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**Order No 9 of the Chairman of the State Procurement Agency  
April 7, 2011**

**on Approving the Rules for Conducting Simplified Procurement, Simplified Electronic Tender and Electronic Tender**

Pursuant to Article 5(1) (a) and Article 24(10) (b) of the Law of Georgia on State Procurement, I hereby order:

1. The following shall be approved:

- a) The Rules for Conducting Simplified Procurement, Simplified Electronic Tender and Electronic Tender;
- b) User registration application (Appendix No 1);
- c) The Affidavit Form (Appendix No 2).

2. The Chairman of the State Procurement Agency Order No 1 dated January 3, 2006 on Approving the Regulations for the Rules of Implementation of State Procurement shall be declared annulled.

3. The Order, with the exception of Article 3(2) (a.a) and (a.b), Article 6 and Article 8(12) of the Rules approved under the Order shall become effective from May 1, 2011.

4. Article 6 of the Rules approved under the Order shall become effective from June 1, 2011.

5. Article 3(2) (a.a) and (a.b) and Article 8(12) of the Rules approved under the Order shall enter into effect once the Law of Georgia on Entering Modifications and Additions to the Law of Georgia on State Procurement becomes effective.

*T. Urjumelashvili*

# **The Rules for Conducting Simplified Procurement, Simplified Electronic Tender and Electronic Tender**

## **Article 1. General Provisions**

1. The Rules for Conducting Simplified Procurement, Simplified Electronic Tender and Electronic Tender (hereinafter - the Rules) have been developed pursuant to Article 3(1)(h), (l), (p)-(r), (w), (z), Article 5(1)(a), Article 8(2), Article 9(1<sup>1</sup>), Articles 12<sup>1</sup>, 15<sup>1</sup>, 16<sup>1</sup>, 19<sup>1</sup>, 21 and Article 24(10)(b) of the Law of Georgia on State Procurement.
2. The purpose of the Rules is the regulation, coordination and monitoring of the activities related to state procurement.
3. The scope of the Rules apply to state procurement conducted through simplified procurement, simplified electronic tender and electronic tender.
4. The norms set forth under the Law of Georgia on State Procurement (hereinafter - the Law) and these Rules shall be applicable in relation to simplified electronic tender unless stipulated otherwise under the Law and/or the Rules.
5. In case there is a discrepancy between the procedures set forth under these Rules and the procedures in the Unified Electronic System of State Procurement the priority will be given to the procedures in the System. Within no later than seven days after such discrepancy arises the State Procurement Agency (hereinafter - the SPA) must ensure the development of relevant modifications and/or additions to the Rules and the commencement of the procedures set forth under the legislation in order to enter modifications and/or additions in the Rules.
6. The use of the Unified Electronic System shall be mandatory for the conduction of state procurement through electronic means.

## **Article 2. Definition of terms**

1. For the purposes of the Rules, the terms used thereof shall have the following meaning:
  - a) Unified Electronic System of State Procurement - state procurement portal located on the official website [www.procurement.gov.ge](http://www.procurement.gov.ge) of the SPA that ensures the conducting of state procurement through a simplified electronic tender or an electronic tender in an open, transparent and competitive environment (hereinafter – the System);
  - b) electronic state procurement – state procurement conducted via simplified electronic tender and electronic tender via the System;
  - c) registration in the System – obtaining a relevant username and a password as a result of the completion of a user registration application in the System by a procuring entity and/or an authorized

representative of a supplier with the objective to conduct electronic state procurement;

d) guest – an entity that without registration in the System can acquaint oneself with the information in the System about a registered user, about electronic state procurement and observe the procedure of electronic state procurement online;

e) registered user of the System – a procuring entity that has registered in the System according to the established rule and thereby received the right to conduct simplified electronic tender and/or electronic tender, or a supplier that has registered in the System according to the established rule and thereby obtained the right to participate in a simplified electronic tender and/or electronic tender (hereinafter – a registered user);

f) supplier – an entity that is willing to participate in procurement procedures or that has awarded a contract on state procurement with a procuring entity;

g) tender notice – announcement about conducting simplified electronic tender or an electronic tender posted in the System by an authorized representative of a procuring entity;

h) conduct a tender – a complex of the activities of authorized representative/representatives of a procuring entity with the purpose of effecting state procurement through simplified electronic tender and/or electronic tender (hereinafter – tender);

i) tender`s status – the status envisaged under Sub-paragraphs (j)-(u) of this Paragraph assigned to a tender via the System as a result of an action of a registered user that describes a specific stage of the tender process (hereinafter – status);

j) tender announced – the status that comprises the tendering process stage from posting a tender notice the System until the commencement of accepting bids. Only at the mentioned stage a procuring entity is authorized to enter modification in a tender notice (with the exception of the type of tender and the procurement object) and modify tender documentation by cancelling the tender documentation already uploaded in the System and by uploading modified/added documentation in the System;

k) bidding commenced – the status that comprises the stage of the tender process during which a supplier is authorized to submit its bid and participate in electronic reverse auction. The status envisaged under this Sub-paragraph may not be assigned to the tender in case the tender has not been assigned the status envisaged under Sub-paragraph (j) of this Paragraph under the established rule;

l) bidding completed – the status that comprises the stage of the tender process from the closing of additional rounds of electronic reverse auction until the assignment of selection /evaluation status to the tender. The status stipulated under this Sub-paragraph may not be assigned to the tender unless the statuses envisaged under Sub-paragraphs (j) and (k) of this Paragraph have been assigned to the tender under the established rule in the sequence provided in the same Paragraph;

m) selection/evaluation – the status that comprises the stage of the tender process during which technical proposal is assessed and the minutes of the sitting of the tender committee of a procuring entity (hereinafter – tender committee) and relevant documentation (if applicable) is uploaded in the System that must be performed immediately upon the compilation of the minutes under the established rule, not later than on the same day. The status envisaged under this Sub-paragraph may not be assigned to the tender unless all statuses stipulated under sub-paragraphs (j)-(l) have been assigned to the tender according to the established rule in the sequence stipulated in the same paragraph;

n) winner identified – the status that is assigned to a tender by an authorized representative of a procuring entity after the minutes of the tender committee and relevant documentation (if applicable) is

uploaded in the System according the established rule and only in case the technical proposal posted by the supplier in the System is in conformity with the requirements stipulated in the tender notice and tender documentation. The status stipulated under this sub-paragraph may not be assigned to a tender in case not a single supplier has participated in the tender and unless all statuses stipulated under sub-paragraphs (j)-(m) of this Paragraph have been assigned to the tender according to the established rule in the order stipulated in the same paragraph;

o) finalization of contract – the status that is assigned to a tender by an authorized representative of a procuring entity after the minutes of a relevant sitting of the tender committee that evidences that supplier qualification documents submitted by a bidder with the lowest bid price in compliance with the provisions of these Rules are in conformity with the requirements of the tender notice and those stipulated in tender documentation and the supplier qualification documents submitted by a supplier in compliance with the provisions of these Rules are uploaded in the System. The status envisaged under this Sub-paragraph may not be assigned to a tender in case not a single supplier has participated in the tender and unless all statuses stipulated under sub-paragraphs of (j)-(n) have been assigned to the tender according to the established rule in the order stipulated in the same paragraph;

p) contract awarded – the status that is assigned to a tender after an authorized representative of a procuring entity uploads in the System a contract on state procurement awarded with the supplier (hereinafter – Contract) and the name of the mentioned supplier is indicated in a relevant field of the System. The status stipulated under this sub-paragraph may not be assigned to the tender in case not a single supplier took part in the tender and in case all statuses envisaged under sub-paragraphs (j)-(o) of this Paragraph have been assigned to the tender according to the established rule in the order stipulated in the same paragraph;

q) contract not awarded – the status that is assigned to a tender after an authorized representative of a procuring entity uploads in the system the minutes of a relevant sitting of the tender committee and other documentation (if applicable) that evidence that one or several bidders with the lowest price bid were disqualified. The status envisaged under this Sub-paragraph may not be assigned to a tender in case not a single supplier took part in the tender;

r) no bids received - the status that can be assigned by an authorized representative of a procuring entity to the tender only after the tender has been assigned the status envisaged under sub-paragraph (l) of this Paragraph and only in case not a single supplier took part in the mentioned tender; this status can be assigned only after uploading relevant minutes of the tender committee sitting that evidences that not a single supplier took part in the mentioned tender;

s) tender cancelled – the status that can be assigned to the tender by an authorized representative of a procuring entity only after he/she uploads relevant minutes of the tender committee sitting in which the grounds for cancelling the tender will be specified. The mentioned status can be assigned at any stage of the tender process with the exception of the case when the status envisaged under Sub-paragraph (p) of this Paragraph is assigned to the tender;

t) authorized representative – a natural entity registered in the System and acting on behalf of a registered user. An authorized person of a procuring entity acts in the System on behalf of the tender committee;

u) CPV code – 8 digit code of the classification stipulated under the Order No 7, September 20, 2010 of the Chairman of the SPA on Approving the Rules for the Identification of the Procurement Objects and

the Determination of Homogeneity thereof;

v) procurement object – one or several homogeneous objects of procurement for the procurement of which a specific simplified electronic tender or electronic tender is conducted;

w) CPV division – a division of a classification stipulated under the Order No 7, September 20, 2010 of the Chairman of the SPA on Approving the Rules for the Identification of the Procurement Objects and the Determination of Homogeneity thereof;

x) tender documentation – documentation attached to the tender notice which purpose is to describe procurement object and qualification requirements for bidders that must be comprised of the data envisaged under Article 12<sup>1</sup>(5) of the Law and must be compiled in compliance with Article 12<sup>1</sup> (6) and (7) of the Law and the provisions of these Rules;

y) bid reduction step – the amount specified by a procuring entity in a tender notice in the amount of 0.4 percent to 2 percent of the estimated value of the procurement object;

z) tender bid – technical proposal submitted by a bidder in compliance with the requirements of these Rules, via the System and the price of the procurement object specified in the relevant field of the System (hereinafter - bid);

z<sup>1</sup>) technical proposal – information about a procurement object and a bidder uploaded by a bidder in the System that is required under the tender notice and the tender documentation with the exception of the information stipulated under sub-paragraph (z<sup>6</sup>) of this Paragraph;

z<sup>2</sup>) electronic reverse auction – the procedure of the reduction of bid price by a supplier that comprises the general time of electronic reverse auction and additional rounds of electronic reverse auction. Electronic reverse auction is conducted at the stage of the tender stipulated under Sub-paragraph (k) of this Paragraph;

z<sup>3</sup>) general time of electronic reverse auction – the stage of the tender stipulated under sub-paragraph (k) of this Paragraph that commences upon the completion of the stage stipulated under sub-paragraph (j) of this Paragraph and continues until the completion of the acceptance of the bids indicated in the tender notice (hereinafter – general time);

z<sup>4</sup>) additional rounds of electronic reverse auction – additional three rounds of electronic reverse auction (hereinafter – additional rounds) that commence upon the completion of the general time envisaged under sub-paragraph (z<sup>3</sup>) of this Paragraph and continues until the commencement of the stage envisaged under sub-paragraph (l) of this Paragraph. A two-minute break is made prior to the commencement of each round. In each round a bidder is authorized to reduce the bid price only once, for which each bidder is given two minutes;

z<sup>5</sup>) tender type – simplified electronic tender or electronic tender;

z<sup>6</sup>) supplier qualification documents– the documents to be submitted from administrative bodies for proving the requirements of tender documentation by a bidder at the request of a procuring entity following successfully passing the stage envisaged under sub-paragraph (n) of this Paragraph;

z<sup>7</sup>) electronic guarantee – a guarantee mechanism in the amount of 1 (one) percent of estimated value of a procurement object submitted through the System to the SPA by a supplier to secure the bid. For each specific tender the submission of an electronic guarantee to the SPA can be performed in the method different from the one specified in this sub-paragraph only in case envisaged under Article 16(5) of these Rules;

z<sup>8</sup>) Black List – the registry stipulated under Article 3(1) (l) of the Law;  
z<sup>9</sup>) conditions for using the System – the agreement between the SPA and a registered user/guest on the conditions for using the System;  
z<sup>10</sup>) technical maintenance of a motor vehicle – services to be provided towards ensuring working order and safe operation of a motor vehicle, with the exception of the washing services of a motor vehicle;  
z<sup>11</sup>) estimated value of a price list – estimated total price of the units of the services to be provided in case of state procurement of services;  
z<sup>12</sup>) final offer value on a price list – final total value of service units stated as a result of electronic reverse auction by winning bidders;  
z<sup>13</sup>) contract value of a procurement object – in case envisaged under Article 26 (1) of these Rules the value of a Contract to be awarded with a winning bidder that is specified in a relevant field of a tender notice.

2. Other terms used in the Rules shall have the same meaning as those in the Law.

### **Article 3. Simplified procurement**

1. Simplified procurement, with the exception of the cases stipulated under Paragraph 2 of this Article shall be conducted:

- a) in case of state procurement of homogenous procurement objects with up to GEL 5,000 value;
- b) in case of state procurement of homogenous procurement objects with up to GEL 50,000 value by Georgia's diplomatic mission abroad;
- c) in case of state procurement of homogeneous procurement objects with up to GEL 50,000 value related to defence, security and the maintenance of public order by procurement entities under the Ministry of Internal Affairs and the Ministry of Defence of Georgia and by the Special State Protection Service.

2. Simplified procurement can be conducted also in case:

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 prescribed under Article 3(1) (k) and Article 10<sup>1</sup>(3) (b) of the Law. In such case the volume of a procurement object must not be higher than the timeframes necessary for resolving the problems caused by urgent necessity. A procuring entity must try its best to avoid the delay of the

conducting of procurement in order to not create artificially the need for urgent conducting of the procurement. If the necessity for urgent procurement is caused by the assignment of the status to the tender envisaged under Article 2(1)(q)-(s) of these Rules, in such case a Contract can be executed via simplified procurement only with the provider that meets the requirements of tender documentation stipulated under the tender. In the presence of urgent necessity a decision concerning the conducting of simplified procurement is taken by a head of a procuring entity that must be agreed in writing with an entity supervising a procuring entity or an administrative body/official performing state control or a founder of a procuring entity and/or the holder of significant share (if applicable). The procuring entity shall be obligated to immediately inform the SPA about the taken decision. State procurement in the presence of urgent necessity must be conducted within reasonable timeframe from the taking of a decision stipulated under this Paragraph and from obtaining an approval of an entity supervising a procuring entity or an administrative body/official performing state control or a founder of a procuring entity and/or the holder of significant share (if applicable);

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) the 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) state procurement is conducted by way of the payment of the 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.

#### **Article 4. Joint conducting of state procurement**

1. Subject to the agreement of procuring entities state procurement can be conducted jointly, via tender.

2. The agreement of procuring entities on joint conducting of state procurement is awarded in writing and it is signed by the heads of relevant procuring entities or their duly authorized persons. In case joint procurement is conducted by the procuring entities that are part of the same system the decision on conducting joint procurement is taken on the basis of an individual administrative-legal act of a higher-

ranking official or a duly authorized person authorized thereof. The agreement or an individual administrative legal act stipulated under this Paragraph shall be uploaded in the System along with the tender documentation.

3. The agreement or an individual administrative-legal act stipulated under Paragraph 2 of this Article shall be comprised of:

- a) requirements stipulated under the legislation for tender notice and tender documentation;
- b) reference to a procuring entity that is authorized to announce the tender;
- c) conditions of settlement with the supplier;
- d) the method of the supply of a procurement object.

4. The conditions envisaged under Paragraph 3(c) and (d) of this Article shall also be included in tender documentation of joint procurement.

5. The agreement of procuring entities on joint conducting of state procurement, with the exception of the requirements set forth under Paragraph 3 of this Article can also contain other conditions agreed by the procuring entities.

#### **Article 5. Registration in the system**

1. With the purpose of electronic conducting of state procurement and participation thereof a procuring entity and a supplier get registered in the System according to the established rule.

2. When registering in the System an authorized representative of a procuring entity and a supplier must fill out all mandatory fields envisaged under the user's registration application (Appendix No 1) that are marked with a red asterisk.

3. A registered user is responsible for the accuracy and/or the authenticity of the information specified in the user's registration application. The SPA does not hold responsibility for the accuracy and/or authenticity of information entered or placed in the System by a registered user, or the harm arising as a result of entry or posting of the mentioned information or a document in the System.

4. Following the completion of a user registration application by an authorized representative of a procuring entity the head of a procuring entity or a person duly authorized thereof by the head shall submit in writing to the SPA a completed application that has been generated through the System. After receiving the mentioned application and comparing thereof with the data in the System the SPA ensures the registration of a procuring entity in the System as a procuring entity or notifies the procuring entity about a flaw discovered in the application.

5. Before the SPA registers a procuring entity as a procuring entity under the rule stipulated in Paragraph 4 of this Article the System will assign to the procuring entity the status "applicant for a procuring entity



status". An organization having the above-mentioned status shall not be authorized to announce a tender.

6. In case of the modification of the information indicated by a registered user in a user registration application thereof shall be obligated to immediately reflect the mentioned changes in the System.

7. By entering the System a registered user/guest accepts the terms and conditions for using the System.

#### **Article 6. The right of a registered user to receive clarification**

From assigning to the tender the status stipulated under Article 2(1) (j) of these Rules until assigning the status envisaged under Article 2(1) (l) a supplier shall be authorized via the System to require the procuring entity to specify the issues related to the tender notice and tender documentation. The procuring entity shall be obligated to make relevant specification/clarification through the System within reasonable timeframe that can be used as guidance by any interested person.

#### **Article 7. Alternative procurement**

1. Pursuant to Article 3(1) (w) of the Law, when procuring communication services subject to a justified decision of a procuring entity alternative procurement to the procured communication services can be conducted from a different supplier.

2. The volume of communication services received via alternative procurement must be proportionate to the communication services which alternative the services represent.

3. Alternative procurement can be effected from several alternative suppliers.

4. Upon taking the decision envisaged under Paragraph 1 of this Article the procuring entity shall be obligated to notify about the above-mentioned the supplier with which Contract on the procurement of communication services has been awarded which alternative alternative services are.

#### **Article 8. Tender notice**

1. The completion of a tender notice and posting thereof shall be performed via the System. The counting of the time of the bidding commenced and that for the bidding completed shall commence from the posting of the tender notice in the System.

2. In case of a simplified electronic tender the timeframe for the familiarization with the tender notice and tender documentation shall be at least one day from the instance of posting of the tender notice and tender documentation in the System. Within two days from the expiration of this term a bidder can submit a bid through the System and modify the price of the submitted bid based on the principle of reduction and considering the bid reduction step via electronic reverse auction.

3. In case of an electronic tender the timeframe for the familiarization with the tender notice and tender documentation must be at least fifteen days from the instance of posting the tender notice and tender documentation in the System. Within five days from the expiration of this term a bidder can submit a bid through the System and modify the submitted bid price based on the principle of reduction and considering the bid reduction step via electronic reverse auction.

4. The following information must be indicated in the tender notice:

- a) tender type;
- b) number of the tender notice;
- c) name of a procuring entity;
- d) date of the announcement of the tender, by indicating exact time;
- e) date of bidding commenced and bidding completed by indicating exact time;
- f) estimated value of a procurement object;
- g) an indication whether a bid must be submitted inclusive of the value added tax (hereinafter - the VAT) or exclusive of the VAT;
- h) CPV division and its relevant CPV code;
- i) a specific possibly the most detailed procurement object and its relevant CPV code;
- j) quantity or volume of a procurement object;
- k) timeframe for the supply of a procurement object or the fulfilment thereof;
- l) bid reduction step;
- m) amount of an electronic guarantee;
- n) name and last name of an authorized representative of a procuring entity that posted the tender notice in the system, date and exact time of posting;
- o) minimum term of validity of an electronic guarantee;
- p) indication about an estimated value of a price list (if applicable).

5. Estimated value of a procurement object stipulated under Paragraph 4(f) of this Article may not be higher than the total value of relevant homogenous procurement objects stipulated under the annual state procurement plan;

6. On the basis of a relevant reference in the tender notice the bid price submitted by the bidders will be inclusive of VAT or exclusive thereof;

7. Estimated value of a procurement object in a tender notice and the bid reduction step can be indicated only in GEL.

8. A tender notice has an additional data field that can be used by an authorized representative of a procuring entity in order to provide additional description of a procurement object.

9. The information stipulated under Paragraph 4(a),(e)-(g), (i)-(l), (o) and (p) of this Article shall be included in the tender notice by an authorized representative of a procuring entity, and the information

stipulated under paragraph 4(b)-(d), (h), (m) and (n) of this Article is generated automatically by the System in a tender notice.

10. For posting a tender notice in the System it is necessary to upload tender documentation in the System.

11. A tender committee of a procuring entity shall be authorized to at the stage envisaged under Article 2(1) (j) of these Rules enter modification in the data indicated in the tender notice, with the exception of the modification of the type of a tender and a procurement object.

12. Subject to a procuring entity decision a tender notice can be posted in English in an additional field envisaged under Paragraph 8 of this Article. And if estimated value of goods or services subject to procurement is over GEL 2,000,000, and if estimated value of works is over GEL 4,000,000 it shall be obligatory to post the information in every field of the tender notice in an additional field stipulated under Paragraph 8 of this Article in English.

13. A tender notice, except for the information specified in the additional field stipulated under Paragraph 8 of this Article shall be sent for publishing to the newspaper 24 Hours within no later than the working day following the day of posting in the system automatically via the System. The costs of publishing a tender notice in the newspaper 24 Hours shall be borne by a relevant procuring entity.

#### **Article 9. Posting tender documentation in the System and entry of modifications in the documentation**

1. Tender documents must be comprised of:

- a) the qualification requirements a bidder must meet;
- b) 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;
- c) full description of technical and qualitative characteristics of a procurement object including technical specifications relevant, plans, drawings and sketches;
- d) 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);
- e) 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;
- f) ways and procedure of requesting additional information and clarifications about tender documentation;
- g) 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;
- h) indication about alternative procurement of communication services (if applicable);
- i) indication about the submission of a sample of a procurement object (if applicable).

2. Modification can be entered in tender documentation only at the stage stipulated under Article 2(1) (j) of these Rules by cancelling the tender documentation uploaded in the System and by uploading modified/added documentation in the System. Tender type and procurement object may not be modified.

#### **Article 10. Submission of a bid**

1. To participate in a tender a bidder can submit a bid at the stage stipulated under Article 2(1) (k) of these Rules. The bid submitted by a bidder shall be effective until the stage envisaged under Article 2(1) (p), (q) or (s) comes.

2. Prior to the submission of a bid any registered user shall be entitled to familiarize oneself with a tender notice and tender documentation.

3. A bid can be submitted only after accepting affidavit terms, submission of an electronic guarantee and the payment of the fee via the System, in the sequence stipulated under this Paragraph.

4. When submitting a bid a bidder must in the first place upload technical proposal in the System that must contain technical and qualitative description of the submitted procurement object. Next, in a relevant field of the System the bidder must specify the bid price (in national currency) that must not be higher than the value of the procurement object or must be at least bid reduction step lower than the estimated value of a procurement object. Following uploading the technical proposal and specifying the bid price it shall be inadmissible to modify, add, cancel or delete uploaded technical proposal.

5. In case the tender notice stipulates the submission of a bid price exclusive of VAT a bidder shall not include the VAT in the bid price, regardless of whether it is a VAT taxpayer under the Georgian legislation. In such case the selection/evaluation is performed according to the submitted bid prices. A procuring entity shall be obligated to include in the Contract the VAT amount relevant to the bid price in case as of the execution of the Contract a bidder is a VAT taxpayer in accordance with the provisions of the legislation of Georgia.

6. Upon submission of the bid a bidder is able to participate in electronic reverse auction via the System. During the general time it is possible to modify the bid price according to the principle of reduction. Each following reduction in bid price must be made in relation to the price offered previously by a bidder, not to be less than the bid reduction step.

7. Only those bidders shall be entitled to participate in additional rounds that have submitted a bid within the general time according to the established rule. The sequence of the submission of a bid price by a bidder in the first round is determined according to the bid price submitted during general time, namely, in the first round the first offer is done by the bidder who specified the highest bid price during the general time and in each following round – by the bidder who specified the highest bid price in a previous round. In case of equal bid prices the first offer in a round is made by a bidder that was the last to state such price. It shall not be mandatory to participate in additional rounds.

8. At the stage envisaged under Article 2(1)(k) of these Rules the System ensures the anonymity of the bidders and keeping hidden technical proposal uploaded thereof, at this stage only the bid price specified by a bidder is accessible.

9. At the stage envisaged under Article 2(1) (l) of these Rules the identity of bidder/bidders (if applicable) and the technical proposal uploaded thereof become accessible to a guest and a registered user.

#### **Article 11. Technical and qualification requirements towards bidders and the rule of describing a procurement object**

1. The requirements that a procurement object must meet and technical and qualification details of bidders are determined by a procuring entity for a specific procurement.

2. Technical specifications can be established in relation to professional skills, financial resources, experience and reputation, technical facilities and other aspects of bidders.

3. A procuring entity approaches a bidder within the timeframe determined under tender documentation with the request to submit a sample of a procurement object. Requesting the submission of a sample of a procurement object to the procuring entity shall be admissible only before the submission of supplier qualification documents are requested. The failure of a bidder to submit a sample before the submission of supplier qualification documents are requested or the non-conformity thereof with the requirements of a tender notice and/or tender documentation, or with technical proposal submitted by a bidder via the System will be subject to disqualifying thereof on the basis of Article 13((2) (a) of these Rules with the exception of the case when such discrepancy is due to a dishonest action of a bidder. A sample of a procurement object submitted by a bidder is not subject to specifying. The sample of a procurement object shall be returned to the bidder within reasonable timeframe with the exception of the cases when the sample is a perishable item.

4. Requirements for the submission of qualification details can be established in relation to a legal aspect of bidders' condition/activity (registration data, legal restrictions, financial and other liabilities before the government, etc.). Given the peculiarity of a specific procurement it is possible that tender documentation do not contain the requirement for a bidder to submit qualification details. In case of conducting a simplified electronic tender the requirement to submit supplier qualification documents (if applicable) to be submitted by a bidder shall be justified and quantity thereof must be as small as possible, considering the peculiarities of a given procurement.

5. At the decision of a procuring entity technical and supplier qualification documents can be submitted in Georgian as well as in foreign languages. In case the documents are submitted in a foreign language they must be supported by Georgian translations performed under the rule established under the legislation of Georgia. When resolving disputable issues related to the documentation the procuring entity takes a decision with regard to the assigning priority to a foreign language document or a Georgian

translation thereof.

6. A procuring entity shall be obligated to bring into conformity textual materials, technical specifications, designs, drawings, sketches and other materials used for describing technical and qualitative specifications of a procurement object with the standards, technical indicators, terms and the notations recognized in Georgian and international practice. A procuring entity shall be obligated to make a reference to the relevant used standard (if applicable). It shall be inadmissible to specify a trademark, patent, model, source of origin or a producer in the description of a procurement object.

7. It shall be inadmissible in the description of the procurement object:

- a) to specify a concrete trademark, patent, model, source of origin or a producer, with the exception of the cases when there is no other possibility to accurately characterize a procurement objects. In such cases when describing procurement object such terms must be used as “similar”, equivalent, etc;
- b) to use such specification and terms that are ambiguous and allow for varying interpretation.

## **Article 12. Selection/evaluation**

1. A tender committee shall evaluate bidders according to the bid price, technical proposal uploaded in the system thereof and supplier qualification documents in the sequence envisaged under this Paragraph.

2. A bidder's bid price is evaluated upon the completion of the stage envisaged under Article 2(1) (l) of these Rules. The evaluation of technical proposal is performed at the stage envisaged under Article 2(m) of these Rules, and the qualification details are evaluated at the stage envisaged under Article 2(n) of these Rules.

3. At the stage envisaged under Article 2(1) (l) of these Rules the System automatically groups bidders (if applicable) according to the lowest bid price. In case two or more bidders have specified identical price in the System the System automatically assigns priority to the bidder that was first to specify the mentioned bid price. If a bidder specifies the same price in the System's relevant field over again this will be treated as the resubmission of the price.

4. At the stage envisaged under Article 2(m) of these Rules the tender committee must discuss whether or not technical proposal uploaded in the System at the stage envisaged under Article 2 (k) by a bidder with the lowest price bid are in conformity with the requirements provided in the tender notice and tender documentation. In case the technical proposal uploaded by a bidder in the System are not in conformity with the requirements specified in a tender notice and tender documentation a bidder shall be disqualified subject to the decision of a tender committee with the exception of the cases envisaged under Paragraph 5 of this Article.

5. Tender committee shall not disqualify a bidder in case technical proposal uploaded in the System thereof does not contain such data and/or such inaccuracy which submission and/or specifying will not result in material modification to technical proposal and will not have an impact on the bid price.

6. In cases envisaged under Paragraph 5 of this Article a procuring entity shall address a bidder requesting the specifying of technical proposal submitted thereof for which it sets reasonable timeframe not to exceed three working days. If the submitted documentation is not specified within the above-mentioned timeframe the tender committee disqualifies a bidder. In case the technical proposal is uploaded in the System as a file with a technical fault (that is not legible) a procuring entity shall not be authorized to address a bidder to request specifying technical proposal.

7. In case the technical proposal uploaded in the system by a bidder with the lowest bid price is in conformity with the requirements of a tender notice and tender documentation the tender committee approaches thereof with the request to submit supplier qualification documents for which it shall set a reasonable timeframe not to exceed five working days. Supplier qualification documents to be submitted by a bidder must be issued:

a) in case of a simplified electronic tender – after the commencement of the stage envisaged under Article 2(1)(j) of these Rules, and in case of a non-resident bidder – the supplier qualification documents shall be issued not later than thirty days prior to the commencement of the stage envisaged under Article 2(1)(j) Of these Rules;

b) in case of an electronic tender – after the commencement of the stage envisaged under Article 2(1)(k) of these Rules, and in case of a non-resident bidder – the supplier qualification documents data shall be issued not later than thirty days prior to the commencement of the stage stipulated under Article 2(1)(k) of these Rules.

8. A bidder can submit supplier qualification documents to a procuring entity without using the System, in the format set forth under the legislation of Georgia.

9. A bidder shall be entitled to submit the supplier qualification documents (electronically) to a procuring entity via the System in the format set forth under the legislation of Georgia. The obligation of a bidder to submit supplier qualification documents in the format set forth under the legislation of Georgia arises as of the signing of the Contract.

10. In accordance with Paragraph 9 of this Article the failure to submit qualification documents in the format set forth under the legislation of Georgia as of the signing of the Agreement will be subject to disqualifying on the basis of Article 13(2)(e) and Article 16(6)(c) of these Rules.

11. If technical proposal filed by a bidder with the lowest bid price is not in conformity with the tender notice and/or tender documentation or in case of failure to submit supplier qualification documents thereof and/or in case of the submission of imperfect data a tender committee shall be obligated to disqualify such bidder. In such case a procuring entity shall be authorized to apply to the following bidder with the lowest bid price with the request stipulated in Paragraph 7 of this Article, provided the technical proposal uploaded in the System by such bidder is in conformity with the tender notice and the requirements stipulated in tender documentation. If the bid price of the bidder with the following lowest

bid price due to the changed circumstances on the market is significantly higher than market value of such procurement object tender committee shall be authorized to cancel tender.

### **Article 13. Disqualification**

1. A tender committee shall disqualify a supplier and/or a bidder in accordance with Paragraph 2 of this Article. The minute on disqualification of a bidder shall be uploaded in the System immediately upon signing thereof.

2. A supplier and/or bidder shall be subject to disqualifying in the following cases:

- a) in case technical proposal submitted thereof, considering Article 12(5) and (6) of these Rules are not in conformity with the tender notice and/or tender documentation;
- b) if a bidder abandons its bid;
- c) if the supplier qualification documents submitted thereof are not in conformity with the tender notice and/or tender documentation;
- d) if it does not specify technical proposal within the timeframe prescribed under Article 12(6) of these Rules;
- e) in case it fails to submit supplier qualification documents in compliance with the requirements of these Rules;
- f) in case it is a winning bidder envisaged under Article 15(1) of these Rules and refuses to award a Contract or fails to submit Contract performance guarantee;
- g) if in order to obtain the right to award a Contract it commits a dishonest action.

### **Article 14. Tender committee**

1. Tender is conducted by a tender committee that is formed by the head of the procuring entity to be comprised of at least three members.

2. The tender committee is chaired by the head of a procuring entity or a person appointed thereof.

3. Relevant subject matter specialists can be invited as experts and consultants in the committee on the basis of the tender committee decision.

4. To ensure technical and organizational support to tender committee performance at the decision of a head of a procuring entity a secretariat of the tender committee is formed from among the employees of such entity headed by the chairman of the tender committee.

5. The tender committee takes decisions with the majority of the members of the committee on the nominal list. A member of a tender committee that disagrees with the decision of a committee shall be entitled to submit own opinion in writing that must be attached to the decision of a tender committee. In case the votes are distributed equally the vote of the chairman of the tender committee is decisive.



6. Any decision of a tender committee must be reflected in a relevant sitting minutes of the tender committee. All those minutes of the sittings that are created following the stage envisaged under Article 2(1) (l) of these Rules must be uploaded in the System upon signing thereof by the members of the tender committee in attendance. The decision is regarded taken only after all of the members of the committee in attendance sign the minutes. The minutes uploaded in the System may not be modified.

#### **Article 15. Awarding a Contract as a result of the conducting a tender and uploading thereof in the System**

1. Following submission in full of the supplier qualification documents by a bidder a Contract is awarded between a winning bidder and a procuring entity within no later than five working days from the submission of these qualification data. The mentioned deadline can be extended for no longer than five working days, only on the basis of justified minute of a tender committee that shall specify objective reasons due to which a Contract could not have been awarded within the established deadline.

2. A Contract must be uploaded in the System by a procuring entity no later than on the working day following the day of awarding thereof.

#### **Article 16. Electronic guarantee and fee**

1. A beneficiary/recipient of electronic guarantee is the SPA. Submission of an electronic guarantee to the SPA and the payment of the fee is effected using automatic means in the System.

2. The amount of an electronic guarantee is 1 (one) percent of estimated value of a procurement object. The term of validity of electronic guarantee must be set:

a) in case of a simplified electronic tender – as at least thirty calendar days from the stage envisaged under Article 2(1)(k) of these Rules;

b) in case of an electronic tender – as at least sixty calendar days from the stage envisaged under Article 2(1) (k) of these Rules.

3. The fee for the submission of a bid is GEL 50.

4. Electronic guarantee shall be submitted and the fee be paid until the technical proposal is uploaded in the System.

5. In case the automatic means of the System for electronic guarantee submission and the payment of the fee have a temporarily failure electronic guarantee can be submitted and the fee can be paid in each specific tender without using the System, subject to prior agreement with the SPA.

6. When conducting a tender following the stage envisaged under Article 2(1) (p), (q) and (s) of these

Rules electronic guarantee is returned to the bidder with the exception of the cases when:

- a) a bidder abandons own bid;
- b) a bidder has been entered in the black list as a result of conducting a relevant tender;
- c) a bidder has been disqualified in accordance with Article 13(2) (b), (c), (e)-(g) of these Rules.

7. In case electronic guarantee is returned to a bidder in violation of the conditions set forth under Paragraph 6 of this Article a bidder shall be obligated to refund to the SPA the electronic guarantee amount upon a relevant demand.

8. In case envisaged under Paragraph 5 of this Article when electronic guarantee is submitted and fee is paid without using the System an original of an electronic guarantee and the fee payment receipt is submitted to the procuring entity that shall be obligated to send to the SPA a hard copy of the mentioned documents upon receipt. The copy of the above-mentioned copy shall also be sent to the SPA e-mail: [info@procurement.gov.ge](mailto:info@procurement.gov.ge).

9. The refunding of the paid fee shall be admissible only in case the fee has been paid erroneously in an amount higher than the rate set forth under the law. In such case the difference between the paid amount and the rate prescribed under the Law shall be refunded.

10. The request submitted to the SPA about the refunding of the amount overpaid erroneously must contain the justification for the legal grounds to refund the erroneously overpaid amount and relevant documentation. In case a request of an interested party on the refunding of erroneously overpaid amount is granted the SPA shall within ten working days send such request to a relevant person authorized for the refunding.

11. The demand shall be submitted to the SPA within three months from the payment of the erroneously overpaid amount. After the expiration of this term the overpaid amount shall not be refunded. The mentioned term may not be extended or the missed term may not be restored.

## **Article 17. Conflict of Interest**

1. In each case after the completion of electronic reverse auction a tender committee and its secretariat members shall be obligated to confirm in writing the absence of the conflict of interest between thereof and the bidders envisaged under Article 8 of the Law and upload the mentioned document in the System along with the very first minutes subject to uploading in the System.

2. In case an enterprise more than 50% of which shares or interest is owned by the government or a local self-government body participates in state procurement in the capacity of a bidder or a supplier there is a conflict of interest in case there is the relationship envisaged under Article 19(2) of the Tax Code of Georgia between an entity of a procuring entity performing the activity set forth under Article 8(1)(a)-(e) and (g) of the Law and a bidder or a supplier, with the exception of the relations stipulated under subparagraph (d) of this Paragraph.

## **Article 18. Suspension and cancellation of state procurement procedures**

1. In case of suspension or cancellation of state procurement procedure a procuring entity shall notify the SPA and the bidders about its decision and the grounds for taking thereof within no later than three days. The procuring entity shall not be obligated to submit to the entities participating in procurement specific evidences or detailed information on the basis of which such decision was taken, or to reimburse them for the costs related to participation in the procurement.
2. In case a procuring entity after the suspension of procurement procedures takes a decision about procuring the same object it shall be obligated to conduct such procurement (if it is performed under the same year's allocations) by way of resumption of suspended procedures. For this a procuring entity shall apply to all bidders participating in state procurement to reconfirm qualification data (if such were submitted by a bidder at the given stage), submission of bids and the supporting documentation. The consent of a bidder following the resumption of the suspended tender after the expression of willingness in writing to continue participation thereof shall be deemed to be the repeated submission of the above-mentioned information.
3. A bidder shall be entitled to refuse to provide again a confirmation referred to under Paragraph 3 of this Article that will result in disqualification thereof and the refunding of the submitted electronic guarantee.
4. In case not single bidder expressed consent to participate in resumed procurement procedures a procuring entity announces a new tender.

## **Article 19. A Contract**

1. In case of a tender a Contract is awarded on the basis of a draft Contract provided in tender documentation, in accordance with the requirements of a procuring entity and the conditions of a bid of a winning bidder, or in case of simplified procurement considering the Contract reached with a relevant entity. The value of a procurement object envisaged under a Contract may not be higher than the final price of the tender specified via the System by a winning bidder.
2. At the decision of a procuring entity a Contract can be awarded in Georgian as well as foreign languages. In case a Contract is awarded in a foreign language it must be translated into Georgian according to the rule prescribed under the legislation of Georgia.
3. 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. 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 defence attaché, Ministry of Defence of Georgia and the Ministry of Internal Affairs representative. The price indicated in this Paragraph must be calculated according to one of the following formulas:

$T = Rx (P+Z) \times (100\%+18\%)$  or  $C = Rx (P+Z) \times (100\%+18\%) \times D/1000$ , where

- a) T = price (in GEL) per litre of petroleum products (fuel);
- b) C = price (in GEL) per litre of petroleum product (fuel);
- c) R = official exchange rate of GEL against USD (variable component) established by National Bank of Georgia on the day a procuring entity requests the supply of fuel after the submission of a bid, completion of electronic reverse auction or execution of a Contract;
- d) P = average price of prior three data of a metric ton of fuel (variable component) published at the PLATTS EUROPEAN MARKETSCAN FOB Med (Italy) exchange from the day a procuring entity requests the supply of fuel following the submission of a bid, completion of electronic reverse auction or the execution of a Contract;
- e) Z = costs related to transportation, logistics and storage, overhead costs, company profit and excise;
- f) 18% = VAT;
- g) D = density indicator of the petroleum product (fuel) submitted under the bid.

4. „C” can be modified only in case of such modification of „R” and/or „P” that results in the modification of „C” by three or more percentage in relation to the price envisaged under the Contract (final agreed between the parties). Herewith, „C” must be at least by three Tetri (0.03 GEL) less than a litre of fuel of the same product in a relevant supply chain (if not applicable, than all other objects of sale) on the day a procuring entity requests the supply of fuel.

5. In case envisaged under Paragraph 4 of this Article in order to determine a new price of a procurement object the parties to the Contract must use the formula provided in Paragraph 3 of this Article and further, it shall be inadmissible to modify an indicator provided in a formula, other than „R” and/or „P”.

6. A Contract shall be awarded in writing and it must contain the following information:

- a) exact name and details of the parties;
- b) name of a Contract subject and it`s CPV code. If CPV code does not match contract subject it is possible to use the CPV code of a relevant CPV class, group or a division;
- c) amount stipulated under the Contract – Contract value;
- d) term (timeframe) for the supply of goods, rendering of services and/or the performance of works;
- e) Contract performance guarantee or insurance terms (if applicable);
- f) specific validity of the Contract;
- g) in case of a simplified procurement additionally -- the grounds for awarding a Contract – each case stipulated under Article 10<sup>1</sup>(3) of the Law (if applicable).

7. In case of advance settlement a supplier shall be obligated to submit to a procuring entity the

guarantee amount identical to the amount payable in advance under the conditions stipulated in the Contract, with the exception of state procurement set forth under Paragraph 9(b) of this Article and other cases envisaged under the legislation of Georgia.

8. A procuring entity shall be authorized to stipulate additional conditions in a Contract.

9. Awarding of a Contract shall not be mandatory:

- a) in case of state procurement conducted by Georgia's diplomatic missions and consulate abroad, as well as defence attaché, representatives of the Ministry of Defence of Georgia and the Ministry of Internal Affairs of Georgia via simplified state procurement;
- 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.

10. In cases stipulated under Paragraph 9 of this Article a Contract can be substituted by a document proving state procurement, which must contain the following information:

- a) name of a procurement object;
- b) value of a procurement object;
- c) proof of the payment of the procurement object value;
- d) name and identification number of a supplier.

11. In case of state procurement conducted via the Internet through simplified procurement a document stipulated under Paragraph 10(c) of this Article can be substituted by a document evidencing the payment via the Internet.

12. Subject to the Government of Georgia decision the terms and conditions different from those set forth under Paragraph 6 of this Article can be set in relation to a specific Contract, as well as the matter of the scope of applicability of the requirements set forth under Articles 20 and 21 of these Rules in relation to such Contract.

## **Article 20. Entering modifications/additions to the Contract**

1. In case of effecting any modification/addition to a Contract awarded as a result of conducting a tender the mentioned modification/addition must be documented in writing and be uploaded in the System within no later than the working day following the day when modification/addition is entered in the Contract.

2. The terms and conditions of a Contract may not be modified provided as a result of such modification the total value of a Contract is increased or the conditions of a Contract worsen for a procuring entity,

with the exception of the cases set forth under Article 398 of the Civil Code of Georgia.

3. In case the conditions stipulated under Article 398 of the Civil Code of Georgia occur it shall be inadmissible to increase the total value of a Contract by more than 10%. The requirements set forth under this Article shall not be applicable to state procurement stipulated under Article 19(4) of these Rules.

#### **Article 21. Contract performance guarantee and insurance**

1. The requirement of a Contract performance guarantee or insurance shall be mandatory in case the total value of a Contract equals or is higher than GEL 200,000. At the decision of a procuring entity a bidder or a potential supplier can be exempted from the submission of the guarantee stipulated under this Paragraph considering the business reputation thereof and the quality and the popularity of the goods, services and the quality of works produced thereof.

2. In case stipulated under Paragraph 1 of this Article Contract performance guarantee or insurance can be required in the amount of 2%- to 10% of Contract value.

3. In case total value of a Contract is less than GEL 200,000 it shall not be mandatory to require Contract performance guarantee or insurance. In such case Contract performance guarantee or insurance (as well as its value in relation to the Contract value) can be required at the discretion of a procuring entity.

4. Contract performance guarantee or insurance, in the presence of a relevant requirement, can be submitted to a procuring entity following the awarding of a Contract in case of a simplified procurement, and in case of procurement via a tender – prior to the awarding of a Contract.

5. The term of validity of Contract performance guarantee or insurance, the terms for fulfilment of obligations arising from a guarantee or insurance or the terms of cancellation of such obligations shall be determined under a Contract.

6. A procuring entity shall be authorized to decline such Contract performance guarantee or insurance that is not in conformity with state interests.

#### **Article 22. Control over the performance of the Contract**

1. A procuring entity shall be authorized to entrust an employee or a group of employees, as well as any other person with the control over the compliance with the terms and conditions of a Contract.

2. The function of the persons stipulated under Paragraph 1 of this Article is to establish the conformity of the goods, services, volume of works to be supplied and/or supplied, quality and the timeframes of supply with the provisions of the Contract.

3. Unless stipulated otherwise under a Contract a procuring entity shall accept a procurement object only on the basis of executing a relevant document.
4. Control over the compliance with the terms and conditions of the Contract can be performed at any stage of implementation of a Contract.
5. A supplier shall be obligated to ensure at own resources the allocation of the staff and technical facilities necessary for performing control over Contract performance as well as ensure necessary working conditions. In case a procuring entity uses own or invited staff for the purpose of controlling the observation of Contract conditions labor remuneration thereof will be provided directly by a procuring entity.
6. Unless envisaged otherwise under the Contract the reimbursement for the costs related to the elimination of identified faults and to repeated performance of control shall be borne by a supplier according to the rule established under the legislation of Georgia.
7. The requirements set forth under this Article shall not be applicable to state procurement stipulated under Article 19(9) of these Rules.

### **Article 23. The inadmissibility of artificially split state procurement**

1. 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.
2. Until the methodology for the identification of artificial splitting of state procurement is developed the SPA shall be authorized to additionally regulate the issues related to artificial splitting of state procurement through an individual administrative-legal act.
3. When conducting state procurement of a procurement object in accordance with Article 10<sup>1</sup>(3) (a) and (c)-(h) of the Law its value shall not be added to the sum of the estimated value of homogenous procurement objects.

## **Article 24. Rules and conditions for maintaining a black list**

1. In case the decision about disqualifying a supplier and/or a bidder has been taken due to the reasons provided in Article 13(2) (f) and (g) of these Rules and/or in case a supplier has not ensured to completely discharge the obligations taken under a Contract a procuring entity shall be obligated to immediately inform the SPA in writing about such decision and the occurred circumstances, by indicating relevant reasons.
2. Written notice stipulated under Paragraph 1 of this Article must contain the following information and appendixes:
  - a) the description of the method of procurement;
  - b) in case of conducting simplified procurement – time for the commencement and completion of procurement, in case of conducting a tender – the number of a tender notice;
  - c) description of a procurement object;
  - d) the details of an entity that has been disqualified due to the reasons provided in Article 13(2) (f) and (g) of these Rules and/or that has not ensured to fully discharge the obligation taken under the Contract;
  - e) a copy of a document proving disqualification of an entity and/or of the failure to discharge the obligations taken under a Contract in full in accordance with Article 13(2)(f) and (g) of these Rules.
3. Upon receiving a written notice the SPA shall register the entity specified in such notice in the black list.
4. Black list is an official registry maintained electronically and an entity registered in which shall not be authorized to participate in state procurement within one year from the entry in the black list.
5. The SPA maintains and posts the black list on its website ([www.procurement.ge](http://www.procurement.ge)) which is available electronically to all interested entities.

## **Article 25. Special case of announcement of a simplified electronic tender**

1. With the purpose of conducting an event of state and public importance within limited timeframes the conducting 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.
2. In case stipulated under Paragraph 1 of this Article the legal act of the President of Georgia and/or the Government of Georgia shall be uploaded by a procuring entity in the System in a relevant field of a tender notice.

## **Article 26. Special case of procurement of services via tender**



1. State procurement of services and/or goods necessary for such services can be conducted via tender on the basis of a price list.
2. In cases stipulated under Paragraph 1 of this Article a procuring entity shall indicate estimated value of a price list in the estimated value of a price list field in a tender notice and specify contract value of a procurement object in the field of Contract value of a procurement object that can be different from a price list value.
3. The bid price submitted by a bidder via the System must not be higher than the estimated value of a price list and the reduction of the bid price as a result of electronic reverse auction can be conducted only in relation to the estimated value of a price list.
4. When conducting a tender on the basis of a price list a procuring entity shall itself determine the rule of establishing the unit price of the services provided in a price list in tender documentation in relation to the final bid price submitted by a winning bidder via the System.
5. In case of the absence of any unit of services in a price list when it is necessary to procure thereof the price of a mentioned unit shall be determined through the Contract of a procuring entity and a supplier by taking into account market value. In such case the share of procurement resulting from the absence of any unit of service in a price list may not be higher than 10% of total value of a Contract.

#### **Article 27. Transitional provisions**

1. For the purposes of establishing homogeneity when conducting state procurement in compliance with the monetary thresholds stipulated under the Law of Georgia on State Procurement for simplified procurement, simplified electronic tender and electronic tender under the 2010 allocations state procurement conducting through sole source procurement, price quotation and tender during 2010 shall not be taken into account.
2. In accordance with the requirements of the Law of Georgia on State Procurement the completion of state procurement procedures commenced prior to December 1, 2010 shall be performed in accordance with the norms that were in place as of the commencement of these procedures.
3. Prior to the effective date of Article 8(12) of these Rules at the decision of a procuring entity a tender notice can be posted in English in an additional field stipulated under Article 8(8) of these Rules. In case the estimated value of goods or services subject to procurement is higher than GEL 500,000 and estimated value of works is over GEL 1,000,000 it shall be mandatory to post the information in English specified in all fields of a tender notice in an additional field stipulated under Article 8(8) of these Rules.
4. Until the effective date of Article 3(2) (a.a) and (a.b) of these Rules the case shall not be treated as an exclusive right:

- a) in case estimated value of goods or services subject to procurement is over GEL 500,000 and of works – over GEL 1,000,000 and within reasonable territorial boundaries outside the country another entity can perform the supply of the same goods, rendering of same services, performance of same work.
- b) in case estimated value of goods or services subject to procurement is not over GEL 500,000 and of works – over GEL 1,000,000 and within the country there is another entity that can perform the supply of the same goods, rendering the same services.

## User registration application

**User registration**

User type*	<input type="text"/>	
Legal form*	<input type="text"/>	
Company Name*	<input type="text"/>	
Identification code*	<input type="text"/>	
Country*	<input type="text"/>	
City/town/village*	<input type="text"/>	
Address*	<input type="text"/>	Legal address
Phone*	<input type="text"/>	Official contact number
Fax	<input type="text"/>	Contact fax number
E-Mail*	<input type="text"/>	Registration notification will be sent to the specified address
E-Mail (confirm)*	<input type="text"/>	
Web address	<input type="text" value="http://"/>	Official URL

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First name, Last name*	<input type="text"/>	User first name and family name
Username*	<input type="text"/>	Username for the authorization in the system, at least 5 symbols
Password*	<input type="text"/>	Password, at least 5 symbols
Password (confirm)*	<input type="text"/>	Password, at least 5 symbols
Security code*	<input type="text"/> <input type="button" value="Redraw"/>	Type the symbols displayed on the picture

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I have read and accept \* **Terms and conditions for the use of the Unified Electronic System of State Procurement**

## **The Affidavit form**

### **Affidavit on Independent Bid Determination**

In order to participate in the announced tender I hereby confirm that the bid submitted thereof has been designed independently from a competitor. I further confirm that:

- \* I am aware that the bid will be disqualified if it discovered that the information provided in the affidavit is false and/or unreal;
- \* I am authorized by a bidder to sign on this affidavit and submit this bid;
- \* Any person whose signature has been affixed to the bid has been respectively authorized by a bidder;
- \* I am aware that the term „competitor” given the affidavit purposes implies any person that can be a bidder and/or can submit a bid in this tender;
- \* no consultation, communication, agreement or negotiation aimed at receiving material benefit or advantage has been held between a bidder and a competitor in relation to the following issues:

- Bid price;
- Method of calculation of bid price, rate or formula;
- Submission of a bid or refrain from submission thereof;
- Deliberate submission of a bid that is not in compliance with the conditions of an announced tender;
- Quality, volume, technical conditions or supply details of a procurement object to which a bid relates;

\* A bidder has not disclosed and/or will not disclose deliberately, directly or indirectly the conditions of a bid to a competitor until the bid is made public.

I have read the content of this Affidavit and confirm the authenticity of the submitted information.

For the purposes of public procurement an Affidavit is a written document on independently developing bid which signatory, on behalf of a bidder, certifies the authenticity of the information and circumstances referenced in the document and according to the rule prescribed by the legislation of Georgia bears responsibility for the authenticity of the mentioned information and circumstances. The violation of the conditions set forth under an affidavit will be subject to criminal responsibility in accordance with Article 195<sup>1</sup> of the Criminal Code of Georgia.