the total price of the initial Contract. Furthermore, additional Procurement from the same entity under this Paragraph may be performed only once, and the price of additional goods may not be set higher than in the Contract;

4) The Procurement Price does not exceed the Procurement Base Unit; or

5) The Procurement is made outside the territory of the Republic of Armenia.

Article 24. Prequalification Procedures

1. In case of organizing a prequalification procedure:

1) A prequalification announcement about it shall be published;

2) In case of applying a consulting service, a two-state tender, or a restricted specific tender, the deadline for submission of the prequalification applications shall be at least 15 calendar days, which shall be calculated from the day of publishing the prequalification announcement;

3) If the Procurement Price does not exceed 70-fold the Procurement Base Unit, or the Procurement is made by Requesters specified in Paragraphs 1(1.d) and 1(1.e) of Article 2 of this Law, or urgent need for Procurement has arisen due to an emergency or another unforeseen situation, and complying with the deadline stipulated by subparagraph (2) of this Paragraph is impossible, provided that such need objectively could not have been foreseen, the deadline for submission of prequalification applications shall be at least five calendar days, which shall be calculated from the day of publishing the prequalification announcement.

2. The prequalification announcement shall be published in the Bulletin and shall contain the following information:

1) The Requester's name and location;

2) The code of the Procurement procedure;

3) A notice on the right of applicants to participate in the prequalification procedure;

4) The language(s), in which the prequalification application shall be submitted;

5) A clear summary of the content of the Contract and the Descriptions of the Procurement Subject;

6) The procedure for preparation and submission of a prequalification application, including the format and venue, as well as the submission deadline;

7) The requirements on applicant eligibility to bid and qualify, and the procedure for their evaluation;

8) A note that the Procurement Process in question is governed by the provisions of the World Trade Organization Agreement on Government Procurement if the

Procurement Price exceeds the thresholds set by such Agreement, and the Procurement Process is organized through a two-stage tender procedure; and

9) Other necessary requirements related to the prequalification procedure.

3. The Requester shall respond, within one working day, to the Bidder's request for clarification regarding the prequalification announcement. The Requester shall concurrently publish in the Bulletin the information about the request and the provided clarification, without disclosing who requested the clarification. When providing information to any Bidder, the Requester shall ensure the accessibility of such information for all other potential Bidders.

4. At least two working days prior to the deadline for submission of prequalification applications, changes may be made in it. If a change is made:

1) Information about such changes shall be circulated in the same way as the initial prequalification announcement; and

2) The deadline for submission of the prequalification applications shall be calculated from the date of publishing in the Bulletin an announcement about such changes.

5. Within the first working day of making changes, an announcement about the changes made shall be published in the Bulletin.

6. The Bidder's application, i.e. the Bidder's eligibility to bid and the Bidder's qualification shall be evaluated in accordance with the procedure set out in the prequalification Invitation, and a list of prequalified Bidders shall be prepared.

7. Only Prequalified Bidders shall be eligible to participate further in the Procurement Process.

8. If up to three Bidders have submitted applications in the prequalification procedure organized for the purpose of conducting a two-stage tender, the evaluation commission may decide:

1) To republish the prequalification announcement;

2) To arrange a new prequalification procedure; or

3) To announce that the prequalification procedure has failed; or

4) To continue the Procurement Process.

Article 25. Impermissibility of Procurement Packaging or Slicing, or of Amending the Procurement Subject Descriptions

1. When competitive Procurement methods are applied, Procurements having different descriptions may be divided into lots within the framework of the same Procurement Process. It shall be prohibited:

1) To divide one Procurement Subject into separate lots with the purpose of avoiding the use of competitive Procurement methods; or

2) To change the descriptions of goods, works, and services envisaged in the Contract.

2. It shall be prohibited to group Procurement Subjects with different descriptions into one lot, unless the Requester justifies the need for such grouping.

SECTION 4 PROCEDURE OF CONDUCTING THE TENDER

CHAPTER 1 SOLICITATION OF BIDS

Article 26. The Evaluation Commission

1. An evaluation commission composed shall be formed by order of the Requester's head. The evaluation commission shall:

- 1) Approve the texts of the announcement and the Invitation;
- 2) Make amendments in the Invitation;
- 3) Provide clarifications on the Procurement procedure;
- 4) Open and evaluate the Bids; and
- 5) Select the winning Bidder(s).

2. The evaluation commission shall have a secretary appointed by the decree on establishment of the commission. The secretary shall not be a member of the commission.

The secretary shall:

- 1) Organize the commission's activities;
- 2) Receive and register the Bids;
- 3) Develops and submits to the commission draft documents subject to the commission's approval;
- 4) Issue the Invitation;
- 5) By preparing the relevant documents, record the information on the commission's activities and ensure the safekeeping of such documents during the commission's operation;
- 6) Organize the provision of clarifications related to the Procurement procedure;
- 7) Bear responsibility for compliance of the commission's activities with the requirements of the Republic of Armenia legislation on Procurement; and
- 8) Exercise other powers reserved to him/her.

3. The commission members and secretary shall, throughout the entire operation of the commission, maintain the confidentiality of information presented in the Bids.

Article 27. The Procurement Announcement and Invitation

1. For Procurement through an open tender, the Procurement announcement and Invitation shall be published in the Bulletin for purposes of soliciting Bidders.

2. The Procurement announcement shall contain the following information:

- 1) The Requester's name and location;
- 2) The code of the open tender;
- 3) A brief and clear summary of the content of the Contract and the Descriptions of the Procurement Subject;
- 4) Announcement about the right of Bidders to participate in the open tender;
- 5) The conditions for obtaining a hard copy of the Invitation, including charges and payment procedure thereof;
- 6) The language(s) in which the bids shall be submitted;
- 7) A summary of the Bidder qualification criteria;
- 8) Criteria to be used for determining the winning Bidder;
- 9) The method, venue, and deadline for Bid submission;
- 10) The name and location of the body responsible for the appeal, and precise information concerning the deadlines for lodging appeals;

- 11) The method, venue, date, and time of Bid opening;
 - 12) A note that the Procurement Process in question is governed by the provisions of the World Trade Organization Agreement on Government Procurement if the Procurement Price exceeds the thresholds set by such Agreement; and
 - 13) Other information, if necessary.
3. An entity shall have the right to receive a hard copy of the Invitation on the first working day following the day on which it submits to the Requester such written request on the basis of the Procurement announcement.
4. In case of an open tender, a fee may be charged for issuing the invitation in hard copy. Such fee may not exceed the cost of photocopying and delivering the Invitation.
5. Failure to receive the Invitation as prescribed under this Article shall not limit the Bidder's right to participate in the open tender.

Article 28. Contents of the Invitation

1. The Invitation shall contain:
 - 1) A reference to the published announcement, as a supplement to which the Invitation is extended;
 - 2) The code of the tender;
 - 3) Instructions for Bid preparation;
 - 4) Qualification criteria, Bidder eligibility criteria, and the procedure for their evaluation;
 - 5) The Descriptions of the Procurement Subject;
 - 6) Procedure for Bid evaluation and selection of a winning Bidder;
 - 7) A draft Contract;
 - 8) If the Procurement is carried out in lots, and Bidders are allowed to submit bids for a part of goods, works, or services tendered, then the terms and conditions thereof;
 - 9) The procedure for calculation of the price offered in the Bid, including the exchange rate in case the price is presented in foreign currency;
 - 10) A note that the offered price, besides the value of goods, works, and services, includes also the costs of transportation, insurance, duties, taxes, and other charges, and cannot be less than their cost. The calculation of the offered price shall be presented in the bid;
 - 11) Requirements related to Bid Security and Contract Performance Security;
 - 12) Conditions for submission of Bids, including the form, venue, deadline, and language of the Bid, as well as the Bid validity deadline;
 - 13) Procedure for receiving clarifications on the Procurement procedure, information on meetings to be arranged with the Bidders, as well as the name and surname of the evaluation commission secretary;
 - 14) Procedure, venue, date, and time of Bid opening;
 - 15) References made to the provisions of this Law and other legal acts in relation to the Procurement in question;
 - 16) Conditions for proposing a Contract award;
 - 17) The right of the Bidder to appeal against activities (inaction) implemented or decisions adopted in relation to the Procurement Process, and the procedure of such appeals;
 - 18) The grounds for Bid rejection; and

19) Other information necessary for the preparation, submission, opening, and evaluation of the Bid, as well as other necessary information related to the Procurement.

2. The Invitation shall also envisage that the Bidder:

1) Submits in the bid a statement verified by the Bidder justifying eligibility to participate in the Procurement and the compliance with the qualification criteria specified in the Invitation, provided that, in cases and in manner prescribed in this Law, the Bidder assumes an obligation to submit the documents (information) specified in the Invitation, which substantiate the statement;

2) Submits in the Bid:

a. A statement approved by the Bidder about the absence of abuse of dominant position and about anti-competitive collusion

b. Information on the natural person(-s) who directly or indirectly owns (own) over 10 percent of the voting shares (including bearer shares) in the statutory capital of the legal entity Bidding in the Procurement Process, or on the person(-s) that has (have) the right to appoint or dismiss members of the executive body of the Bidding legal entity, or receives over 15 percent of the profit resulting from the business or other activities of such legal entity, or, in their absence, information on the head and members of the executive body. If a Bidder is announced as the winning Bidder, the information stipulated by this sub-paragraph (b) shall be published in the Bulletin at the same time as the announcement on the Contract award decision.

Article 29. Clarification of the Invitation; Amendments

1. A Bidder shall have the right to request a clarification about the Invitation at least five calendar days prior to the deadline for submission of Bids. The clarification shall be provided to the inquiring Bidder in writing within two calendar days of receiving such request.

2. On the day when the clarification is provided to the inquiring Bidder, an announcement on the content of the request and the provided clarification shall be published in the Bulletin without disclosing information on the inquiring Bidder. In case of a restricted tender, the information on the content of the request and the provided clarification shall be provided to the Bidders that received the invitation.

3. A clarification shall not be issued if the request is submitted in violation of the deadline set out in this Article, or if the request lays outside the scope of the Invitation. The Bidder shall be notified in writing of the grounds of not providing clarification within two calendar days following the request receipt date.

4. Amendments to the Invitation may be made at least five calendar days prior to the deadline for submission of Bids. In case of an open tender, an announcement about the amendments made and the conditions for their issuance shall be published in the Bulletin within three calendar days of making such amendments; in case of a restricted tender, the amendments shall be provided to the Bidders that received an Invitation.

5. In case of amendments in the Invitation for an open tender, the deadline for submission of Bids shall be calculated from the day of publishing in the Bulletin an announcement about the amendments; and in case of a restricted procedure - from the day when the amendments made in the Invitation are provided to the Bidders that received an Invitation.

6. Minutes of the activities carried out under this Article and their results shall be drafted and attached to the minutes of the Procurement procedure.

CHAPTER 2 THE BIDS

Article 30. Submission of the Bids

1. A Bidder may not submit more than one Bid within the same procedure. The Bidder shall submit the Bid following the procedure specified in the Invitation. The Invitation shall include the following, as approved by the Bidder:

- 1) A statement on compliance of the Bidder's data with the requirements specified in the Invitation;
- 2) The price proposal;
- 3) The non-price proposal (technical proposal or technical specifications), unless the Invitation specifies otherwise; and
- 4) Other documents (information) specified in the Invitation.

2. If the Bid is submitted in hard copy, the Bidder's proposals and related documents shall be put into an envelope that shall be glued by the submitting entity. The documents included in the envelope shall consist of the originals and the number of copies specified in the Invitation. The documents packages shall be marked with the words "original" and "copy," respectively. The envelope and the documents envisaged in the Invitation and prepared by the Bidder shall be signed by the person submitting them or a person authorized by the latter (hereinafter, "the Agent"). If the Bid is submitted by the Agent, a document verifying such authority of the latter shall be included in the Bid.

3. The following shall be indicated on the envelope mentioned in Paragraph 2 of this Article in the language of the Bid:

- 1) The name of the Requester and the venue (address) of Bid submission;
- 2) The code of the open tender;
- 3) The words "do not open prior to the Bid opening meeting"; and
- 4) The name, location, and telephone number of the Bidder.

4. The secretary shall record the Bids in the register in the order of receipt, indicating on the envelope the registration number, date, and time. At the request of the Bidder, a receipt thereof shall be issued.

5. Bids that do not meet the requirements of this Article shall be rejected by the evaluation commission at the Bid opening meeting and returned to the submitters unaltered.

6. Bidders may participate in the Procurement Process jointly (as a consortium). The procedure of participation in the Procurement Process jointly (as a consortium) shall be set out in the Invitation. In such cases:

- 1) The Bid shall also contain an agreement on the joint venture;
- 2) When evaluating the Bid, the combined qualifications of all parties to the agreement on joint venture shall be taken into account;
- 3) The Bidders shall bear joint and several liability; and
- 4) The parties to a joint venture may not submit a separate Bid to the same procedure.

Article 31. Bid Validity Period, Bid Withdrawal, and Bid Amendments

1. The Bid shall be valid until Contract signature, Bid withdrawal by the Bidder, Bid rejection, or cancellation of the Procurement procedure under this Law.

2. A Bidder may amend or withdraw the Bid prior to the deadline for the submission of Bids.

3. If the Bid is submitted in hard copy, the notification about Bid amendments shall be sent in an envelope prepared in accordance with Paragraph 2 of Article 30 of this Law, by adding on it the word "amendment." In case of Bid withdrawal, the Bidder shall, prior to the Bid opening, submit written notice thereof.

Article 32. Bid Security

1. The Bidder shall provide, together with the Bid, a Bid Security as prescribed in the Invitation, the amount of which shall be equal to up to five percent of the price offered in the Bid. The Bidder shall submit the Bid Security as a validated unilateral statement in the form of a fine or a bank guarantee or cash. Bid Security provided in the form of cash shall be kept in a treasury account opened in the name of the Authorized Body.

2. A Bidder shall pay the Bid Security if the Bidder:

1) Is announced a Selected Bidder, but waives or loses the right to conclude a Contract;

2) Breaches an obligation assumed under the Procurement Process, leading to termination of such Bidder's further participation in the process;

3) Refrains from further participation in the Procurement Process after the Bid opening.

CHAPTER 3 OPENING AND EVALUATION OF THE BIDS

Article 33. Opening of the Bids

1. Bids shall be opened at the time and date indicated in the Invitation, at the Bid opening meeting. The date and the time of the Bid opening shall coincide with the deadline for their submission. The Bids for a restricted procedure may, upon written consent of all Bidders that received an Invitation, be opened prior to the deadline indicated in the Invitation.

2. At the Bid opening meeting, the following shall be disclosed:

1) The name of each Bidder that submitted a Bid;

2) Information on the preparation and submission of envelopes containing the Bids being compliant with the Invitation requirements;

3) Information on the availability of documents required in the Invitation in each of the opened Bids;

4) Information on the compliance of documents submitted by each Bidder with the validity terms specified in the Invitation;

5) The price, in letters and numbers, offered by each Bidder; and

6) Information on withdrawal of or amendments in the Bids.

3. After the Bid opening, minutes shall be drafted and attached to the minutes of Procurement procedure. The minutes shall be signed by the members of evaluation commission present at the meeting. The minutes shall contain:

1) Information on the venue, date, and time of Bid opening;

- 2) The names and addresses of the Bidders that submitted Bids;
- 3) Information on the preparation and submission of envelopes being compliant with the Invitation requirements;
- 4) Data on the availability of documents required in the Invitation in each of the opened envelopes;
- 5) Data on the compliance of documents submitted by each Bidder with the conditions set out in the invitation;
- 6) The price offered by each Bidder;
- 7) Information on the Bidder ranked the first and other Bidders ranked in descending order;
- 8) If the Bidding is declared failed, the grounds for such cancellation;
- 9) Information on Bid-related inquiries and answers provided thereto;
- 10) The venue, date, and time of the commission's next meeting;
- 11) The names of commission members present at the meeting

4. If a member of the evaluation commission and(or) a Bidder wishes to express an opinion (special opinion) on Bid opening that has not been recorded in the Bid opening minutes, it shall be submitted in writing during the meeting and attached to the minutes specified in Paragraph 3 of this Article.

5. Bidders and their representatives may be present at the evaluation commission's meetings. Bidders or their representatives may demand copies of the minutes of the evaluation commission's meetings, which shall be provided within one calendar day. The Requester shall ensure the protection of the information which the Bidders have marked as confidential and shall bear responsibility stipulated by the Republic of Armenia legislation for damage caused to Bidders as a result of disclosing such information, unless such information is subject to mandatory disclosure under this Law.

6. A member of the secretary of the evaluation commission may not participate in the evaluation commission's work if it becomes known during the Bid opening meeting that a Bid has been submitted in such Bid procedure by an organization founded by them or an organization in which they have a share, or by a person who is connected to them by close family or in-law ties (parents, spouses, children, siblings, or spouse's parents, children, or siblings) or by an organization created by such persons or an organization in which such persons have a share.

7. If the condition specified in Paragraph 6 of this Article is present, the evaluation commission member or secretary who has a conflict of interest in respect of the current procedure shall, immediately after the Bid opening session, recuse himself/herself from the current procedure. The commission members and secretary shall sign a statement on the absence of conflicts of interest, which shall be published in the Bulletin on the first working day following the end of the Bid opening meeting.

8. On the working day following the date on which the Bid opening meeting ended, the minutes of the Bid opening meeting shall be published in the Bulletin. In case of making procurements containing state secrecy, the minutes specified in this Paragraph shall, on the first working day following the Bid opening meeting, be sent to all Bidders that submitted bids.

Article 34. Bid Evaluation

1. Bids shall be evaluated in accordance the procedure specified in the Invitation. Bids compliant with the conditions specified in the Invitation shall be rated as satisfactory; otherwise, Bids shall be rated as unsatisfactory and shall be rejected.

2. The winning bidder shall be determined:

1) From among the Bids rated as satisfactory—by giving preference to the Bid with the least price proposed; or

2) By choosing the Bidder whose price proposal and non-price criteria have scored the highest sum total. When using this method, during the Bid evaluation, in addition to the offered price, other non-price criteria shall be taken into account, as well, in the cases and following the procedure specified in the Invitation. The non-price criteria shall be linked with the subject matter of the Contract, and their relative weights shall be disclosed in the Invitation.

3. If a Bidder shall be liable to pay value-added tax to the state budget under the particular transaction, the price proposal shall contain a separate line showing the amount payable for such tax. The evaluation and comparison of the Bidders' price proposals shall be performed excluding the tax amount specified in this Paragraph.

4. If there is an inconsistency in the Bid between the amounts in letters and in numbers, then the amount in letters shall be taken as the basis. If the prices are offered in two or more currencies, they shall be compared in Armenian Drams at the exchange rate specified in the Invitation.

5. After determining the Bidder ranked first and the other Bidders ranked in descending order, within the deadline specified in the Invitation:

1) The Bidder ranked first submits to the commission documents (information) specified in the Invitation justifying the right to participate in the Procurement and the compliance with the qualification criteria set out in the Invitation; and

2) The commission shall evaluate the compliance of the documents (information) submitted under sub-paragraph (1) above with the requirements specified in the tender Invitation and, in cases and in accordance with the procedure set out in the Invitation, evaluate the reasonableness of the price and non-price (technical) proposals of that Bidder.

6. The Bid shall be rated as satisfactory if the documents specified in Paragraph 5 of this Article meet the requirement set out in the Invitation. In this case, the Bidder shall be declared the Selected Bidder.

7. If, as a result of the evaluation under Paragraph 6 of this Article, the Bid is rated as unsatisfactory, the commission shall require the Bidder ranked next to submit the documents.

8. Based on the Bid evaluation results, the minutes of the Bid evaluation meeting shall be drafted and attached to the minutes of the Procurement procedure. Members of the evaluation commission present at the meeting shall sign the minutes.

9. On the working day following the date on which the Bid opening meeting ended, the minutes of the Bid opening meeting shall be published in the Bulletin. In case of making procurements containing state secrecy, the minutes specified in this Paragraph shall, on the first working day following the Bid opening meeting, be sent to all Bidders that submitted bids.

Article 35. Contract Security

1. Pursuant to the request to provide Contract Performance Security, within 10 working days of receiving such request, the Selected Bidder shall submit the Contract Security. The Selected Bidder is awarded the Contract if such Bidder provides the Contract Security.

2. The amount of Contract Security shall be 10 percent of the Contract price. The Contract Security shall be presented in the form of a statement confirmed unilaterally by the Selected Participant—a fine or cash or bank guarantee. Contract Security provided in the form of cash shall be kept in a treasury account opened in the name of the Authorized Body.

3. If the Requester requires an advanced payment under the Contract, the Selected Bidder shall provide an advance payment guarantee in the amount of the advance payment, in the form of a bank guarantee. The Contract shall specify the advance payment repayment procedure.

4. Unless otherwise stipulated by the Contract, the Contract Security or advance payment guarantee shall be returned to the submitter within no later than five working days after the Contract execution completion.

Article 36. Contract Signing

1. The Requester shall sign the Contract based on a decision of the evaluation commission.

2. Within four working days of the end of the standstill period stipulated by Article 10 of this Law, the Requester shall notify the Selected Bidder, offer to sign a Contract, and provide a draft Contract. The Contract may be signed no earlier than on the second working day after the end of the Standstill period stipulated by Article 10 of this Law.

3. If, within 10 working days of receiving the notice on Contract award and the draft Contract, the Selected Bidder does not sign the Contract does not submit to the Requester a Contract Security, then the Selected Bidder shall be deprived of the right to sign the Contract. If the Contract also provides for an advance payment, the time period stipulated by this Paragraph shall be set as 15 days.

4. Prior to the deadline stipulated by Paragraph 3 of this Article and upon the consent of the parties, the draft Contract may be amended, provided that such amendments do not lead to the changes in the specifications of the Procurement Subject, including an increase in the price offered by the Selected Bidder.

Article 37. Declaring the Procurement Procedure as Failed

1. The Procurement procedure shall be declared as failed if:

- 1) None of the Bids complies with the Invitation conditions;
- 2) The need for Procurement ceases to exist;
- 3) No Bid has been submitted;
- 4) A Contract is not awarded.

2. After a Procurement procedure has been declared as failed, the opening of the unopened Bids shall be prohibited, and they shall be returned to the Bidders.

3. Within the working day following the declaration of the Procurement as failed, the Requester shall publish in the Bulletin an announcement indicating the grounds for declaring the procedure as failed. Such announcement shall not be published for restricted tenders.

Article 38. Prohibition of Negotiations with Bidders; Detection and Prevention of Cases of Restriction of Economic Competition

1. Negotiations between the evaluation commission, the Requester, and the Bidders shall be prohibited except:

1) When only one Bidder participated in the tender and submitted a Bid compliant with the requirements of the Invitation, or only one Bid was evaluated – as a result of Bid evaluation - as compliant with the requirements of the Invitation, or in case of equality of the proposed least prices, or if the price proposals of all Bidders that submitted Bids evaluated as meeting the non-price conditions exceed the amount of funding allocated for making the respective Procurement. Negotiations conducted under this Paragraph may lead only to reduction of the offered price and/or changes in the payment conditions. Such negotiations shall be conducted concurrently with all the Bidders; or

2) For other cases stipulated by this Law.

2. The Authorized Body shall cooperate with other relevant bodies and the Requester in order to identify cases of infringement of legislation on the protection of economic competition in the Procurement Process, including anti-competitive collusion and abuse of dominant position.

Article 39. Contract Price Calculation

1. The calculation of the Contract price shall include all payments (costs) to be incurred by the Selected Bidder to secure the Contract execution, including taxes, duties, transportation, and insurance costs, bonus payments, and anticipated profit.

2. The Contract price:

1) May be variable, when the Contract price varies as a result of changes in conditions (factors) stipulated under the Contract. Otherwise, the Contract price is fixed, and the parties shall fully execute their contractual obligations in the framework of the Contract price;

2) May contain state secrecy, in which case a Contract price may be calculated based on actual expenditures for developing new types of products for military needs or in case of procuring research-development and experimental-construction works, provided that it does not exceed the amount of funding allocated for procuring such goods, works, or services.

**CHAPTER 4
ELECTRONIC AUCTIONS**

Article 40. Conditions for Conducting an Electronic Auction

1. The deadline for Bid submission in an Electronic Auction shall be set as 15 calendar days at least, from the date of publishing the announcement and Invitation in the Bulletin. If the Procurement price does not exceed 70-fold the Procurement Base Unit, the Bid submission deadline under this Paragraph shall be set as at least seven calendar days.

2. An electronic auction shall be based solely on prices.

3. In case of applying an Electronic Auction, the Invitation shall also contain the following conditions:

- 1) Limitations of the forthcoming Bids, which are due to the specifications of the Procurement Subject;
- 2) The information to be provided to the Bidders during the Electronic Auction and the conditions of providing such information to them;
- 3) Significant information related to the Electronic Auction process;
- 4) The conditions of Bid submission by the Bidders: to substantiate its eligibility to participate in the Procurement and its compliance with the qualification criteria set out in the Invitation, the Bidder shall present a statement validated by the Bidder, provided that the Bidder undertakes to present, in the cases and procedure stipulated by this Law, the documents (information) required by the Invitation for substantiating the statement; and
- 5) Information on the electronic equipment used, the conditions of contacting, and the technical specifications.

4. No later than two calendar days before the Bid submission deadline, the Invitation may be amended. Such amendments shall be published in the Bulletin on the same day. In such case, the Bid submission deadline shall be calculated as from the date of publishing the amendments in the Bulletin.

5. A Bidder may request Invitation clarification at least three calendar days prior to the Bid submission deadline. The clarification shall be provided to the requesting Bidder within the two calendar days following the date of receiving the request.

6. An announcement about the contents of the request and the clarifications shall be published in the Bulletin on the date of providing the clarification to the requesting Bidder, without specifying information about the requesting Bidder.

Article 41. Procedure of Conducting an Electronic Auction

1. The Requester shall make full evaluation of the Bids in accordance with the criteria set out in the Invitation, after the results of the Electronic Auction have been finalized.

2. An offer to submit new (revised) prices in electronic form shall be sent to all Bidders that submitted Bids. The offer shall also contain information on the Electronic Auction opening date and time, as well as the information required to establish an individual link with the electronic equipment used.

3. The Electronic Auction may take place in a number of successive rounds.

4. The Electronic Auction shall start no sooner than two calendar days after the date of sending the request about it.

5. In each round of the Electronic Auction, the Requester shall immediately communicate (online) to the Bidders at least sufficient information to enable them to ascertain their relative ranking at any moment.

6. During the rounds of the Electronic Auction, the Requester shall not disclose the identity of the Bidders that submitted prices.

Article 42. Finalizing the Electronic Auction

1. The Electronic Auction shall be finalized (closed) if one or any combination of the following conditions is present:

- 1) A specific moment set out in the Invitation;
- 2) The number of auction rounds stated in the Invitation has been completed;

3) No more new prices have been submitted. In such case, the Requester shall indicate in the Invitation to participate in the auction the time allowed after receiving the last offer before closing the Electronic Auction.

2. The Requester shall, in accordance with the procedure stipulated by this Law, award the Contract to the Bidder that was selected based on the Electronic Auction results.

SECTION 5 PECULIARITIES OF PROCURING CONSULTING SERVICES

Article 43. List of Consultants

1. Unless otherwise stipulated by this Law, the Procurement of Consulting Services shall be carried out through an open or restricted procedure in accordance with the procedure stipulated by this Law.

2. In the event of Procurement of Consulting Services through an open or restricted procedure, a prequalification procedure for preparing a list of Consultants shall be conducted in accordance with the procedure stipulated by the Article 24 of this Law. Bidders that pass the prequalification shall be eligible to participate further in the Procurement Process.

Article 44. Procedure of Determining the Selected Consultant

1. The Selected Bidder shall be determined from the submitted Bids by the following selection methods specified in the Invitation:

- 1) Evaluated the highest under the non-price conditions; or
- 2) Compliant with the minimum non-price conditions and offered the lowest price;

or

- 3) A non-price proposal evaluated the highest under the fixed price ceiling.

2. The Selected Bidder may also be determined by the method of selecting the Consultant that has the highest total score for the offered price and experience, staff, proposed mode of service provision, or other non-price condition(s) specified in the Invitation, as rated under the procedure set out in the Invitation.

3. The Invitation shall specify the procedure for selection of the Consultant, including the conditions for applying the Consultant selection method stipulated by this Article.

Article 45. The Negotiations

1. The provisions of a draft Procurement Contract may be negotiated with the Selected Consultant. However, they may not result in amending the Descriptions of the Procurement Subject.

2. The negotiations with a Consultant selected under Paragraph 1(1) of Article 44 of this Law, which received the highest score for non-price conditions, may result in decreasing the offered price or changing the payment conditions.

SECTION 6 APPEALING THE PROCUREMENT PROCESS

Article 46. The Right to Appeal

1. Every person shall have the right to file a complaint against the actions (inaction) and decisions of the Requester, the evaluation commission, and the Procurement Complaints Board.

2. Relations pertaining to Procurement, including complaints, shall not be administrative relations, and shall be regulated by the Republic of Armenia civil legislation.

3. Every person shall have the right, in accordance with this Law:

1) To lodge a complaint against the actions (inaction) and decisions of the Requester and the evaluation commission to the Procurement Complaints Board prior to the conclusion of the Contract; and

2) To appeal the actions (inaction) and decisions of the Procurement Complaints Board, the Requester, and the evaluation commission in court.

4. Any person having an interest in concluding a particular transaction, provided that such person has suffered harm because of the actions or inaction of the Requester, the evaluation commission, or the Procurement Complaints Board, shall have the right to demand compensation of damages in court.

Article 47. The Procurement Complaints Board

1. The Procurement Complaints Board (hereinafter, "the Board") shall examine complaints against the actions (inaction) and decisions of the Requester and the evaluation commission.

2. The Board shall be an entity carrying out unbiased and independent review, which shall have no interest in the outcomes of a given Procurement Process and shall, in the discharge of its rights and responsibilities, be protected from external influence. The Board members shall review appeals with due care and impartiality. The Board members, when discharging the competences stipulated by this Law, shall be independent of Procurement Process participants, including the Requesters, as well as state bodies and local self-governments and officials, and shall be obliged to apply and follow only the law.

3. For the discharge of powers stipulated by this Law, a Board member shall receive remuneration from resources of the state budget, through the Authorized Body.

4. The amount of remuneration of a Board member shall be calculated in accordance with the procedure stipulated by the Republic of Armenia Law on Remuneration of Persons Holding State Office. The monthly remuneration of Board members shall be calculated on the basis of the coefficient stipulated by the Law on Remuneration of Persons Holding State Office for calculating the salary of a standing board created under the Republic of Armenia laws.

5. The Authorized Body shall secure the working conditions necessary for the discharge of powers reserved for the Board by this Law.

6. Every year, by 1 April, the Board shall publish a report on the previous year's activities in the Bulletin. The report shall contain information on activities carried out during the previous year with respect to the powers stipulated by this Law, as well as statistical data and comparative analyses.

Article 48. Composition of the Procurement Complaints Board

1. The Board shall consist of up to three members.
2. The Board members shall be appointed and, in the cases stipulated by this Law, dismissed by the President of the Republic of Armenia, upon nomination by the Prime Minister of the Republic of Armenia.
3. The Board members shall be appointed for a five-year term. The tenures of the members of the first composition of the Board shall be as follows:
 - 1) Three years for one member;
 - 2) Four years for one member; and
 - 3) Five years for one member.
4. A citizen of the Republic of Armenia, who has a university degree in economics and management or law, at least five years of experience in public administration, or at least seven years of professional work experience, and a command of the Armenian language may be appointed as a member of the Board. 65 shall be the maximum age of discharging the powers of a Board member.
5. A person may not be appointed as a Board member if such person:
 - 1) Has been deprived of the right to hold state positions under the procedure stipulated by the Republic of Armenia laws;
 - 2) Has been declared by court as having no legal capacity or limited legal capacity;or
 - 3) Has been convicted for a crime, except when the conviction has been lifted or extinguished.
6. During the discharge of his powers, a Board member may not hold another position or perform other paid work, except for scientific, pedagogical, and creative work.
7. A Board member shall be dismissed:
 - 1) If any of the circumstances prescribed by Paragraph 5 of this Article has emerged;
 - 2) On the basis of a personal application;
 - 3) In case if discharging his powers is impossible due to three consecutive months of inability to work, excluding pregnancy and child delivery leave;
 - 4) In case of termination of the Republic of Armenia citizenship; or
 - 5) In case of being declared by court as missing or dead.
8. The powers of a Board member shall be deemed terminated in case of his death, reaching the maximum age, or end of his term.
9. In case of early dismissal of a Board member, an appointment shall be made for the remainder of such member's term. If the remainder of such term is less than a year, the term of the new Board member shall be five years.
10. A Board member shall not have an employment relationship with the Republic of Armenia. Every Board member shall be entitled to 24 working days' leave per annum, during which he shall be relieved of his duties, but shall continue to receive the remuneration.

Article 49. Operation of the Board

1. A complaint shall be reviewed by a single Board member in accordance with this Law and other legal acts. When reviewing a complaint, the Board member shall act as the Procurement Complaints Board.
2. A Board member may not review a complaint if it turns out that the appeal process involves an organization founded by such member or an organization in which

such member has a share, or by a person who is connected to such member by close family or in-law ties (parents, spouses, children, siblings, or spouse's parents, children, or siblings) or by an organization created by such persons or an organization in which such persons have a share. If the condition specified in this Paragraph is present, the Board member who has a conflict of interest in respect of the current complaint review and decision-making shall recuse himself/herself from the procedure. During the examination of each complaint, the Board member shall sign a statement about the absence of a conflict of interest, which shall be published in the Bulletin together with the decision adopted in respect of the complaint.

3. Based on this Law and for complying with its requirements, the Board shall approve its operating procedure by majority vote of the members.

Article 50. Procedure for Lodging a Complaint to the Board

1. A complaint shall be lodged to the Board in writing, signed, and shall contain:

1) The name and address of the person lodging the complaint (name, surname, and copy of personal identification document);

2) The name and address of the Requester;

3) The code and subject of the Procurement procedure complained against;

4) The subject matter of the dispute and the demand of the complainant;

5) The factual and legal grounds of the complaint and the evidence;

6) A document confirming payment of the complaint fee. The complaint fee shall be 30,000 Armenian drams payable to the state budget of the Republic of Armenia. If the complaint is granted, the fee stipulated by this Paragraph shall be subject to reimbursement to the complainant in accordance with the procedure defined by the Government of the Republic of Armenia; and

7) Other necessary information.

2. If the complainant is complaining against:

1) The decision to sign the Contract, the complaint shall be lodged during the standstill period stipulated by Article 10 of this Law;

2) The Description of the Procurement Subject, or the requirements of the prequalification announcement or Invitation, the complaint shall be lodged before the Bid submission deadline.

3. If the complaint does not meet the requirements of this Paragraph, the Board shall inform the complainant within two working days of receiving the complaint and shall give such person two working days for eliminating the shortcomings found. If the complaint does not meet the requirements of this Article within the time period stipulated by Paragraph 2(2) of this Article, then the complaint corrected during the time period specified in this Paragraph and submitted to the Board shall be deemed submitted before the deadline.

4. Within two working days of receiving a complaint in accordance with the requirements of this Article, the Board shall contact the Requester with a demand to present to the Board all the documents necessary for decision-making on the complaint. The Requester shall present to the Board the documents specified in this Paragraph within two working days of receiving such demand.

5. Decisions regarding a complaint shall be taken under a procedure whereby the complainant, the Requester, and all involved parties may be present at the Board sessions and present their opinions.

6. A written decision on the complaint, which shall also contain the justification of the decision, shall be adopted and published no later than within 20 calendar days of receiving the complaint. By reasoned decision of the Board, the time period prescribed by this Paragraph may be extended once by up to 10 calendar days. The Board's decision shall be legally binding.

7. The Board shall:

1) Have the right to adopt one of the following decisions concerning the actions or inaction of the Requester and the evaluation commission:

a. To prohibit performing certain actions and adopting decisions;

b. To obligate to adopt appropriate decisions, including a decision to declare the Procurement procedure as failed, save for a decision to declare a Contract as invalid; or

c. To change the adopted decisions;

2) Decide to include a Bidder in the list of Bidders that are ineligible to participate in the Procurement process; or

3) Record decisions adopted by the Board and oversee their execution.

8. If a complaint is granted by the Procurement Complaints Board, the Requester shall be liable for compensating the complainant for the damage caused and justified in accordance with the established procedure.

9. The complaint examination shall be open to the public, except for procurements containing state secrecy. Within one working day of receiving the complaint, the Board shall publish an announcement about it in the Bulletin.

10. Any person whose interests have suffered or may suffer due to actions that served as the basis for lodging the complaint may participate in the review procedure by submitting, prior to the deadline for decision on the complaint, a similar complaint to the Procurement Complaints Board. A person who did not participate in the review procedure in accordance with this Article shall be deprived of the right to submit to the Board a similar complaint.

11. The decision of the Procurement Complaints Board shall be published within three working days of its adoption in the Bulletin, specifying the publication date. In case of Procurement containing state secrecy, the Board's decision shall be sent to the Requester, the Authorized Body, and the parties involved in the review procedure.

Article 51. Suspension of the Procurement Procedure

1. A complaint lodged with the Procurement Complaints Board shall automatically suspend the Procurement Process from the date of publishing the announcement stipulated by Paragraph 9 of Article 50 of this Law to the date of publishing the decision on the complaint in the Bulletin.

2. The Board may decide to lift the suspension if, according to justifications presented by the Requester, public or defense or national security interests make it necessary to continue the Procurement Process. The Board shall publish such decision in the Bulletin within one working day of rendering it.

SECTION 7 PECULIARITIES OF PROCUREMENT

Article 52. General Peculiarities of Procurement for

Public Undertakings

1. For Procurement carried out by public undertakings in the Republic of Armenia:

1) Procurement-related matters shall be regulated by Procurement procedures adopted by such undertakings;

2) Procurement procedures, announcements on Procurement Processes, Invitations, and announcements on signed Contracts exceeding the Procurement Base Unit shall be published also in the Bulletin; and

3) The review of complaints shall be carried out in accordance with the procedure stipulated by Section 6 of this Law.

2. The Procurement procedures specified in Paragraph 1 of this Article may not contradict the objectives and principles set out in Article 3 of this Law. In case of procurements exceeding the threshold set by the World Trade Organization Agreement on Government Procurement if the Procurement Price, the Procurement procedures shall also not contradict the requirements of such Agreement. In case of public undertakings included in the list approved by the Republic of Armenia Public Services Regulatory Commission, the Procurement procedures shall also not contradict the additional requirements set out by the Public Services Regulatory Commission; the latter shall monitor the implementation of such additional requirements based on the procedure it has set out.

Article 53. Special Exceptions in Procurement for Public Undertakings

1. The provisions of this Law shall not apply when a Public Undertaking intends to procure:

1) Goods that will be resold or leased to third parties, provided that the Undertaking concerned enjoys no Special or Exclusive Right to sell or lease the subject of such Contracts, and other Undertakings are free to sell or lease similar goods on the same terms as such Undertaking;

2) Goods, services, or works for the purpose of performing Relevant Activities in a third country on terms that do not imply their operation in the territory of the Republic of Armenia; and

3) Goods, services, or works for the purpose of performing activities other than Relevant Activities. When the Contract is intended to cover several activities, and at least one of them is a Relevant Activity, but it is objectively impossible to determine for which activity the Contract is principally intended, the Procurement shall be made according to the provisions of this Law.

Article 54. Peculiarities of Procurement for the Central Bank of the Republic of Armenia

1. In case of Procurement for the Central Bank of the Republic of Armenia:

1) The provisions of this Law shall not apply to Procurement under the operational expenses of the Central Bank of the Republic of Armenia;

2) The competences and functions reserved for the Republic of Armenia Government and the Authorized Body under this Law shall be exercised by the Board of the Central Bank of the Republic of Armenia;

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

4) This law shall not apply to the Procurements of entities founded by the Central Bank of the Republic of Armenia or entities in which there is participation of the Central Bank of the Republic of Armenia;

5) The requirements of Paragraph 5 of Article 16 shall not apply; and

6) Complaints under this Law shall be lodged under the procedure stipulated by Section 6 of this Law.

Article 55. Peculiarities of Procurement for the Purpose of Organizing the Electoral Process

1. When making Procurement with funding allocated for the organization and administration of elections and referenda:

1) The provisions of this Law shall not apply when making Procurement for the organization of the electoral process by the Central Electoral Commission of the Republic of Armenia, including the organization of professional training courses (tests) for the purpose of organizing elections after an election (referendum) is set;

2) The competences and functions reserved for the Republic of Armenia Government and Authorized Body under this Law shall be carried out by the Central Electoral Commission of the Republic of Armenia; and

3) The procedure of publishing information subject to publication under this Law shall be defined by the Central Electoral Commission of the Republic of Armenia.

**SECTION 8
FINAL AND TRANSITIONAL PROVISIONS**

Article 56. Entry into Force of the Law

1. This Law shall enter into force on the 90th day following its official promulgation, save for Paragraphs 1 and 2 of Article 57 of this Law, which shall enter into force on the 10th day following official promulgation.

Article 57. Transitional Provisions

1. The first composition of the Procurement Complaints Board shall be appointed within a 30-day period of the date of entry into force of this Law.

2. The Board shall approve its operating procedure within a two-month period of the date of approval of its first composition.

3. The provisions of this Law shall not apply to Procurement Contracts originated and not terminated prior to the entry into force of this Law, as well as to signed and ongoing Procurement Contracts. They shall be regulated by the legal acts that were in effect when such transactions were concluded.

4. The requirements of this Law and the Republic of Armenia Law on Procurement dated 22 December 2010 (Law number HO-206-N) shall not apply to transactions stipulated by memoranda of understanding and preliminary agreements concluded by the state in the framework of public-private partnership prior to the entry into force of this Law, when the final contracts on such transactions are to be concluded within two years of the entry into force of this Law.

5. From the moment this Law enters into force, the Republic of Armenia Law on Procurement dated 22 December 2010 (Law number HO-206-N) shall become null and void.

6. The legal acts and legal norms adopted in accordance with or for the implementation of the Republic of Armenia Law on Procurement dated 22 December 2010 (Law number HO-206-N) shall remain in effect insofar as they do not contradict this Law.

PRESIDENT OF THE REPUBLIC OF ARMENIA

S. SARGSYAN

14 January 2017

Yerevan

Law number HO-21-N