

(unofficial translation)

## The Law of Georgia on State Procurement

### Chapter I General Provisions

#### Article 1. The Scope of the Law

1. The present Law sets forth general legal, organizational and economic principles for conducting state procurement.

2. The rules set forth in the present Law apply to all types of state procurement, except for the state procurement related to a state secret set forth in the law of Georgia on State Secret.

3. The list of the objects of state procurement related to state secret set forth in the Law of Georgia on State Secret and the rule for performing procurement thereof shall be developed by the National Security Council of Georgia and approved by the President of Georgia.

3<sup>1</sup>. The scope of the present Law does not apply to the following state procurement:

a) state procurement related to performing money-and-credit and currency policy by the National Bank of Georgia pursuant to the Organic Law of Georgia on the National Bank of Georgia, except for the procurement under the administrative and capital expenditures budget approved by the board of the National Bank of Georgia that are regulated under the present Law;

b) state procurement to be conducted with the funds of those legal entities of public law (hereinafter - LEPL), which are regarded religious organizations under the legislation of Georgia;

c) state procurement of electricity, guaranteed power supply, natural gas and water supply;

d) *Has been removed;*

d<sup>1</sup>) state procurement of a motor vehicle for Georgia's diplomatic mission and a consulate abroad, defense attaché, as well as for a representative of the Ministry of Defense of Georgia and the Ministry of Interior of Georgia, except as stipulated in Article 10<sup>1</sup>(3) (e) of the present Law;

e) state procurement to support organizing meetings and visits of the President of Georgia, Chairman of the Parliament of Georgia, Prime Minister of Georgia, a minister of Georgia, state minister of Georgia and/or mayor of Tbilisi, receptions for the delegations at the Parliament of Georgia and visits of Parliamentary delegations of Georgia abroad, provide support with organizing receptions of delegations at the Ministry of Foreign Affairs of Georgia and visits of the Ministry of Foreign Affairs of Georgia delegations abroad, as well as state procurement to be conducted using the funds allocated from reserve funds of the President of Georgia, Government of Georgia and Tbilisi City Hall;

f) state procurement of services of part-time workers stipulated in budget classification article "Goods and Services", as well as state procurement to be performed during a business trip;

g) *Has been removed;*

- h) state procurement of expert services, provided the procurement of the mentioned services is conducted in accordance with Articles 144-147 of the Criminal Procedure Code of Georgia;
- i) state procurement of immovable property, as well as that related to the obtaining the right to enjoy immovable property;
- j) funding of relevant services/goods of education, health and social protection through a voucher, as well as the transactions of cashing a voucher and those related to cashing thereof;
- k) state procurement related to the purchase of TV/radio air time, dissemination of advertisements through mass media and rental of relevant space for holding meetings;
- l) procurement of services related to distribution and/or receipt of TV/radio products (program, TV show, film, report, cultural event) and/or related services by a LEPL – Public Broadcaster from a non-resident entity, as well as distribution and/or receipt of TV/radio products (program, TV show, film, report, cultural event) through a satellite;
- m) procurement of sovereign credit rating services and credit rating services related to state securities, as well as the reimbursement to the supplier of the mentioned services of costs accompanying credit rating services.

4. Procurement procedures established by the World Bank (WB), United Nations Organization (UN), European Bank for Reconstruction and Development (EBRD), Asian Development Bank, German Reconstruction Credit Bank (KFW) and the European Investment Bank (EIB) may be applied when conducting state procurement, provided these organizations are involved in legal relations related to the effecting of procurement. In case the mentioned organizations are not involved in legal relations related to the performance of procurement, the procedures of these, as well as other organizations may be used only subject to the Government of Georgia decree.

5. *Has been removed.*

## **Article 2. Purpose of the Law**

The purpose of this law is as follows:

- a) ensure rational expenditure of funds designated for state procurement;
- b) promotion of healthy competition in the area of the supply of goods, rendering of services and the performance of construction works necessary for the state;
- c) ensure fair and non-discriminatory approach towards the participants of procurements during the performance of state procurement;
- d) ensure publicity of state procurement;
- e) formation of the Unified Electronic System of State Procurement and building public confidence thereof.

## **Article 3. Definition of terms used in the Law**

1. The terms used in this law shall have the following meaning;

- a) state procurement – procurement of any goods, services and construction works by a procuring entity in the cases set forth in the present Law, through electronic or other means, with the following funds:
- a.a) funds of the State Budget of Georgia and those consolidated in the State Budget;
  - a.b) funds of the budgets of the Autonomous Republics of Abkhazia and Adjara;
  - a.c) budget funds of a local self-government unit;
  - a.d) funds of the organizations and institutions funded under the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Adjara and the funds of organizations and institutions funded under the budgets of local self-government bodies;
  - a.e) funds received by budgetary organizations, LEPLs and the enterprises envisaged under subparagraph (a.h) of the present Paragraph conducting state procurement under international agreements in the form of grant or credit from foreign states and international organizations, as well as the funds received from other states' residents in the form of grant and credit, except as stipulated in Article 1(4) of the present Law;
  - a.f) credit and investment funds received under the state guarantee;
  - a.g) funds of a LEPL (other than a membership-based LEPL), regardless of the source of origin of these funds, except as stipulated in Article 1 (3<sup>1</sup>) (a) and (b) of this Law;
  - a.h) funds of an enterprise with more than 50% of stocks and shares owned by the State or a local self-government body, except when the mentioned enterprise when procuring goods or services related to the specificity of its operations is guided by a special rule established by the Government of Georgia for the procurement of these goods or services, which validity may not be over 2 years. The Ministry of Economy and Sustainable Development of Georgia or the Ministry of Regional Development and Infrastructure of Georgia, on the basis of the suggestions by relevant enterprises and local self-government bodies shall develop and submit to the Government of Georgia for approval a special rule to be established by the Government of Georgia. If the Government of Georgia does not prescribe a special rule, procurement shall be conducted pursuant to the present Law;
- b) procuring entity – an entity conducting procurement using the funds set forth in Subparagraph (a) of the present Paragraph, which registration in the Unified Electronic System of State Procurement is performed in accordance with the rule prescribed under a sub-legal act approved by the chairman of the authorized body set forth under this Law;
- c) procurement object – goods, services or construction work to be procured;
- d) *Has been removed;*
- d<sup>1</sup>) homogeneous procurement objects – procurement objects that are identical, as well as those that are not identical, yet have similar components, technical features (specifications) and/or functions. The homogeneity of the procurement objects shall be established pursuant to the rule set under sub-legal act approved by the chairman of the authorized body set forth under this Law;
- e) *Has been removed;*
- f) goods – property of any type and characteristics (other than immovable property) in solid, as well as liquid or gas condition, as well as services accompanying the supply of goods, provided the value of these services is not higher than the value of goods;
- g) construction work (hereinafter - works) – any works related to construction, reconstruction, demolition, repair or renovation of a building, structure or another site (including the setting up of a construction site, excavation of earth, construction of a building or a structure, installation of

equipment, face-lifting and face-lifting works, communication networks set-up works related to construction), as well as the services accompanying construction, such as drilling, geodesic works, satellite and aerial photography, seismic study and other similar services envisaged under a contract, provided the value of such services is not higher than the value of works;

h) services – any procurement object, other than goods and works; in case of state procurement of services the issues related to a simplified electronic tender, electronic tender or consolidated tender notice, tender documentation, estimated value of procurement object or the value of tender bid shall be prescribed under a sub-legal act approved by the chairman of the authorized Body set forth under this Law;

h<sup>1</sup>) entity interested in participating in procurement – an entity that is interested to take part in procurement procedures;

i) *Has been removed;*

i<sup>1</sup>) bidder – an entity that has paid a fee in order to participate in state procurement procedure;

j) supplier – an entity that has awarded a contract with the procuring entity;

k) urgent necessity – the situation that poses real threat to the functioning of a procuring entity and which could not have been foreseen, and/or which occurrence is not a result of an action of a procuring entity, or which may cause significant damage to Georgia's state and/or public interests or the property of a procuring entity;

l) The Registry of dishonest participants of the procurement (hereafter - Black List)– the Black List maintained electronically and posted on its official web page by the authorized body set forth in the present law. The Black List includes the data on those dishonest entities, bidders and suppliers participating in state procurement, which are not authorized to participate in state procurement and award a contract on state procurement for an-year period after their entry into the Black List. The Black List is available for any person. The rule and conditions of maintaining the Black List shall be prescribed under a sub-legal act approved by the Chairman of an authorized body set forth under the present law (hereinafter - sub-legal act);

m) *Has been removed;*

n) fee – obligatory amount payable to the account of an authorized body set forth in the present Law in the amount as prescribed under the same Law for the submission of the tender bid or design contest proposal, which shall not be subject to refund, save fee was paid in error;

n<sup>1</sup>) Publication fee-obligatory amount payable to the account of an authorized body set forth in the present law by the procurement entity for publishing electronically design contest notice and design contest documentation or tender notice and tender documentation. The amount of publication fee and payment method for the cases of design contest, simplified electronic tender and electronic tender are determined under a sub-legal act;

o) electronic means – facilities that can be used for processing information (including digital processing), receipt and transmission, dissemination, and storing through cable, optical, broadcast and/or other electronic facilities;

p) electronic tender – method of state procurement of homogeneous procurement objects with value GEL 200,000 and over that comprises procedures for an electronic tender stipulated in the present Law and sub-legal act;

q) simplified electronic tender – method of state procurement for homogeneous procurement objects with value up to GEL 200,000, which comprises procedures for a simplified electronic tender stipulated in the present Law and the sub-legal act. Tender committee shall post a notice about conducting

simplified electronic tender and tender documentation in the Unified Electronic System of State Procurement no later than 3 days before the deadline for the acceptance of bids. The timeframe for accepting tender bids under a simplified electronic tender must be at least 2 days;

r) simplified procurement – method of state procurement to be conducted in the cases stipulated in Article 10<sup>1</sup>(3) of the present Law, or state procurement of homogeneous procurement objects with value up to GEL 5,000 (in the cases of procurement of homogeneous procurement objects with up to GEL 50,000 value by Georgia’s diplomatic mission in a foreign state, as well as in case of procurement of homogeneous procurement objects related to defense, security and the maintenance of public order with value up to GEL 50,000 by the procuring entities under the Ministry of Interior of Georgia system and procuring entities under the Ministry of Defense of Georgia system and by Special State Protection Service (*Shall be removed from January 1, 2012*);

r<sup>1</sup>) simplified procurement – method of procurement to be conducted in the cases stipulated in Article 10<sup>1</sup>(3) of the present Law, or state procurement of homogeneous procurement objects with value up to GEL 5,000 (in the cases of procurement of homogeneous procurement objects with up to GEL 20,000 value by Georgia’s diplomatic mission in a foreign state, as well as the state procurement of homogeneous procurement objects related to defense, security and the maintenance of public order with value up to GEL 20,000 by the procuring entities under the Ministry of Interior of Georgia system and procuring entities under the Ministry of Defense of Georgia system and by Special State Protection Service (*Shall become effective from January 1, 2012*);

s) electronic reverse auction – procedure under electronic tender and simplified electronic tender, during which within the timeframe set forth under the Georgian legislation a bidder may reduce the quoted price through an Unified Electronic System of State Procurement in order to win in the procurement procedure;

s<sup>1</sup>) Status - definite phase of an ongoing electronic tender or a simplified electronic tender.

t) *Has been removed*;

u) consolidated tender – a procedure conducted by an authorized body stipulated under the present Law in the case set forth by the Government of Georgia for the procurement of a homogeneous procurement object, during which the best tender bid is identified;

v) business expenses – representational expenses stipulated in the Tax Code of Georgia, considering the specificity of the present Law;

w) alternative procurement – alternative procurement of communication services from a different supplier under a procuring entity’s justified decision, to ensure stable and safe operation of relevant informational-technological system. In such case, the current supplier of communication services shall not be permitted to participate in procurement procedures. Additional conditions related to alternative procurement shall be prescribed under a sub-legal act;

x) Design contest – for the purposes of the present law, alternative method of state procurement for design (project) services or dismantling buildings or/and removing materials and leavings after dismantling buildings from the territories, applied to by the decision of a procurement entity.

y) affidavit – for the purposes of the present Law, this is a written document, signatory to which confirms the authenticity of the information and facts provided in the document and is liable for the authenticity of mentioned information and facts according to the rule prescribed under the legislation of Georgia;

z) artificially splitting state procurement – conduction of procurement of homogeneous procurement objects from the same source of funding by a procuring entity during a single budget year in artificially

reduced quantity and/or volume or another action which objective is to avoid the monetary thresholds prescribed under this Law and the sub-legal acts passed pursuant to thereof and other requirements.

2. *Has been removed;*

3. For the purposes of the present Law, the term „entity” means a natural or legal entity of Georgia or a foreign state or another organization stipulated in the legislation of Georgia or that of a relevant state.

4. For the purposes of the present Law, unless an explicit indication is made for a business day, a term „day” shall mean a calendar day.

#### **Article 4. Authorized Body**

1. The President of Georgia shall determine a body authorized for the activities stipulated in the present Law. An authorized body is an independent LEPL (hereinafter - the Agency) which chairman shall be appointed and dismissed by the Prime Minister of Georgia.

2. Legal basis for the Agency operations is the Constitution of Georgia, International agreements and treaties, the present Law, and the Agency regulations developed in accordance thereof.

3. The Government of Georgia shall approve the structure and regulations of the Agency.

3<sup>1</sup>. The Agency shall be reorganized and liquidated under the President of Georgia decree.

4. The Government of Georgia shall exercise state control over the Agency activities.

5. The Agency shall be funded from:

- a) targeted funds allocated from the State Budget of Georgia;
- b) fee paid by an entity interested in participating in procurement;
- c) other revenues allowable under the legislation of Georgia.

6. Main functions of the Agency shall be as follows:

- a) develop and pass sub-legal acts and standard tender documents required for the operation of this Law, harmonization thereof with international standards;
- b) on the basis of reports received from procuring entity perform study, analysis of situation in the field of procurement within the country on a regular basis and submission of suggestions to the Government of Georgia to inform the making of relevant decisions;
- c) develop special training programs, training-methodological materials and standard forms of documentation, holding workshops and trainings for central authorities and local self-government bodies, mass media representatives and other interested entities;
- d) develop, refine and exercise oversight over the unified procurement information base;
- e) provide advisory-counseling services to procuring entities;

- f) provide support in the introduction of modern information and communication technologies within the procurement system;
- g) ensure availability of relevant sub-legal acts and special bulletin manual to ensure the publicity of procurement;
- h) consideration of disputes arising during procurement;
- i) conduct oversight over the legitimacy of procurement procedures and establish the policy for regulation of procurement process;
- j) Maintenance of the Black List;
- k) *Has been removed*;
- l) in special cases, under a written request by a procuring entity or at own decision, under an individual administrative-legal act perform the identification of a procurement object and/or integration in the classification;
- m) identification of the facts of artificial splitting of state procurement and taking relevant response measures.

7. To support the functioning of the Unified Electronic System of State Procurement and ensure electronic documentation turnover throughout the procurement process, the Agency shall be authorized to:

- a) keep an electronic copy of and issue any document created or stored thereof;
- b) receive, publish or issue any information and/or document through unified automatic means of management;

8. Electronic copies and print-outs of documents stipulated in Paragraph 7 of the present Article shall have the legal force equal to that as these documents.

9. The Agency shall have a banking account. Amounts of interest charged to the banking account belong to the Agency and shall be used towards its goals and objectives.

## **Article 5. Rights and obligations of a Chairman of the Agency**

1. A Chairman of the Agency:

- a) under the rule set forth in the legislation of Georgia issues sub-legislative acts (decrees) which adherence shall be compulsory for procuring entities and other entities participating in procurement;
- b) issues orders related to internal organizational matters;
- c) handles the issues assigned under the Agency administration;
- d) keeps an eye on the performance of their duties by the Agency structural sub-units, exercises control over employee performance according to the established rule;
- e) within its competence appoints and dismisses the Agency employees;
- f) administers the Agency funds and controls use thereof;
- g) according to the established rule submits to the Government of Georgia recommendations with regard to the matters assigned within the Agency administration for taking relevant decisions;

2. A chairman of the Agency shall be liable for the Agency performance according to the Law-prescribed rule.

#### **Article 6. Supervisory Board of the Agency**

1. To ensure transparency of the state procurement system, publicity of the work of the Agency and towards management thereof according to democratic principles a Supervisory Board of 7 members (including the chairman of the supervisory board) shall be established by the Agency; the members shall be appointed by the Government of Georgia for a 4-year term. The statute of the Supervisory Board of the Agency shall be approved by the Government of Georgia. The Supervisory Board shall be staffed with the officials in the leadership and the controlling bodies (representatives of the Ministry of Economy and Sustainable Development, Ministries of Finance and Justice), as well as the representatives of public organizations and mass media. Supervisory Board shall operate on a pro bono basis.

2. The Supervisory Board of the Agency:

a) *Has been removed;*

b) in relation with procurement takes into account basic directions of state policy and enables parties of state procurement to freely present their interests at its sittings;

c) draws up an annual performance report and submits to the Government of Georgia before April 1 of each following year. The report must be available for public access;

d) within its competence requires procuring entities to provide any information related to procurements and verifies correctness thereof.

3. A sitting of the Agency Supervisory Board shall be open to public and its decisions shall be published under the rule set forth in the legislation of Georgia. The rule of protecting the information at the Supervisory Board secret shall be prescribed by the legislation of Georgia.

4. Rule of operation of the Agency Supervisory Board shall be set forth in the regulations of the Supervisory Board.

#### **Article 7. Rights and obligations of a procuring entity**

1. A procuring entity shall be authorized to:

a) in compliance with the rules set forth by the present Law and relevant normative acts select a supplier and award a contract on state procurement (hereinafter - Contract) thereof;

b) undertake disqualification of bidders under the rule set forth by this Law;

c) *Has been removed;*

c<sup>1</sup>) in cases of simplified procurement, simplified electronic tender and electronic tender cancell procurement procedure at any time before the awarding of the Contract, provided this is necessitated due to the reasons beyond its control and objective reasons that could not have been foreseen, as well as based on Georgia's state and/or public interests;

d) exercise control and oversight over performance of the Contract terms by the supplier;



e) pursuant to the legislation of Georgia suspend or terminate the Contract in case the qualification data submitted by the supplier appear to be false, as well in other cases envisaged by the legislation of Georgia.

2. Procuring entity shall:

a) conduct procurement in a rational manner and by respecting Georgia's state interests within the limits of allocations thereof, in compliance with the rules set forth in this law and relevant normative acts;

b) *Has been removed;*

c) submit to the Agency reports on performed procurements pursuant to the rule set forth in Article 22 of the present Law;

d) reimburse a supplier for the value of goods, works, and services upon the supply of goods, performance of works and the rendering of services, unless stipulated otherwise in the Contract;

d<sup>1</sup>) *Has been removed;*

d<sup>2</sup>) suspend a procurement procedure in case an action of a procuring entity is appealed under the rule prescribed by the present Law prior to the awarding of a Contract:

d<sup>2</sup>.a) only after the completion of electronic reverse auction – immediately upon receiving information on appealing;

d<sup>2</sup>.b) in the case of a consolidated procurement or design contest, in the cases envisaged under a sub-legal act – immediately upon receiving information on appealing;

e) *Has been removed;*

f) when suspending or cancelling procurement procedures in cases stipulated in the present Article, inform the Agency and all bidders about this decision and basis thereof within no later than 3 working days from the taking of such decision. Moreover, when cancelling procurement procedures a procuring entity shall not be obligated to present to the bidders specific evidence or detailed information on which it based this decision. When suspending or cancelling procurement procedures a procuring entity shall not be obligated to reimburse costs related to the participation in procurement.

2<sup>1</sup>. The rule for resuming suspended state procurement procedures shall be determined under a sub-legal act.

3. Responsibility for compliance with the rules and norms set forth in the present Law and relevant normative acts, and rational conduction of procurement fully rests with the procuring entity.

## **Article 8. Conditions for avoiding the conflict of interest**

1. The conditions and rules for the avoidance of the conflict of interest apply to the following activities related to the conduction of state procurement:

a) review, selection and evaluation of qualification data and tender bids;

b) holding negotiations in cases envisaged under the present Law and the sub-legal act;

c) control and oversight over the performance of the Contract;

d) *Has been removed;*

- e) selection of a supplier in case of a simplified procurement;
- f) review of design contest proposal and selection of a supplier through design contest;
- g) review disputes related to state procurement.

2. An entity performing an activity set forth in paragraph 1 of the present Article shall be in the conflict of interest with a bidder or a supplier in case they are related as stipulated under the article 19 of the Tax Code of Georgia. If state procurement is conducted or participated by an enterprise with the shares or interest over 50% under the ownership of the state or a local self-government body, the issues related to the conflict of interest because of article 19 of the Tax Code of Georgia, shall be prescribed under a sub-legal act.

3. It shall be inadmissible for a bidder or a supplier to exert a direct or indirect influence over a person performing activities set forth in Paragraph 1 of this Article towards the taking a decision favorable thereof.

4. After a person performing activities set forth in Paragraph 1 of the present Article learns about the identity of a bidder or supplier, he/she shall certify in writing that his involvement in the conduction of this procurement does not cause the conflict of interest.

5. If a person performing activities stipulated in Paragraph 1 of this Article turns out to be in the conflict of interest, he/she should immediately declare on the above-mentioned and cease any involvement in the performance of state procurement procedures.

## **Article 9. Planning procurement**

1. A procuring entity shall conduct procurement in accordance with a pre-established and approved annual plan, which format and the rule of development shall be stipulated in a sub-legal act. A notice must be sent to the the Agency about the case of implementing long-term procurement using the funds stipulated under Article 3(1) (a.a) - (a.d) of this Law, as well using these funds by a LEPL (other than a membership-based LEPL) after the consent of the Ministry of Finance of Georgia and/or a financial office of a relevant local self-government body has been obtained. Long-term procurement shall be reflected annually in the procurement plan for a relevant year. Procurement shall not be treated as long-term procurement if it is conducted only using the allocations stipulated in the current budget years, and the supply is performed during the following budget year. The National Bank of Georgia shall perform long-term procurement without agreeing with the Ministry of Finance of Georgia.

1<sup>1</sup>. Subject to the agreement among procuring entities state procurement can be conducted jointly according to the rule set forth under a sub-legal act.

2. Annual procurement plan may not be in contradiction with the Law of Georgia on State Budget for a relevant year.

3. Procurement of homogeneous goods, services or works during a budget (fiscal) year by a procuring entity shall be regarded as a single procurement if it is funded under a single source, with the exception of the cases stipulated under Paragraph (3<sup>1</sup>) (a) and (b) of this Article. It shall be inadmissible to artificially split state procurement to avoid monetary thresholds which are set forth in the present Law.

3<sup>1</sup>. Artificially splitting state procurement implies the reduction and/or splitting the quantity or volume of homogeneous procurement objects when a procuring entity knows in advance that during the same budget year it will become necessary to procure additionally the same or homogenous procurement object and the funds for additional procurement have been projected in advance in the state procurement plan for the same budget year. The following cases shall not be treated as artificial splitting of state procurement:

- a) conducting of procurement through separate procedures is driven by a geographical factor and/or is justified in terms of a rational expenditure of funds;
- b) conducting of procurement through separate procedures is due to objective conditions that a procuring entity could not have envisaged in advance.

4. Annual procurement plan shall be approved by the head of a procuring entity and submitted to the Agency within no later than 20 calendar days from the effective date of the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Adjara, relevant normative act on the budget of a local self-government body, except for the entities performing procurement using the funds set forth under Article 3(1) (a.g.) and (a.h.) of the present Law, that shall submit an annual procurement plan to the Agency by no later than February 20.

5. If a procuring entity is established (founded) or receives an additional funding source from the funds stipulated in Article 3(1) (a.e.) and (a.f.) of this Law, head of a procuring entity shall approve annual procurement plan and submit thereof to the Agency by no later than the 20th of a month following the month of establishing (founding) or following the receipt of this additional funding.

6. The following shall be taken into account during the design of an annual procurement plan draft:

- a) necessity to conduct procurement;
- b) homogeneity of the objects;
- c) experience in conducting similar procurement;
- d) a type of the procurement object (goods, works, services), their technical and qualitative features/specifications, such as quality, operation, safety, dimensions, packaging, labeling and marking, production methods and processes, symbols, terms, conformity requirements set by a procuring entity, etc;) as well as the timeframes and place of delivery;
- e) results of a market survey aimed at the identification of potential suppliers and defining the terms and conditions of a Contract acceptable to a procuring entity;
- e<sup>1</sup>) procurement object (if applicable), which procuring entity agrees to purchase under a consolidated tender;
- f) basis for the selection of a method of procurement, estimated timeframe of procurement procedures;

- g) quantity of goods to be supplied, volume of works to be performed or of services to be rendered considering the existing supplies;
- h) estimated value of procurement objects;
- i) costs associated with the conduction of procurement;
- j) current year's financial commitments stipulated under long-term Contracts or Contracts awarded in a previous year;
- k) estimated timeframe of discharge of the concerned Contract;
- l) other circumstances related to procurement.

7. The provisions of the present Article shall not apply to the cases stipulated in Article 1(4) of the present Law.

## **Chapter II**

### **Methods of Procurement**

**Article 10. *Has been removed.***

#### **Article 10<sup>1</sup>. Electronic method of state procurement**

1. Electronic state procurement shall be conducted through a simplified electronic tender or electronic tender.
2. At the decision of a procuring entity, simplified procurement may be performed electronically.
3. State procurement may be conducted through simplified procurement, provided:
  - a) supply of goods, performance of works, or the rendering of services is an exclusive right of only one entity and there is no reasonable alternative to substitute a procurement object. The following shall not be treated as an exclusive right:
    - a.a) if estimated value of the goods or services subject to procurement is over GEL 2,000,000 and is over GEL 4,000,000 in case of the works and within reasonable territorial boundaries outside the country another entity is able to perform the supply of the same goods, rendering of the same services, the performance of the same works;
    - a.b) if estimated value of goods or services subject to procurement is not higher than GEL 2,000,000 and it is under GEL 4,000,000 in case of works and within the country another entity can effect the supply of the same goods, the provision of the same services, performance of the same works.
  - b) in case of urgent necessity; in such case the quantity of goods, volume of works or services to be procured should not go beyond the timeframes necessary for resolving the problems caused by urgent necessity;
  - c) at the decision of a procuring entity in order to prevent the deterioration of the quality of an object procured from the supplier and/or to ensure further operation thereof it is necessary to conduct procurement from the same supplier or from a sub-contractor stipulated under a Contract awarded with the same supplier with the exception of the case when estimated value of the procurement object of the scheduled procurement is higher than the value an object procured originally;

- d) conducting of procurement was prescribed under the President of Georgia and/or the Government of Georgia legal act in order to implement an event of state and public importance without hindrance within the restricted timeframes;
- e) one or more motor vehicle, computer equipment, as well as electric installation set forth under a relevant normative act is replaced with one or more motor vehicle, computer equipment and/or electric installation that is new, has the same or improved features; in such case part of the value of a new motor vehicle, computer equipment and/or electric installation shall be reimbursed by returning a motor vehicle, computer equipment and/or electric installation subject to replacement to the provider or by way of handover to another natural or legal entity that performs the sale of similar products (goods);
- f) state procurement related to business expenses is conducted;
- g) procurement is conducted through the payment of charges set forth under a normative act of Georgia;
- h) state procurement of maintenance services and/or spare and/or grease and lubricants necessary for the maintenance of a motor vehicle that has a guarantee for the period and/or the conditions set forth under the decree of the government of Georgia.

3<sup>1</sup>. With the purpose of performance an event of state and public importance within limited timeframes the conduction of procurement of homogenous procurement objects with value GEL 200,000 or over GEL 200,000 through simplified electronic tender during one budget year can be determined under a legal act of the President of Georgia and/or the Government of Georgia.

4. It shall be inadmissible to artificially split procurement to avoid the monetary thresholds of methods of procurement set forth under the present Law.

5. At the decision of a procuring entity, the procurement of homogeneous procurement objects may be conducted in phases during one budget (fiscal) year, by applying several times a state procurement method relevant to the monetary limits set forth under this Law for total cost of procurement objects.

6. At the decision of a procuring entity, simplified procurement may be conducted by using procedures established for simplified electronic tender or electronic tender, and simplified electronic tender may be conducted by using procedures established for e-tender.

7. *Has been removed.*

8. *Has been removed.*

#### **Article 10<sup>2</sup>**. Design contest

1. Upon the decision of a procurement entity, state procurement of design (project) services or dismantling buildings or/and removing materials and leavings of dismantling from the territories may be conducted through the design contest - the method of state procurement different from simplified procurement, simplified electronic tender and electronic tender.

2. Design contest notice and design contest documentation shall be placed on the official web page of the Agency, thereof design contest notice is granted a unique number and design contest notice and design contest documentation are regarded to be officially published. A procurement entity pays a publication fee for publishing design contest notice and design contest documentation. In case of

necessity, a procurement entity is eligible to use other additional methods for disseminating design contest notice and design contest documentation.

3. Rule and terms for publishing design contest notice and design contest documentation are prescribed under a sub-legal act.

4. State procurement rule and terms of design (project) services through design contest are prescribed under a sub-legal act.

5. State procurement rule and terms for dismantling buildings or/and removing materials and leavings of dismantling from the territories are determined by Government of Georgia decree and prescribed under a sub-legal act.

### **Chapter III** **Electronic Tender**

#### **Article 11. Rule of forming and operation of a tender committee**

1. *Has been removed.*

1<sup>1</sup>. An electronic tender is conducted by a tender committee of at least 3 members that is formed by a head of a procuring entity.

2. Head of a procuring entity and/or deputies thereof, heads of structural sub-units of this entity shall be designated as members of the tender committee. In case the number of relevant candidates is not sufficient other employees of the procuring entity may also be designated as members of the committee.

3. Tender committee shall be chaired by the head of a procuring entity or a person designated thereof.

4. *Has been removed.*

5. Under the tender committee decision relevant subject matter experts may be invited to the committee as experts and consultants and they will hold a consultative vote.

5<sup>1</sup>. *Has been removed.*

6. To provide technical and organizational support to the operation of the tender committee under the decision of a head of procuring entity a secretariat of the tender committee shall be set up from among the employees of this organization, which shall be headed by the chairman of the tender committee.

7. *Has been removed.*

7<sup>1</sup>. In case of a simplified electronic tender or electronic tender, a tender committee shall take decision with the majority of the committee members on the list. A member of a tender committee who disagrees with the decision of the committee shall have the right to submit opinion thereof in writing, which shall be attached to the decision of the tender committee. In case the votes are distributed evenly, the vote of a tender committee chairman shall be decisive. The tender committee shall take a decision on a winning bidder of a simplified electronic tender and electronic tender according to the rule prescribed under a sub-legal act.

8. The minutes shall be drawn up about tender committee sitting which shall be signed by members of the committee present at the sitting.

**Article 12. *Has been removed.***

### **Article 12<sup>1</sup>. Tender notice and tender documentation**

1. When conducting an electronic tender a tender committee on behalf of procurement entity places tender notice and tender documentation in Georgian language onto the Unified Electronic System of State Procurement. Upon the decision of a procurement entity, tender notice may also be posted in the Unified Electronic System of State Procurement in English language. In case the estimated value of the goods or services to be procured exceeds GEL 2 000 000, while of the work- GEL 4 000 000, the placement of electronic tender notice in the Unified Electronic System of State Procurement in English language is obligatory.

2. In cases of electronic tender and simplified electronic tender, tender notice and tender documentation must be posted in the Unified Electronic System of State Procurement, thereof tender notice is granted a unique number and tender notice and tender documentation are regarded to be officially published. A procurement entity pays a publication fee for publishing tender notice and tender documentation through the Unified Electronic System of State Procurement. Tender notice must be additionally published in the newspaper “24 saati” with the rule prescribed under a sub-legal act. The publication of tender notice in the newspaper “24 saati” is ensured by the Agency. In case of necessity, a procurement entity is eligible to use other additional methods for disseminating tender notice and tender documentation.

2) In cases of electronic tender and simplified electronic tender, tender notice and tender documentation must be posted in the Unified Electronic System of State Procurement, thereof tender notice is granted a unique number and tender notice and tender documentation are regarded to be officially published. A procurement entity pays a publication fee for publishing tender notice and tender documentation through the Unified Electronic System of State Procurement. In case of necessity, a procurement entity is eligible to use other additional methods for disseminating tender notice and tender documentation. (*Shall become effective from August 1, 2012*).

3. Tender notice form, data to be indicated in the notice, the rule of publishing and posting thereof in the Unified Electronic System of State Procurement shall be prescribed under the sub-legal act.

3<sup>1</sup>. When conducting state procurement through the Unified Electronic System of State Procurement it shall be an electronic guarantee must be submitted to the Agency through the Unified Electronic System of State Procurement. The rule and conditions of submission of the electronic guarantee to the Agency, types and amount of electronic guarantee shall be prescribed under the sub-legal act.

4. Tender committee shall approve tender documentation.

5. Tender documents shall contain:

a) the qualification requirements a bidder is to meet;

b) *Has been removed;*

c) *Has been removed;*

d) quantity of goods, volume of works or services, timeframe, place and type of the supply of goods, performance of works or rendering of services subject to procurement;

e) full description of technical and qualitative characteristics of a procurement object including technical specifications relevant, plans, drawings and sketches;

f) those necessary terms and conditions of a Contract that the procuring entity is aware of in advance as well the reference to the Contract type and the Contract performance guarantee (if applicable);

g) the methods that must be used to estimate the value of a bid, by indicating whether it must also be comprised of the costs (transportation, insurance, taxes, etc) other than the value of goods, works or services;

h) *Has been removed;*

i) ways and procedure of requesting additional information and clarifications about tender documentation;

j) the name and contact details of a member of the tender committee secretariat that is authorized to give out information and provide clarifications about procurement procedures;

k) *Has been removed;*

l) indication about alternative procurement of communication services (if applicable).

5<sup>1</sup>. Tender documentation shall be drawn up in accordance with a rule set forth under a sub-legal act;

6. A procurement entity while describing technical and quality characteristics of a procurement object, is obligated to ensure the conformity of used narrative materials, technical specifications, designs, drawings, sketches and other materials with the standards, technical indicators, terminology and symbols recognized in Georgia and internationally. A procurement entity is obliged to make a reference to a relevant applied standard, if applicable. In the description of a procurement object it is not admissible to indicate trademark, patent, model, source of origin or producer. In these cases, while describing a procurement object the terms like “similar” “equivalent” and others must be necessarily used.

7. The supplier qualification documents may be submitted in Georgian, as well as in foreign languages, at the decision of a procuring entity. In case the documents are submitted in a foreign language translations thereof performed under the rule prescribed by Georgian legislation shall be attached. When resolving disputable matters related to documents the procuring entity shall take a decision on assigning priority to a foreign language document or Georgian translation thereof.



8. Tender committee shall post tender notice and tender documents in the Unified Electronic System of State Procurement at least 20 days prior to the expiration of the deadline for submission of tender bids.

9. Tender committee shall be authorized to modify the information indicated in tender notice and tender documentation, with the exception of homogeneous procurement objects and electronic means of state procurement. These modifications must be posted in the Unified Electronic System of State Procurement, no later than 5 days before the expiration of deadline for the submission of tender bids.

10. *Has been removed.*

### **Article 13. Qualification data**

A procuring entity shall set qualification details the bidders will be required to meet in order to be eligible to participate in procurement, for each specific procurement. The rule of selection of qualification data shall be established under the sub-legal act. Requirements for qualification data must be fair and non-discriminatory and be conducive to the promotion of healthy competition.

**Article 14.** *Has been removed.*

**Article 15.** *Has been removed.*

### **Article 15<sup>1</sup>. The Rule of conducting electronic tender**

1. Electronic tender procedures to be effected from the submission of tender bid until the awarding of Contract with a winning bidder shall be set forth in the present Article and sub-legal act.

2. An affidavit, tender bids and supporting documentation thereof, a sample (if applicable) and supplier qualification documents shall be submitted to the tender committee pursuant to the rule prescribed under the sub-legal act.

3. The timeframe for familiarization electronic tender notice and electronic tender documentation shall be at least 15 days from posting thereof in the Unified Electronic System of State Procurement. Within 5 days from the expiration of this deadline a bidder shall be authorized to submit a tender bid through the Unified Electronic System of State Procurement and alter the price of the submitted tender bid through electronic reverse auction.

4. Matters related to the access to information and documentation posted by a bidder in the Unified Electronic System of State Procurement shall be set forth in the sub-legal act.

5. *Has been removed;*

6. *Has been removed;*

7. *Has been removed;*

8. *Has been removed;*

9. *Has been removed;*

10. Tender committee shall take a decision as to a winning bidder of a tender through an evaluation procedure set forth under the sub-legal act.

11. *Has been removed;*

12. *Has been removed;*

13. *Has been removed;*

14. Tender committee shall publish through the Unified Electronic System of State Procurement a Contract awarded with the winning bidder and the documentation related to electronic tender determined under the sub-legal act within the timeframe set forth under a sub-legal act and according to the prescribed rule.

**Article 16.** *Has been removed.*

#### **Article 16<sup>1</sup>. Awarding Contract with a winning bidder**

1. On the basis of the conditions set forth in a tender bid of a winning bidder a Contract on state procurement shall be awarded between a winning bidder and a procuring entity.

2. At the decision of a procuring entity a Contract may be awarded in Georgian as well as foreign languages. In case a Contract is awarded in a foreign language it shall be translated into Georgian according to a rule prescribed by Georgian legislation.

3. *Has been removed;*

4. *Has been removed;*

5. In case a winning bidder is disqualified or it refuses to award a Contract, procuring entity shall hold negotiations with a bidder next in position to negotiate Contract terms and conditions, tender or cancell procurement procedure.

6. *Has been removed;*

7. In case of procurement of large volume of works, if a construction site is located on Georgian territory, additional terms and conditions related to the Contract may be set forth under the President of Georgia decree.

8. Mandatory provisions of a Contract to be awarded with a winning bidder in electronic tender and simplified electronic tender procedures and a supplier selected through design contest and simplified procurement shall be set forth under the sub-legal act.

**Article 17.** *Has been removed.*

**Article 18.** *Has been removed.*

**Article 18<sup>1</sup>.** **Inadmissibility to hold negotiations during the electronic tender process**

A tender committee shall not be authorized to hold negotiation with a person interested in participating or a bidder in an electronic tender, except as stipulated under sub-legal act.

**Article 19.** *Has been removed.*

**Article 19<sup>1</sup>.** **Fee rate**

1. A fee of GEL 50 shall be set for the submission of tender bid or design contest proposal in the case of a design contest or electronic tender and simplified electronic tender procedures, while in case of a consolidated tender procedures a fee of GEL 5,000 shall be set for the submission of a tender bid.

2. The rule and conditions of the payment of a fee, refund of a fee paid in error shall be established under the sub-legal act.

**Article 20.** *Has been removed.*

**Article 20<sup>1</sup>.** *Has been removed.*

**Article 20<sup>2</sup>.** **Consolidated tender**

1. At the decision of the Government of Georgia the conducting of a consolidated tender may be determined for the procurement of homogeneous procurement objects.

2. In the case envisaged under Paragraph 1 of the present Article on the basis of documents supplied by the Government of Georgia, Agency shall provide for the conducting a consolidated tender and the identification of the best tender bid pursuant to the rule and conditions set forth under the sub-legal act.

3. The Agency shall ensure that the data for the conducted consolidated tender stipulated in the sub-legal act are posted in the Unified Electronic System of State Procurement.

4. A procuring entity may, and the procuring entity which, pursuant to Article 9(6) (e<sup>1</sup>) of the present Law has indicated in the annual procurement plan for state procurement the conduction of state procurement through a consolidated tender shall be obligated to award Contract with a supplier identified pursuant to the rule set forth under the sub-legal act.

5. In the case envisaged under the present Article the composition of tender committee shall be determined by the Government of Georgia.

### **Article 20<sup>3</sup>: Two-phase State Procurement**

1. Two-phase state procurement of procurement objects determined under a sub-legal act may be conducted through two-phase electronic tender or two-phase simplified electronic tender.

2. Rule and terms for conducting two-phase electronic tender or two-phase simplified electronic tender are set forth in a sub-legal act.

3. Rule and terms for conducting two-phase electronic tender or two-phase simplified electronic tender considering the mentioned peculiarities of state procurement methods, may include the regulations for electronic tender or/and simplified electronic tender different from the ones prescribed under the present law.

## **Chapter IV**

### **Terms and Conditions of a Contract and the rule of revision thereof**

#### **Article 21. Terms and Conditions of a Contract and the rule of revision thereof.**

1. *Has been removed.*

1<sup>1</sup>. Contract shall be awarded in writing, considering the provisions set forth under the present Law and the sub-legal act. The awarding of Contract shall not be mandatory:

a) in case of state procurement conducted by Georgia's diplomatic missions and consulate abroad, as well as defense attaché, representatives of the Ministry of Defense of Georgia and the Ministry of Internal Affairs of Georgia via simplified state procurement, as well as in cases stipulated in the sub-legal act;

b) in case of state procurement conducted via the Internet through simplified procurement;

c) in case of conducted state procurement related to business expenses;

d) in case of state procurement conducted by way of payment of the charges set forth under a normative act of Georgia;

2. To secure the performance of a Contract, based on the specificity of procurement object, Contract performance guarantee or insurance may be used, save the cases stipulated in Paragraph 3<sup>1</sup> of the present Article.

2<sup>1</sup>. In case a procurement object is petroleum products (fuel) which value due to its specificity depends on a variable price on a foreign commodities exchange and/or official exchange rate of the national currency prior to awarding a Contract on state procurement a supplier shall be obligated to submit to a procuring entity the final unit price of goods subject to supply specified by a bidder through the System, calculated under the rule prescribed in the sub-legal act. This requirement shall not be applicable to the procurement of petroleum products (fuel) by a diplomatic mission and a consulate of Georgia in a foreign state, as well as by a defense attaché, Ministry of Defense of Georgia and the Ministry of Internal Affairs representative.”

3. *Has been removed.*

3<sup>1</sup>. State procurement Contract performance guarantee or insurance shall be obligatory in case the total value of a Contract is equal to or is over GEL 200,000. At the decision of a procuring entity a bidder or potential supplier may be exempted from the submission of the guarantee stipulated under the present Paragraph considering its business reputation and the quality and reputation of goods, services and works produced thereof.

4. The mandatory terms and conditions of a Contract and the rule of application of a guarantee and insurance shall be set forth in the sub-legal act.

5. The terms and conditions of a Contract awarded with the supplier may not be modified in case such modification increases the value of a Contract for a procuring entity or the terms and conditions of the Contract are rendered less favorable, save the cases stipulated in Article 398 of the Civil Code of Georgia.

5<sup>1</sup>. The conditions for the modification of a Contract in accordance with Article 398 of the Civil Code of Georgia shall be set forth under the sub-legal act.

5<sup>2</sup>. *Has been removed.*

5<sup>3</sup>. In cases envisaged under Paragraph (1<sup>1</sup>) (a)-(d) of the present Article state procurement shall be conducted on the basis of a document (e.g., cheque, or receipt) containing information proving the payment of the cost of the procurement object, envisaged under the sub-legal act or Contract (if applicable).

6. *Has been removed.*

## Chapter V

### Monitoring and Control over Procurement

## Article 22. Procurement Report

1. *Has been removed.*

2. *Has been removed.*

2<sup>1</sup>. When an electronic tender is conducted, conclusions of experts and consultants (if applicable) involved in the tender, minutes of tender committee sittings, as well as other documentation stipulated in the sub-legal act shall be attached to the procurement report.

3. *Has been removed.*

3<sup>1</sup>. Procuring entities shall submit reports on the progress of discharge of a Contract following a simplified rule set forth under the sub-legal act, by no later than 30 January of the following year, provided the cumulative value of an annual plan is below GEL 50,000.

4. Procurement reports shall be made available to all interested parties upon request.

5. Procurement report for an object with value over GEL 2,000,000 shall be submitted to the Government of Georgia by the head of the procuring entity in writing, within 20 days period from the awarding of a Contract. The provisions of this paragraph do not apply to the National Bank of Georgia, which, pursuant to the Organic Law of Georgia on the National Bank of Georgia shall submit a procurement report to the board of the National Bank of Georgia.

6. The Ministry of Finance of Georgia, Ministries of Autonomous Republics of Abkhazia and Adjara in Finance and the financial bodies of local self-government authorities shall be obligated to on a quarterly basis provide to the Agency information on the actual allocated funds to budgetary organizations and institutions.

7. The Agency shall be authorized to at any stage of implementation of procurement require procuring entities and participants of procurement to provide any document and information related to procurement, including information about the performance of the Contract.

8. To ensure transparency of the procurement process the Agency shall conduct monitoring of the adherence to the principles in the process of procurement such as publicity, fairness and non-discrimination, rigorous adherence to established procedures and reporting, ensuring open and efficient competition, possibility of rational and free choice.

9. *Has been removed.*

10. The format of reports, rule of drawing up, submission and storing thereof, timeframe and conditions for the report on the progress of conduction of state procurement stipulated under simplified

procurement, simplified electronic tender, electronic tender, design contest and Contracts and in Article 21(1<sup>1</sup>) of the present Law shall be set forth in the sub-legal act.

#### **Article 22<sup>1</sup>. Control of procurement by the Chamber of Control of Georgia**

1. The Chamber of Control of Georgia shall control procurement through auditing procuring entity.
2. A procuring entity shall be obligated to submit to the Chamber of Control of Georgia, upon request, any document and/or information related to procurement.
3. Participant of procurement shall be obligated to provide to the procuring entity, subject to its request, relevant document and/or information related to procurement.
4. *Has been removed.*

### **Chapter VI**

#### **Procedure of Challenging an Action related to procurement and that of Consideration of Disputes**

#### **Article 23. Rule of Appeal and Dispute Review**

1. An entity interested in participating in procurement or a bidder prior to granting the status prescribed under a sub-legal act for simplified electronic tender or electronic tender, may appeal actions of a procurement entity or a tender committee in the procurement entity or Agency, if it regards that during the procurement the rules set forth in the present law and relevant normative acts were violated and/or its rights infringed.
2. An entity interested in participation in procurement, bidder or supplier at any stage may appeal actions of the procuring entity or tender committee in court if it regards that during procurement rules set forth under the present Law and relevant normative acts were violated and/or its rights were infringed.
  - 2<sup>1</sup>. *Has been removed.*
  - 2<sup>2</sup>. In case an entity interested in participating in procurement or a bidder appeals action of a procuring entity a procuring entity may not be required to suspend procurement procedures, save the following cases:
    - a) period following the completion of electronic reverse auction;
    - b) procurement through consolidated tender or design contest, in the cases established under the sub-legal act.
  3. *Has been removed.*

4. *Has been removed.*

4<sup>1</sup>. A board for the review of procurement-related disputes shall be set up at the Agency, which composition shall include representatives of the Agency and the NGO sector under the parity principle. The composition of the dispute review board and rule of operation thereof shall be prescribed under a sub-legal act.

5. A procurement entity or the Agency makes a grounded written decision and informs it to the complainant in no later than 10 working days after the receipt of the complaint. The decision of the Agency published on an official web site shall be regarded as the notification on the decision made.

6. *Has been removed.*

7. If the legitimacy of the complaint is confirmed as a result of detailed study of the complaint and related circumstances by the Agency, the Agency shall be authorized to:

- a) indicate to the procuring entity about erroneous action thereof and require the conduction of the procurement procedures in compliance with the legislation;
- b) require a procuring entity to revise or cancel the taken decisions;
- c) in case of violation of the provisions of this Law bring up before relevant bodies envisaged under the legislation of Georgia the issue of responsibility of the participants of the procurement.

8. *Has been removed.*

9. An action shall not be subject to appealing, provided the complaint is about:

- a) selection of a method of procurement in compliance with the rules set forth under the present Law and relevant normative acts;
- b) decision of a procuring entity on the suspension or cancellation of procurement normative acts.

10. A compliant must have a legal basis. The form of a compliant to be submitted to the Agency, the rule for its completion and submission shall be set forth under a sub-legal act. The Agency shall not review a complaint that has been submitted in violation of the provisions of this Paragraph.

11. If a complaint is filed at procuring entity or the Agency, the procuring entity shall suspend procurement according to the period of the complaint review procedures.

12. An entity interested in participating in procurement, a bidder or supplier may appeal in court the decisions taken by a procuring entity and the Agency related the complaint.

13. The losses reimbursable to the complainant as a result of the resolution of the dispute stipulated in the present Article must be limited to the reimbursement of costs related to the participation in the procurement and must not envisage the reimbursement for estimated profit.



14. The appealing of an administrative-legal act of an authorized body shall not result in suspension thereof.

## Chapter VI Transitional and Final Provisions

### Article 24. Activities to be taken for the bringing this Law into operation

1. *Has been removed.*

2. Within a 1 month period from the effective date of this Law the State Procurement Agency pursuant to the legislation of Georgia shall approve the Regulations on the Rule on Conducting State Procurement.

2<sup>1</sup>. *Has been removed.*

2<sup>2</sup>. *Has been removed.*

2<sup>3</sup>. *Has been removed.*

3. Until January 1, 2008 this Law shall not apply to the procurement to be effected by electricity and natural gas enterprise for procurement to be conducted for rehabilitation or repair of the property that is directly related to the production, transmission, dispatching, distribution of electricity, transportation, distribution of natural gas, as well as regulating electricity and natural gas metering.

4. The provisions of the present Law do not apply to the procurement of cellular telephone service until January 1, 2012.

5. To ensure the conformity with the Law of Georgia on Broadcasting and Article 1(3<sup>1</sup>) (l) of this Law a LEPL – Public Broadcaster and the Government of Georgia jointly shall ensure the drafting of a relevant law and submission to the Parliament thereof before December 20, 2009.

6. From March 1, 2010 to December 1, 2010 procuring entities shall conduct state procurement at their own discretion, by way of or without electronic procurement.

6<sup>1</sup>. The Government of Georgia shall ensure passing a decree stipulated under Article 10<sup>1</sup>(3) (h) of this Law by February 1, 2011.

7. Towards identification of homogeneous procurement objects, the Agency shall ensure the introduction of a relevant classifier adopted by international organizations by May 1, 2011.

8. The identification of a winning bidder of the state procurement procedures that have commenced before December 1, 2010 and the awarding of state procurement Contract thereof shall be made according to a rule in effect prior to December 1, 2010.

8<sup>1</sup>. Until December 31, 2010 the matters related to the homogeneity of procurement objects and inclusion in annual procurement plans in case of state procurement performed through simplified procurement, simplified electronic tender and electronic tender shall be set forth under a sub-legal act.

8<sup>2</sup>. Until the methodology for detection of artificial splitting of state procurement is developed the Agency shall be authorized to additionally regulated under an individual administrative-legal act the matters related to artificial splitting of state procurement.

9. When conducting state procurement of international telephone services and internet services, to promote state security defense activities, additional requirements related to the termination of telephone calls of international companies providing telecommunication services and the route of data exchange in a global internet network shall be set forth under a normative act of the Minister of Interior of Georgia.

10. The State Procurement Agency shall ensure:

a) by December 30, 2010 – approving the provisional rules for the conduction of state procurement electronically;

b) by May 1, 2011 – approving the rules for conducting simplified procurement, simplified electronic tender and electronic tender;

c) by April 1, 2011 – approving the conditions and rules for state procurement of design (project) services through a design contest;

d) by November 1, 2011 – approving the conditions and rules for conducting a consolidated tender;

e) by December 1, 2012 – developing the methodology for detection of artificial splitting of state procurement.

f) by January 1, 2012 - approving of the rule for conducting two-phase electronic tender or two-phase simplified electronic tender.

1<sup>1</sup>. By April 1, 2011 the Ministry of Economy and Sustainable Development of Georgia and the State Procurement Agency shall jointly ensure the approval of a normative act (order) stipulated under Article 10<sup>1</sup>(3) (e) of this Law.

## **Article 25. Abrogated normative acts**

The following shall be regarded abrogated upon effective date of this Law:

a) December 9, 1998 Law of Georgia on State Procurement (Georgia's Legislative Bulletin, No 7, 1998, Article 52);

b) Decree of the Chairman of the State Procurement Agency, October 15, 2001 on Approving Regulations on the Rule of conducting State Procurement.

**Article 26. Effective Date of the Law**

The present Law shall enter into force from January 1, 2006.

**Mikheil Saakashvili,**  
**President of Georgia,**  
April 20, 2005  
N1388 -Is