

# LAW OF GEORGIA

## ON PUBLIC PROCUREMENT

### Chapter I - General Provisions

#### Article 1 - Scope of the Law

1. This Law determines the general legal, organisational and economic principles for conducting public procurement.
  2. The procedures determined by this Law apply to all types of public procurement, except for public procurement related to state secrets defined in the Law of Georgia on State Secrets.
  3. The National Security Council of Georgia shall prepare, and the Government of Georgia shall approve, the list of subjects of public procurement related to state secrets as defined in the Law of Georgia on State Secrets and the procedures for conducting such procurement.
- 3<sup>1</sup>. This Law shall not apply to the following types of public procurement:
- a) public procurement related to the implementation of monetary and exchange rate policies and provision of the country's economy with cash by the National Bank of Georgia under the Organic Law of Georgia on the National Bank of Georgia. Procurements under the administrative and capital expenditures budget approved by the Board of the National Bank of Georgia, except for the public procurements related to intangible assets, gold bars, collectible lari banknotes and coins and/or lari banknotes and coins intended for other purposes, as well as public procurements related to the reproduction of lari banknotes and coins, shall be regulated under this Law;
  - b) public procurement to be performed with funds of the legal entities under public law that are regarded as religious organisations under the legislation of Georgia;
  - c) public procurement of electricity, firm capacity, natural gas and water supply;
  - d) (deleted)
  - d<sup>1</sup>) public procurement of motor vehicles for Georgia's diplomatic missions and consular offices abroad, for defence attachés, or for representatives of the Ministry of Defence of Georgia and the Ministry of Internal Affairs of Georgia, except as provided under Article 10<sup>1</sup>(3)(e) of this Law;
  - e) public procurement for organising meetings and visits of the President of Georgia, the Chairperson of the Parliament of Georgia, the Prime Minister of Georgia, Ministers of Georgia, State Ministers of Georgia and/or the Mayor of Tbilisi, for organising the reception of delegations at the Parliament of Georgia and visits of delegations of the Parliament of Georgia abroad, for organising the reception of delegations at the Ministry of Foreign Affairs of Georgia and visits of delegations of the Ministry of Foreign Affairs of Georgia abroad, as well as public procurement to be performed with funds allocated from the reserve funds of the President of Georgia, the Government of Georgia and the Tbilisi City Hall;
  - f) public procurement of services of freelance workers under the budget classification 'Goods and Services', as well as public procurement to be performed during a business trip;
  - g) (deleted)
  - h) public procurement of expert services, provided these services are procured under Articles 144-147 of the Criminal Procedure Code of Georgia;
  - i) public procurement of immovable property, as well as public procurement related to the acquisition of immovable property with the right of use;
  - j) financing of relevant education, health and social protection services/goods through a voucher, as well as voucher redemption and transactions relating to redemption;
  - k) public procurement related to renting of a space for holding meetings;
  - k<sup>1</sup>) public procurement relating to dissemination of public service advertisements through mass media, including through websites and social networks (except for public procurement relating to the purchase of television and radio broadcasting time under this Law and Article 66<sup>1</sup>(2) of the Law of Georgia on Broadcasting;
  - l) procurement by the Legal Entity under Public Law - the Public Broadcaster from a non-resident person of TV/radio products (programmes, shows, films, reports, cultural events) and/or related services, as well as of services relating to the broadcasting and/or receipt of TV/radio products (programmes, shows, films, reports, cultural events) through a satellite;
  - m) procurement of sovereign credit rating services and credit rating services related to government securities, as well as to reimbursement of accompanying costs to the supplier of these services;
  - n) public procurement of services related to safekeeping of lottery tickets by a lottery organiser or a lottery agent defined by the Law of Georgia on Organising Lotteries, Games of Chance and other Winning Games and to free distribution of marketing and/or promotional goods of a lottery operator;
  - o) public procurement of services by a lottery operator defined by the Law of Georgia on Organising Lotteries, Games of Chance and other Winning Games from a person who has the right to manage the state-owned share in the given enterprise;



p) public procurement by a lottery operator defined by the Law of Georgia on Organising Lotteries, Games of Chance and other Winning Games of information and technology support necessary for organising and/or conducting a lottery;

q) public procurement of goods purchased by the LLC Georgian Post from retail facilities for sales purposes;

r) public procurement by a contracting authority of postal and courier services of the LLC Georgian Post;

s) public procurement by a contracting authority of services of the Legal Entity under Public Law - Levan Samkharauli National Forensics Bureau;

t) according to the Agreement between the Government of Georgia and the Government of the United State of America Concerning the Transition of Sustainment Costs and Responsibilities Over the Unified Laboratory System for Detection, Epidemiological Surveillance and Response to Especially Dangerous Pathogens, and the Richard G. Lugar Center for Public Health Research in Georgia, public procurement of goods entered in the Unified Laboratory System, the list of which shall be determined by ordinance of the Government of Georgia.

4. Procurement procedures determined by the World Bank, the United Nations Organization, the European Bank for Reconstruction and Development, the Asian Development Bank, the German Reconstruction Credit Bank (KfW) and the European Investment Bank (EIB) may be applied when conducting public procurement, if these organisations are involved in the legal relations related to implementation of the procurement. If these organisations are not involved in the legal relations related to implementation of the procurement, the procurement procedures of these organisations, as well as those of other organisations, may be applied only by decree of the Government of Georgia.

5. (Deleted)

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 294 of 26 September 2008 - LHG I, No 22, 9.10.2008, Art. 152*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 1236 of 19 June 2009 - LHG I, No 13, 2.7.2009, Art. 67*

*Law of Georgia No 1690 of 24 September 2009 - LHG I, No 29, 12.10.2009, Art. 173*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3353 of 6 July 2010 - LHG I, No 35, 12.7.2010, Art. 217*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 5011 of 1 July 2011 - website, 15.7.2011*

*Law of Georgia No 5169 of 28 October 2011 - website, 11.11.2011*

*Law of Georgia No 5454 of 9 December 2011 - website, 22.12.2011*

*Law of Georgia No 6389 of 5 June 2012 - website, 19.6.2012*

*Law of Georgia No 6577 of 28 June 2012 - website, 10.7.2012*

*Law of Georgia No 1255 of 20 September 2013 - website, 2.10.2013*

*Law of Georgia No 1284 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 2761 of 31 October 2014 - website, 18.11.2014*

*Law of Georgia No 2960 of 24 December 2014 - website, 30.12.2014*

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

The purpose of this Law is to:

a) ensure rational spending of monetary funds designated for public procurement;

b) promote effective competition in the area of production of goods, performance of services and construction works necessary for the State;

c) ensure a fair and non-discriminatory approach to participants of a procurement when performing public procurement;

d) ensure publicity of public procurement;

e) create a Unified Electronic System of Public Procurement and build public confidence in the System.

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*



### Article 3 - Definition of terms used in the Law

1. The terms used in this Law have the following meanings:

a) public procurement - procurement of any goods, services and construction works by a contracting authority in cases determined by this Law, through electronic or other means, using the funds:

a.a) from the State Budget of Georgia and those consolidated in the State Budget;

a.b) from the budgets of the Autonomous Republics of Abkhazia and Ajara;

a.c) from the budgets of local self-government units;

a.d) of organisations and institutions funded by the State Budget of Georgia, the budgets of the Autonomous Republics of Abkhazia and Ajara, and by the budgets of local self-government units;

a.e) received in the form of a grant or a credit by budgetary organisations, legal entities under public law, non-entrepreneurial (non-commercial) legal entities - a higher education institution and the higher education institution development fund, and by enterprises engaged in public procurement under sub-paragraph (a.h) of this paragraph, from foreign states and international organisations on the basis of international contracts, as well as from residents of other states, except as provided in Article 1(4) of this Law;

a.f) credit and investment funds received under state guarantees;

a.g) of non-entrepreneurial (non-commercial) legal entities - a higher education institution and a higher education institution development fund, as well as of legal entities under public law (except for membership-based legal entities under public law), irrespective of the source of origin of these funds, except for the exclusions provided by Article 1(3<sup>1</sup>)(a) and (b) of this Law;

a.h) of an enterprise in which more than 50% of the interest or shares is owned by the State or a local self-government body, except when this enterprise, in the course of procuring goods or services related to the special aspects of its activities, follows a special procedure established by the Government of Georgia for the procurement of those goods or services, the term of which shall not exceed two years. The Ministry of Economy and Sustainable Development of Georgia or the Ministry of Regional Development and Infrastructure of Georgia shall, on the basis of suggestions from relevant enterprises and local self-government bodies, prepare and submit for approval to the Government of Georgia the special procedure to be established by the Government of Georgia. If the Government of Georgia does not establish special procedures, procurement shall be performed according to this Law;

b) contracting authority - an entity performing procurement using funds under sub-paragraph (a) of this paragraph, which is registered in the Unified Electronic System of Public Procurement according to the procedures determined by a subordinate normative act approved by the chairperson of the Public Procurement Agency;

c) procurement object - goods, services or construction works to be procured;

d) (deleted)

d<sup>1</sup>) similar procurement objects - identical procurement objects, as well as those that are not identical, but have similar components, technical specifications (characteristics) and/or functions. The similarity of procurement objects shall be established under procedures determined by a subordinate normative act approved by the chairperson of the Public Procurement Agency.

e) (deleted)

f) goods - objects of every kind and description (except for immovable property) both in a solid and in a liquid or gaseous form, as well as services incidental to the supply of goods, provided that the value of those services does not exceed the value of the goods;

g) construction works ('works') - any work related to the construction, reconstruction, demolition, repair or renovation of a building, structure or other facility (including site preparation, excavation of soil, erection, building, installation of equipment, decoration and finishing, setting-up communication networks related to construction), as well as the services incidental to the construction, such as drilling, geodesic works, satellite imagery and aerial photography, seismic investigations and other similar services under a public procurement contract, if the value of those services does not exceed the value of the construction work;

h) services - any subject-matter of the procurement, except for goods and works. In the case of public procurement of services, the issues related to the announcement of a simplified electronic tender, an electronic tender or a consolidated tender, to tender documentation, to an estimated value of the subject-matter of the procurement or to the value of a tender shall be defined in a subordinate normative act approved by the chairperson of the Public Procurement Agency;

h<sup>1</sup>) interested supplier - a person who is interested in participating in procurement procedures;

i) (deleted)

i<sup>1</sup>) bidder - a person who has paid a fee to participate in a public procurement procedure;

j) supplier - a person who was awarded a public procurement contract by a contracting authority;

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



or to the contracting authority's property;

l) register of mala fide participants of the procurement ('the Black List') - the Black List that the Public Procurement Agency maintains electronically and publishes on its official website. The Black List shall include the data on mala fide persons, bidders and suppliers participating in public procurement, who may not participate in public procurement and be awarded a public procurement contract within one year after they are entered into the Black List. The Black List shall be available to every person. The procedures and conditions for maintaining the Black List shall be defined in a subordinate normative act approved by the chairperson of the Public Procurement Agency ('a subordinate normative act');

l<sup>1</sup>) register of qualified suppliers participating in procurements ('the White List') - the White List that the Public Procurement Agency maintains electronically and publishes on its official website. The White List includes data on qualified suppliers participating in procurements who meet the criteria determined by a subordinate normative act for inclusion in the White List. When participating in public procurement, qualified suppliers registered in the White List shall enjoy simplified procedures provided under a subordinate normative act. The procedures and conditions for maintaining the White List shall be defined in a subordinate normative act;

l<sup>2</sup>) general guarantee - a guarantee securing, in the case of an advance payment, the supplier's obligations to all the contracting authorities with which the supplier will conclude public procurement contracts. A general guarantee may also be applied to secure the performance of a public procurement contract. The validity of a general guarantee, the procedures and conditions for its issuance and presentation shall be defined in a subordinate normative act;

m) (deleted)

n) fee - a mandatory payment to the account of the Public Procurement Agency in the amount determined under this Law for submission of tender or design contest proposals, which is not refundable, unless paid by mistake;

n<sup>1</sup>) publication fee - a mandatory payment to the account of the Public Procurement Agency made by a contracting authority for publishing electronically a design contest notice and design contest documents or a tender notice and tender documents. The amount of the publication fee and the payment procedures in cases of a design contest, a simplified electronic tender and an electronic tender shall be determined by a subordinate normative act;

o) electronic means - equipment for processing (including digital processing) storing, transmitting, receiving and disseminating by wire, optical, radio and/or other electronic means;

p) electronic tender - a method of public procurement of similar procurement objects with a value of GEL 200 000 or above, which encompasses the procedures determined by this Law and a subordinate normative act for an electronic tender;

q) simplified electronic tender - a method of public procurement of similar procurement objects with a value of up to GEL 200 000, which encompasses the procedures determined for a simplified electronic tender by this Law and a subordinate normative act. A tender committee shall post a simplified electronic tender notice and tender documentation in the Unified Electronic System of Public Procurement not later than three days before a deadline for accepting tenders expires. The time frame for accepting tenders for a simplified electronic tender shall be at least two days; If the deadline for accepting tenders for a simplified electronic tender falls on a Saturday, Sunday or an official holiday, the deadline for accepting tenders shall expire on the following working day;

r) (deleted)

r<sup>1</sup>) simplified procurement - a procurement method used in cases provided in Article 10<sup>1</sup>(3) of this Law, or in the case of public procurement of similar procurement objects with a value of up to GEL 5 000 (procurement of similar procurement objects with a value of up to GEL 50 000 by Georgia's diplomatic missions and consular offices abroad, as well as public procurement of similar procurement objects related to defence, security and maintenance of public order with a value of up to GEL 20 000 by contracting authorities operating within the system of the Ministry of Internal Affairs of Georgia, by contracting authorities operating within the system of the Ministry of Defence of Georgia and by the Special State Protection Service of Georgia);

s) electronic reverse auction - a procedure of an electronic tender and of a simplified electronic tender, when a bidder may, within the time frame determined under the legislation of Georgia, reduce the price quoted by him/her/it through the Unified Electronic System of Public Procurement to win in the procurement procedure;

s<sup>1</sup>) status - a certain phase in an electronic tender or simplified electronic tender;

t) (deleted)

u) consolidated tender - a procedure implemented by the Public Procurement Agency in cases determined by the Government of Georgia to procure a similar procurement object, during which the best tender proposal is identified;

v) representation expenses - representation expenses as defined under the Tax Code of Georgia, taking into account the special aspects of this Law;

w) alternative procurement - alternative procurement of communication services from a different supplier based on a substantiated decision of a contracting authority, to ensure stable and safe operation of the relevant information and technology system. In that case, the current supplier of communication services may not participate in the procurement procedures. Additional conditions related to alternative procurement shall be defined in a subordinate normative act;

x) design contest - for the purposes of this Law, an alternative method of public procurement of design services or of services relating to dismantling of buildings and structures and/or removal of materials and waste from the territory after dismantling works, which is used by decision of a contracting authority;

y) affidavit - for the purposes of this Law, a written document, the signer of which confirms the authenticity of information and facts stated in the document and is responsible for the authenticity of this information and facts under the legislation of Georgia;



z) artificial division of public procurement - procurement of similar procurement objects in an artificially reduced quantity and/or volume by a contracting authority using the same source of funding during a single budget year or other action that aims to evade the monetary thresholds and other requirements determined by this Law and subordinate normative acts adopted according to this Law.

2. (Deleted)

3. For the purposes of this Law, the term 'person' shall mean a natural or legal person of Georgia or of a foreign country, or an entity as provided by the legislation of Georgia or of the relevant country.

4. For the purposes of this Law, the term 'day' shall mean a calendar day, unless a working day is explicitly indicated.

*Law of Georgia No 3524 of 25 July 2006 - LHG I, No 30, 27.7.2006, Art. 239*

*Law of Georgia No 4095 of 26 December 2006 - LHG I, No 49, 29.12.2006, Art. 373*

*Law of Georgia No 4408 of 2 March 2007 - LHG I, No 8, 23.3.2007, Art. 72*

*Law of Georgia No 5664 of 28 December 2007 - LHG I, No 50, 29.12.2007, Art. 438*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 1236 of 19 June 2009 - LHG I, No 13, 2.7.2009, Art. 67*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 2760 of 12 March 2010 - LHG I, No 12, 24.3.2010, Art. 67*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 4273 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 4950 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 4959 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 5559 of 20 December 2011 - website, 28.12.2011*

*Law of Georgia No 5975 of 30 March 2012 - website, 19.4.2012*

*Law of Georgia No 2163 of 21 March 2014 - website, 27.3.2014*

#### **Article 4 - Authorised body**

1. An independent legal entity under public law - the Public Procurement Agency ('the Agency') set up under this Law shall be a body authorised to ensure compliance with and fulfilment of the provisions of this Law. The Prime Minister of Georgia shall appoint and dismiss the chairperson of the Agency.

2. The legal basis for the activities of the Agency shall be the Constitution of Georgia, treaties and international agreements, this Law, and the Statute of the Agency developed according to these acts.

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

3<sup>1</sup>. The Agency shall be reorganised and liquidated by ordinance of the Government of Georgia.

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

5. The Agency shall be funded from:

a) targeted funds allocated from the State Budget of Georgia;

b) fees paid by persons interested in participating in procurements;

c) other revenues permitted by the legislation of Georgia.

6. Principal functions of the Agency shall be to:

a) prepare and issue subordinate normative acts and standard tender documents necessary for the operation of this Law, and harmonise them with international rules;



- b) on the basis of the reports received from contracting authorities, regularly study and analyse the situation in the field of procurement in the country and submit suggestions to the Government of Georgia to make relevant decisions;
- c) prepare special training programmes, standard forms of training and methodological materials and documentation, hold seminars and training for central and local self-government authorities, mass media representatives and other interested persons;
- d) create, update and supervise a unified procurement database;
- e) provide advisory services to contracting authorities;
- f) support the introduction of modern information and communication technologies in the procurement system;
- g) for the publicity of procurements, ensure access to relevant subordinate normative acts and to a special guidance bulletin;
- h) consider disputes arising during procurements;
- i) supervise the lawfulness of procurement procedures and determine the policy for regulating procurement proceedings;
- j) maintain the Black List;
- j<sup>1</sup>) maintain the White List;
- k) (deleted)
- l) in special cases, based on a written request of a contracting authority or on its own motion, identify a procurement object and/or integrate it into the classification system by an individual administrative-legal act;
- m) identify facts of artificial division of public procurement and take appropriate measures.

7. In order to support the functioning of the Unified Electronic System of Public Procurement and ensure electronic document flow during procurement proceedings, the Agency shall be authorised to:

- a) store and issue in the form of an electronic copy any document prepared or held by the Agency;
- b) receive, publish or issue any information and/or document using unified automated management tools;

8. Electronic copies and printouts of documents under paragraph 7 of this article shall have the same legal effect as the original documents.

9. The Agency shall have an account with the State Treasury. The Agency may also have an account with a commercial bank when so provided by the legislation of Georgia.

10. The Agency shall prepare an annual report on its activities and submit it to the Government of Georgia by 15 May of each year. The report shall be published on the Agency's official website.

11. Public procurement may also be performed through the Unified Electronic System of Public Procurement by a person who is not a contracting authority provided by this Law. Using the Unified Electronic System of Public Procurement by this person shall automatically mean his/her/its consent to use the system under the established procedures. The procedures and conditions for performing public procurement by this person through the Unified Electronic System of Public Procurement and for using this system shall be defined in a subordinate normative act.

*Law of Georgia No 2719 of 2 March 2006 - LHG I, No 7, 20.3.2006, Art. 54*

*Law of Georgia No 3423 of 30 June 2006 - LHG I, No 27, 17.7.2006, Art. 223*

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 4408 of 2 March 2007 - LHG I, No 8, 23.3.2007, Art. 72*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 2760 of 12 March 2010 - LHG I, No 12, 24.3.2010, Art. 67*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 5559 of 20 December 2011 - website, 28.12.2011*

*Law of Georgia No 5975 of 30 March 2012 - website, 19.4.2012*

*Law of Georgia No 6577 of 28 June 2012 - website, 10.7.2012*



*Law of Georgia No 1284 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 2163 of 21 March 2014 - website, 27.3.2014*

*Law of Georgia No 2945 of 12 December 2014 - website, 24.12.2014*

#### **Article 5 - Rights and obligations of the chairperson of the Agency**

1. The chairperson of the Agency shall:

- a) issue subordinate normative acts (orders) as determined by the legislation of Georgia; these acts shall be binding on contracting authorities and other persons participating in procurement;
  - b) issue decrees related to internal organisational issues;
  - c) regulate issues falling within the authority of the Agency;
  - d) supervise the performance by structural units of the Agency of their duties and control activities of employees according to established procedures;
  - e) within the scope of its authority, appoint and dismiss employees of the Agency;
  - f) administer and monitor the use of the Agency's funds;
  - g) according to established procedures, submit recommendations to the Government of Georgia with regard to issues falling within the authority of the Agency, for making relevant decisions;
2. The chairperson of the Agency shall be responsible for the activities of the Agency as determined by law.

*Law of Georgia No 4408 of 2 March 2007 - LHG I, No 8, 23.3.2007, Art. 72*

#### **Article 6 - (Deleted)**

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 4408 of 2 March 2007 - LHG I, No 8, 23.3.2007, Art. 72*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 5559 of 20 December 2011 - website, 28.12.2011*

#### **Article 7 - Rights and obligations of a contracting authority**

1. A contracting authority shall be authorised to:

- a) in compliance with the procedures established by this Law and relevant normative acts, select a supplier and award him/her/it a public procurement contract ('a contract');
- b) disqualify bidders as determined by this Law;
- c) (deleted)

<sup>1</sup> in cases of a simplified procurement, a simplified electronic tender and an electronic tender, terminate the procurement procedure at any time before a contract enters into force if necessitated by reasons beyond its control and unforeseen objective reasons, or if it is in Georgia's state and/or public interests;

d) monitor and supervise the fulfilment of contract terms by a supplier;

e) according to the legislation of Georgia, suspend or terminate a contract if the qualification data submitted by the supplier are found to be false, as well as in other cases provided by the legislation of Georgia.

2. A contracting authority shall be obliged to:

- a) perform procurement rationally and in Georgia's state interests within the limits of the allocations received, in compliance with the procedures established by this Law and relevant normative acts;
- b) (deleted)
- c) submit reports to the Agency on performed procurements, as determined by Article 22 of this Law;



d) reimburse a supplier for the value of the goods, works, and services upon supply of the goods, performance of works and rendering of services, unless otherwise provided by contract;

d<sup>1</sup>) (deleted)

d<sup>1</sup>.a) (deleted)

d<sup>1</sup>.b) (deleted)

d<sup>2</sup>) before awarding a contract, suspend a procurement procedure if an action of a contracting authority is appealed as determined by this Law:

d<sup>2</sup>.a) only after the completion of an electronic reverse auction, immediately upon receipt of information on appeal;

d<sup>2</sup>.b) in the case of a consolidated procurement or a design contest, immediately upon receiving information on appeal, in cases provided by a subordinate normative act;

e) (deleted)

f) when suspending or terminating procurement procedures in the cases provided in this article, notify the Agency and all bidders about this decision and the reasons for the decision not later than three working days after making the decision. Furthermore, if procurement procedures are terminated, the contracting authority need not present to the bidders specific evidence or detailed information relied upon for its decision. When suspending or terminating procurement procedures, the contracting authority shall not be obligated to reimburse costs related to participation in the procurement.

2<sup>1</sup>. The procedure for resuming suspended public procurement procedures shall be defined in a subordinate normative act.

3. Responsibility for compliance with the procedures and norms established by this Law and relevant normative acts, and for rational performance of procurement shall fully rest with a contracting authority.

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 5926 of 27 March 2012 - website, 19.4.2012*

### **Article 8 - Conditions for avoiding conflicts of interest**

1. The conditions for avoiding conflicts of interest shall apply to the following activities related to the conduct of public procurement:

- a) review, selection and evaluation of qualification data and tenders;
- b) holding negotiations in cases provided by this Law and subordinate normative acts;
- c) monitoring and supervision of the performance of a contract;
- d) (deleted)
- e) selection of a supplier under a simplified procurement;
- f) review of design contest proposals and selection of a supplier through a design contest;
- g) consideration of disputes related to public procurement.

2. A natural person carrying out the activity defined in paragraph 1 of this article shall be considered to have a conflict of interest with the bidder or the supplier if their relations fall within Article 19 of the Tax Code of Georgia. If a bidder or a supplier is a contracting authority as provided by Article 3(1)(b) of this Law, the cases of application of Article 19 of the Tax Code of Georgia to matters related to a conflict of interest shall be defined in a subordinate normative act, taking into account special aspects of public procurements;

3. A bidder or a supplier may not directly or indirectly influence, in his/her favour, the decision of a person carrying out activities under paragraph 1 of this article.

4. After a person carrying out activities under paragraph 1 of this article learns the identity of a bidder or a supplier, the person shall confirm in writing that his/her/its involvement in this procurement does not cause a conflict of interest.

5. If a person carrying out activities under paragraph 1 of this article has a conflict of interest, he/she/it shall immediately declare it and exclude himself/herself from the procurement.





## Article 9 - Planning of procurement

1. A contracting authority shall perform procurement under a pre-determined annual procurement plan whose format and the procedure for its development shall be defined in a subordinate normative act. After consent of the Ministry of Finance of Georgia and/or of a financial authority of the relevant local self-government body is received, the Agency shall be sent a notice about the conduct of a multi-year procurement with the funds specified in Article 3(1)(a.a - a.d) of this Law (except for the continuous procurement of services that are performed until 1 February of the following year). The multi-year procurement shall be annually reflected in the procurement plan of the relevant budget year. Procurement shall not be regarded as a multi-year procurement if it is performed only with allocations provided in the current budget year, and the supply of which is carried out during the following budget year. The National Bank of Georgia shall perform multi-year procurements without approval of the Ministry of Finance of Georgia.

1<sup>1</sup>. If agreed by contracting authorities, public procurements may be conducted jointly under procedures established by a subordinate normative act.

2. (Deleted - 27.3.2013, No 5926)

3. Procurement of similar goods, services or works during a budget (fiscal) year by a contracting authority shall be regarded as a single procurement if it is funded from one source, except for cases set out in paragraph 3<sup>1</sup>(a) and (b) of this article. It shall be inadmissible to artificially divide public procurement in order to avoid monetary thresholds determined by this Law for procurement methods.

3<sup>1</sup>. Artificial division of public procurement means the reduction and/or splitting of the quantity or volume of similar procurement objects when the contracting authority knows in advance that during the same budget year it will become necessary to subsequently procure the same or similar procurement objects and when the funds for additional procurement have been projected in advance in the public procurement plan for the same budget year. The following shall not be regarded as artificial division of public procurement:

a) procurement by separate procedures that is caused by a geographical factor and/or is justified by the rational spending of funds;

b) procurement by separate procedures that is caused by objective circumstances that a contracting authority could not have foreseen.

4. The head of a contracting authority shall submit an annual procurement plan for the following year to the Agency not later than 20 November of the current year, after which the contracting authority may start public procurements necessary for the following year/years. Before entry into force of a relevant normative act on the State Budget of Georgia, republic budgets of the Autonomous Republics of Abkhazia and Ajara, and budgets of local self-government units, the annual procurement plan of persons performing public procurement with funds specified in Article 3(1)(a.a - a.d) of this Law shall, at the moment of submitting annual procurement plans, comply with the draft State Budget of Georgia, draft republic budgets of the Autonomous Republics of Abkhazia and Ajara, draft budgets of local self-government units submitted to the appropriate representative body.

4<sup>1</sup>. If after entry into force of a relevant normative act on the State Budget of Georgia, republic budgets of the Autonomous Republics of Abkhazia and Ajara, and budgets of local self-government units, it becomes necessary to bring into line with this normative act the annual procurement plans submitted to the Agency on the basis of this paragraph, the persons performing public procurement with the funds specified in Article 3(1)(a.a - a.d) of this Law shall make appropriate amendments to their annual procurement plans and submit the amended plans to the Agency within 10 calendar days after the publication of the relevant normative act on the State Budget of Georgia, republic budgets of the Autonomous Republics of Abkhazia and Ajara and budgets of local self-government units.

5. If a contracting authority is established (founded) or receives an additional source of financing from the funds provided in Article 3(1)(a.e) and (a.f) of this Law, the head of the contracting authority shall approve an annual procurement plan and submit it to the Agency by not later than the 20<sup>th</sup> day of the month following the month of establishing (founding) the contracting authority or of receiving the additional funding.

6. The following shall be taken into account when preparing a draft annual procurement plan:

a) necessity of performing the procurement;

b) similarity of procurement objects;

c) experience in performing similar procurements;

d) the type of a procurement object (goods, works, services), their technical and qualitative specifications, such as quality, performance, safety, dimensions, packaging, labelling and marking, production methods and processes, symbols, terminology, conformity requirements set by a contracting authority, etc., as well as the time frames and place of delivery;

e) results of a market survey conducted to identify potential suppliers and determine contract terms acceptable for a contracting authority;

e<sup>1</sup>) a procurement object, if any, that a contracting authority agrees to purchase through a consolidated tender;

f) the reasons for selecting a particular procurement method, and estimated time frames for 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) the estimated value of the procurement objects;
- i) costs associated with the procurement;
- j) current year's financial commitments under long-term contracts or under contracts awarded in the previous year;
- k) an estimated time frame for the performance of the contract to be awarded;
- l) other circumstances related to the procurement.

7. The provisions of this article shall not apply to the cases provided by Article 1(4) of this Law.

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 4408 of 2 March 2007 - LHG I, No 8, 23.3.2007, Art. 72*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 1236 of 19 June 2009 - LHG I, No 13, 2.7.2009, Art. 67*

*Law of Georgia No 1690 of 24 September 2009 - LHG I, No 29, 12.10.2009, Art. 173*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 4959 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 5926 of 27 March 2012 - website, 19.4.2012*

## **Chapter II - Procurement Methods**

### **Article 10 - (Deleted)**

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 320 of 7 October 2008 - LHG I, No 24, 20.10.2008, Art. 161*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

### **Article 10<sup>1</sup> - Electronic means of public procurement**

1. Electronic public procurement shall be performed through a simplified electronic tender or an electronic tender.

2. By decision of a contracting authority, a simplified procurement may be performed electronically.

3. Public procurements may be performed through a simplified procurement, if:

a) the supply of goods, performance of works, or rendering of services is an exclusive right of only one person and there is no reasonable alternative to substitute a procurement object. The following shall not be considered to be an exclusive right:

a.a) an estimated value of the goods or services to be procured is over GEL 2 000 000, and an estimated value of works is over GEL 4 000 000, and within reasonable territorial boundaries outside the country there is another person who is able to supply the same goods, perform the same works, or render the same services;

a.b) an estimated value of the goods or services to be procured does not exceed GEL 2 000 000 and an estimated value of works does not exceed GEL 4 000 000 and within the country there is another person who is able to supply the same goods, perform the same works and render the same services;

b) in the case of urgent necessity; in this case, the quantity of the goods, volume of the works or services to be procured shall not exceed the period necessary to resolve the problems caused by the urgent necessity;



c) by decision of a contracting authority, to prevent the deterioration of the quality of an object procured from the supplier and/or to ensure further operation of that object, it is necessary that the object be procured from the same supplier or from a sub-contractor specified in the contract signed with the same supplier, except when the estimated value of the object to be procured exceeds the value of the object initially procured;

d) for the purpose of holding an event of state and public importance without hindrance and within limited time frames the conduct of a procurement is determined by a legal act of the Government of Georgia, or if the conduct of a procurement is determined by legal acts of the governments of the autonomous republics in cases of public procurements with funds from republic budgets of the autonomous republics and/or from budgets of self-government units within the administrative boundaries of the autonomous republics and also in the case of public procurement using other funds of the organisations and institutions that are financed from the budgets of the autonomous republics and relevant self-government units, and if the conduct of a procurement is determined by a legal act of the Board of the National Bank of Georgia in case of necessity of holding an event of state and public importance without hindrance by the National Bank of Georgia;

e) one or more motor vehicles, computer equipment, or electric installations specified under a relevant normative act are replaced with one or more motor vehicles, computer equipment and/or electric installations that are new, have the same or improved features; in that case, part of the value of a new motor vehicle, computer equipment and/or electric installation shall be reimbursed by returning the motor vehicle, computer equipment and/or electric installation to be replaced to the supplier or by transferring to other natural or legal persons engaged in the sale of similar products (goods);

f) public procurement related to representation expenses is performed;

g) public procurement is performed by means of payment of charges set by a normative act of Georgia;

h) public procurement of maintenance services and/or spare parts and/or oil and lubricants necessary for the maintenance of a motor vehicle having the age and/or being under a guarantee with conditions determined by an ordinance of the Government of Georgia;

i) a legal entity under public law - a higher education institution procures literature (printed, electronic or audio-visual), reagents, software, pharmaceutical products (medicinal products), laboratory equipment and databases;

j) a non-entrepreneurial (non-commercial) legal entity - a higher education institution established by the State and performing higher education activities and the higher education institution development fund perform public procurement with the consent of the Regency Council. In that case, the consent of the Regency Council shall be granted on the basis of a substantiated application of a contracting authority.

3<sup>1</sup>. With the purpose of holding an event of state and public importance without hindrance within a limited time frame, procurement of similar procurement objects with a value equal to or above GEL 200 000 through a simplified electronic tender during one budget year may be conducted under a legal act of the Government of Georgia.

3<sup>2</sup>. The Government of Georgia may delegate to the governments of the autonomous republics the authority under paragraph 3<sup>1</sup> of this article for a period of not more than one year (to conduct public procurement with the funds of the autonomous republics and self-government units within the territories of the autonomous republics, as well as with the funds of organisations and institutions financed from the budgets of the autonomous republics and relevant self-government units).

4. It shall be inadmissible to artificially divide procurement to avoid the monetary thresholds of procurement methods that are set by this Law.

5. By decision of a contracting authority, similar procurement objects may be procured in phases during one budget (fiscal) year, by applying several times the monetary thresholds of the respective public procurement method set by this Law for the total value of procurement objects.

6. By decision of a contracting authority, simplified procurement may be conducted by using procedures established for a simplified electronic tender or for an electronic tender, and a simplified electronic tender may be conducted by using procedures established for an electronic tender.

7. (Deleted)

8. (Deleted)

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 4959 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 5126 of 13 October 2011 - website, 27.10.2011*

*Law of Georgia No 6577 of 28 June 2012 - website, 10.7.2012*

*Law of Georgia No 611 of 17 May 2013 - website, 6.6.2013*

*Law of Georgia No 1284 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 1285 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 2099 of 7 March 2014 - website, 14.3.2014*



## **Article 10<sup>2</sup> - Design contests**

1. By decision of a contracting authority, public procurement of design services or dismantling of buildings and structures and/or removing of materials and waste from the territories after dismantling works may be performed through a design contest - a public procurement method different from a simplified procurement, a simplified electronic tender and an electronic tender.
2. Design contest notice and design contest documentation shall be posted on the official website of the Agency, after which a unique number is assigned to a design contest notice, and the design contest notice and documentation are deemed officially published. A contracting authority shall pay a publication fee for publishing a design contest notice and design contest documentation. If necessary, a contracting authority may use other additional methods for disseminating design contest notice and design contest documentation.
3. The procedures and conditions for publishing a design contest notice and documentation shall be defined in a subordinate normative act.
4. The procedures and conditions for public procurement of design services through a design contest shall be defined in a subordinate normative act.
5. The procedures and conditions for public procurement of dismantling of buildings and structures and/or removal of materials and waste from the sites after dismantling works shall be defined by ordinance of the Government of Georgia and subordinate normative acts.

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

## **Chapter III - Electronic Tender**

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

## **Article 11 - Procedure for setting up and operating a tender committee**

1. (Deleted)
- 1<sup>1</sup>. An electronic tender shall be conducted by a tender committee composed of at least 3 members, and set up by the head of a contracting authority.
2. The head of a contracting authority and/or his/her deputies, or heads of structural units of the authority shall be appointed to the tender committee. If the number of relevant candidates is not sufficient, other employees of the contracting authority may also be appointed as members of the committee.
3. The head of a contracting authority or a person appointed by him/her shall chair a tender committee.
4. (Deleted)
5. Under a decision of a tender committee, experts in the corresponding field may be invited to the committee as experts and consultants in a consultative capacity.
- 5<sup>1</sup>. (Deleted)
6. In order to provide technical and organisational support to the activities of a tender committee, by decision of the head of a contracting authority, a secretariat of the tender committee shall be set up from among the employees of this authority, and shall be headed by the chairperson of the tender committee.
7. (Deleted)
- 7<sup>1</sup>. In the case of a simplified electronic tender or an electronic tender, a tender committee shall adopt decisions by a majority of the current nominal list of the committee members. A member of a tender committee who disagrees with the decision of the committee may submit his/her opinion in writing, which shall be attached to the decision of the tender committee. In the case of equal votes, the vote of the chairperson of a tender committee shall be decisive. The tender committee shall decide on a successful bidder of a simplified electronic tender and an electronic tender as determined by a subordinate normative act.
8. Minutes of the meeting of a tender committee shall be drawn up and signed by the committee members present at the meeting.

*Law of Georgia No 3978 of 14 December 2006 - LHG I, No 48, 22.12.2006, Art. 346*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*



## Article 12 - (Deleted)

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

## Article 12<sup>1</sup> - Electronic tender notice and tender documentation

1. When conducting an electronic tender, a tender committee shall, on behalf of a contracting authority, post an electronic tender notice and tender documentation in the Georgian language in the Unified Electronic System of Public Procurement. By decision of a contracting authority, an electronic tender notice may also be posted in the Unified Electronic System of Public Procurement in the English language. If an estimated value of goods or services to be procured exceeds GEL 2 000 000 and an estimated value of works exceeds GEL 4 000 000, posting of an electronic tender notice in the Unified Electronic System of Public Procurement in the English language shall be mandatory.

2. In the cases of an electronic tender and a simplified electronic tender, a tender notice and tender documentation shall be posted in the Unified Electronic System of Public Procurement, after which a unique number shall be assigned to the tender notice, and the tender notice and tender documentation shall be deemed to be officially published. A contracting authority shall pay a publication fee for publishing a tender notice and tender documentation through the Unified Electronic System of Public Procurement. If necessary, a contracting authority may use other additional methods for disseminating a tender notice and tender documentation.

3. A tender notice format, data to be indicated in the notice, and the procedure for publishing and posting a notice in the Unified Electronic System of Public Procurement shall be determined by a subordinate normative act.

3<sup>1</sup>. When performing public procurement through the Unified Electronic System of Public Procurement, a tender guarantee shall be submitted to the Agency through the Unified Electronic System of Public Procurement. The procedure and conditions for submitting a guarantee to the Agency, types and an amount of the guarantee shall be determined by subordinate normative act.

4. Tender documentation shall be approved by the tender committee.

5. Tender documentation shall include:

a) qualification requirements to be met by a tenderer;

b) (deleted)

c) (deleted)

d) quantity of goods, volume of works or services to be procured, a period, place and method of delivery of goods, performance of works or rendering of services;

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

f) mandatory terms and conditions of the contract, of which a contracting authority is aware in advance, as well as a reference to the type of the contract and to the contract performance guarantee (if any);

g) methods to be used in order to estimate the value of a tender, by indicating whether it is to include the costs (transportation, insurance, taxes, etc.) other than the value of the goods, works or services;

h) (deleted)

i) ways and procedures for requesting additional information and clarifications with regard to tender documentation;

j) the name and contact details of a member of the tender committee secretariat who is authorised to provide information and clarifications about procurement procedures;

k) (deleted)

l) information about alternative procurement of communication services, if any.

5<sup>1</sup>. Tender documentation shall be drawn up as determined by a subordinate normative act.

6. While describing technical and quality characteristics of a procurement object, a contracting authority shall ensure that the text materials, technical specifications, plans, drawings, sketches and other materials used conform to the standards, technical specifications, terminology and conventional symbols recognised in Georgia and in international practice. A contracting authority shall make a reference to the applied standard, if any. It shall be inadmissible to indicate a trademark, patent, model, source of origin or manufacturer in the description of a procurement object. In those cases, when describing a procurement object, the words 'similar', 'equivalent' and others shall be used.



7. By decision of a contracting authority, qualification documents may be submitted both in Georgian and in foreign languages. If the documents are submitted in a foreign language, translations into the Georgian language performed as determined by the legislation of Georgia shall be attached to those documents. When resolving disputes related to qualification documents, the contracting authority shall decide on the priority of a foreign language document or of its Georgian translation.

8. A tender committee shall post an electronic tender notice and tender documentation in the Unified Electronic System of Public Procurement not later than 20 days before the deadline for accepting tenders expires. If the deadline for accepting tenders for an electronic tender falls on a Saturday, Sunday or an official holiday, the deadline for accepting tenders shall expire on the following work day.

9. A tender committee may modify information indicated in an electronic tender notice and tender documentation, except for the similar procurement objects and electronic means of public procurement. These modifications shall be posted in the Unified Electronic System of Public Procurement not later than five days before a deadline for accepting tenders expires.

10. (Deleted)

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 4950 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 6296 of 22 May 2012 - website, 29.5.2012*

### **Article 13 - Qualification data**

A contracting authority shall define qualification criteria for each particular procurement that the tenderers are to meet in order to participate in the procurement. The procedure for selecting qualification criteria shall be determined by a subordinate normative act. Requirements in qualification criteria shall be fair and non-discriminatory and promote effective competition.

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

### **Article 14 - (Deleted)**

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

### **Article 15 - (Deleted)**

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

### **Article 15<sup>1</sup> - Procedure for conducting an electronic tender**

1. Electronic tender procedures to be implemented from the submission of a tender until the awarding of a public procurement contract to the successful tenderer shall be set out in this article and in a subordinate normative act.

2. An affidavit, a tender and supporting documents, as well as samples (if any) and qualification documents shall be submitted to the tender committee as prescribed by a subordinate normative act.

3. The period for familiarisation with an electronic tender notice and tender documentation shall be at least 15 days after their posting by the contracting authority in the Unified Electronic System of Public Procurement. Within five days after this deadline expires, a tenderer may submit a tender through the Unified Electronic System of Public Procurement and alter the price of the submitted tender bid through an electronic reverse auction. If the deadline for accepting tenders in the announced electronic tender falls on a Saturday, Sunday or an official holiday, the deadline for accepting tenders shall expire on the following work day;



4. Issues related to access to information and documentation posted by a tenderer in the Unified Electronic System of Public Procurement shall be defined in a subordinate normative act.

5. (Deleted)

6. (Deleted)

7. (Deleted)

8. (Deleted)

9. (Deleted)

10. The tender committee shall decide the successful tenderer of an electronic tender as determined in a subordinate normative act.

11. (Deleted)

12. (Deleted)

13. (Deleted)

14. The tender committee shall, within the time frame and under procedures defined in a subordinate normative act, publish through the Unified Electronic System of Public Procurement the public procurement contract awarded to the successful tenderer of the electronic tender and the documentation related to the electronic tender and required by a subordinate normative act.

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3767 of 26 October 2010 - LHG I, No 62, 5.11.2010, Art. 398*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4950 of 24 June 2011 - website, 11.7.2011*

#### **Article 16 - (Deleted)**

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

#### **Article 16<sup>1</sup> - Awarding a contract to a successful tenderer**

1. A contracting authority shall award a public procurement contract to a successful tenderer based on the conditions defined in the tender bid of the successful tenderer.

<sup>1</sup>. If a contracting authority terminates the contract unilaterally, it shall not be liable for damages caused by termination of the contract, except as determined by the legislation of Georgia, as well as when the reason of termination of the contract is a situation under Article 9(4<sup>1</sup>) where it is necessary to bring the annual procurement plans of contracting authorities in line with the relevant normative act on the State Budget of Georgia, republic budgets of the Autonomous Republics of Abkhazia and Ajara and budgets of local self-government units, and due to this it is impossible to continue the contract.

2. By decision of a contracting authority, a contract may be prepared both in the Georgian and in foreign languages. If a contract is prepared in a foreign language, it shall be translated into Georgian as determined by the legislation of Georgia.

3. (Deleted)

4. (Deleted)

5. If a successful tenderer is disqualified or refuses to sign a contract, the contracting authority may consider a tender of the tenderer with the next best quote or terminate the public procurement procedure in cases as provided by a subordinate normative act.

6. (Deleted)

7. In the case of procurement of a large volume of works, if a construction site is located in the territory of Georgia, additional terms and conditions related to the contract may be determined by a relevant legal act of the Government of Georgia.



8. Mandatory terms and conditions of a contract to be awarded to a tenderer who was successful in an electronic tender and in simplified electronic tender procedures or to a supplier selected through a design contest and a simplified procurement shall be defined in a subordinate normative act.

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4950 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 5926 of 27 March 2012 - website, 19.4.2012*

*Law of Georgia No 1284 of 24 September 2013 - website, 8.10.2013*

#### **Article 17 - (Deleted)**

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

#### **Article 18 - (Deleted)**

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

#### **Article 18<sup>1</sup> - Inadmissibility of holding negotiations during an electronic tender**

A tender committee may not negotiate with a person interested in participating in an electronic tender or with a tenderer, except as provided by a subordinate normative act.

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

#### **Article 19 - (Deleted)**

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

#### **Article 19<sup>1</sup> - Fee rate**

1. A fee of GEL 50 shall be set for submission of a design contest proposal or a tender in the case of a design contest, electronic tender or a simplified electronic tender procedures, while in the case of a consolidated tender procedure, a fee of GEL 5 000 shall be set for submission of a tender. A tender submission fee different from the one defined in this paragraph may be set under a subordinate normative act, and a fee for submission of tenders in a consolidated tender different from the one defined in this paragraph may be set by decision of the Government of Georgia.

2. The procedures and conditions for paying fees and for refunding fees paid by mistake shall be determined by a subordinate normative act.

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3164 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 234*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 6389 of 5 June 2012 - website, 19.6.2012*

*Law of Georgia No 6577 of 28 June 2012 - website, 10.7.2012*

#### **Article 20 - (Deleted)**

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*





### **Article 20<sup>1</sup> - (Deleted)**

### **Article 20<sup>2</sup> - Consolidated tender**

1. By decision of the Government of Georgia, a consolidated tender may be conducted to procure similar procurement objects.
2. In the cases provided in paragraph 1 of this article, on the basis of documents provided by the Government of Georgia, the Agency shall ensure the conduct of a consolidated tender and identification of the best tender according to procedures and conditions determined by a subordinate normative act.
3. The Agency shall ensure that the information required by a subordinate normative act on a completed consolidated tender is posted in the Unified Electronic System of Public Procurement.
4. A contracting authority may award a public procurement contract to the supplier identified according to a subordinate normative act; the contracting authority that has indicated the intention in the annual procurement plan according to Article 9(6)(e<sup>1</sup>) of this Law to conduct a public procurement through a consolidated tender shall be obligated to award a public procurement contract to the supplier identified according to a subordinate normative act.
5. In the case provided in this article, the Government of Georgia shall determine the composition of a tender committee.

### **Article 20<sup>3</sup> - Two-stage public procurement**

1. Two-stage public procurement of procurement objects specified by a subordinate normative act may be performed through a two-stage electronic tender or a two-stage simplified electronic tender.
2. The procedures and conditions for performing a two-stage electronic tender or a two-stage simplified electronic tender shall be defined in a subordinate normative act.
3. The procedures and conditions for conducting a two-stage electronic tender or a two-stage simplified electronic tender, taking into account special aspects of these public procurement methods, may include regulations different from the ones determined under this Law for an electronic tender and/or a simplified electronic tender.

## **Chapter IV - Terms and Conditions of a Public Procurement Contract and Procedures for their Revision**

### **Article 21 - Terms and conditions of a public procurement contract and procedures for their revision**

1. (Deleted)
- 1<sup>1</sup>. A state procurement contract shall be concluded in written form, taking into account the conditions defined in this Law and a subordinate normative act. Awarding of a public procurement contract shall not be mandatory:
- a) in the case of public procurements performed through a simplified public procurement by Georgia's diplomatic missions and consular offices abroad, as well as by defence attachés, representatives of the Ministry of Defence of Georgia and the Ministry of Internal Affairs of Georgia, as well as in cases provided by a subordinate normative act;
  - b) in the case of public procurement performed through a simplified procurement by means of the Internet;
  - c) in the case of public procurement related to representation expenses;
  - d) in the case of public procurement performed through the payment of the charges determined by a normative act of Georgia.



2. In order to ensure the performance of a public procurement contract, based on the specific nature of a procurement object, a contract performance guarantee or insurance may be required, except for cases provided in paragraph 3<sup>1</sup> of this article.

2<sup>1</sup>. If a procurement object is a petroleum product (fuel) the value of which, due to its specific nature, depends on a variable price on the international commodities exchange and/or on the official exchange rate of the national currency, before a contract is awarded a supplier shall be obligated to submit to a contracting authority the unit price of the goods to be supplied, which is calculated according to a subordinate normative act. This requirement shall not apply to the procurement of petroleum products (fuel) by a diplomatic mission and a consular office of Georgia abroad, as well as by a defence attaché, the representatives of the Ministry of Defence of Georgia and the Ministry of Internal Affairs.

3. (Deleted)

3<sup>1</sup>. A public procurement contract performance guarantee or insurance shall be mandatory if the total value of the contract is GEL 200 000 or above. By decision of a contracting authority, tenderers or potential suppliers may be exempt from the obligation to provide a guarantee under this paragraph, taking into account their business reputation and the quality and awareness of the goods, services and works provided by them.

3<sup>2</sup>. If a contracting authority demands a public procurement contract performance guarantee or insurance, a supplier that has submitted a general guarantee under this Law shall have the right not to submit a contract performance guarantee or insurance. In that case, the general guarantee shall be used to secure performance of the public procurement contract.

3<sup>3</sup>. The beneficiary of a general guarantee may be any contracting authority to which the owner (principal) of the general guarantee is liable under the guarantee; the guarantee beneficiary contracting authority shall notify the guarantor about this according to a subordinate normative act.

4. The mandatory terms and conditions of a public procurement contract and the procedures for requesting a guarantee and insurance shall be determined by a subordinate normative act.

5. The terms and conditions of a contract awarded to a supplier may not be modified, if the value of the contract increases for the contracting authority due to this modification or the terms and conditions of the contract become less favourable, except for the cases provided in Article 398 of the Civil Code of Georgia.

5<sup>1</sup>. The conditions for modification of the terms and conditions of a public procurement contract according to Article 398 of the Civil Code of Georgia shall be determined by a subordinate normative act.

5<sup>2</sup>. (Deleted)

5<sup>3</sup>. In cases provided in paragraph 1<sup>1</sup>(a-d) of this article, public procurement shall be performed on the basis of a document containing information, in accordance with a subordinate normative act, evidencing payment of the value of the procurement object (for instance, a cheque or a receipt), or on the basis of a contract (if any).

6. (Deleted)

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 4950 of 24 June 2011 - website, 11.7.2011*

*Law of Georgia No 5975 of 30 March 2012 - website, 19.4.2012*

## **Article 21<sup>1</sup> - Advance payment terms**

1. In the case of an advance payment, the supplier shall submit to the contracting authority a guarantee equal to the amount of the advance payment, except for cases provided in paragraph 2 of this article and a subordinate normative act.

2. By decision of a contracting authority, it may exempt a supplier from submitting a guarantee equal to the amount of advance payment if:

a) the amount to be paid in advance to the supplier is credited to a separately designated bank account, and this amount is used under the supervision of the contracting authority over the entire duration of the public procurement contract;

b) the total value of a particular public procurement contract exceeds the threshold determined by a subordinate normative act. In that case, a contracting authority may exempt a supplier from the obligation to provide a guarantee equal to the amount of advance payment, taking into account its business reputation, the quality of the goods produced, services rendered and work performed, and the brand awareness of the supplier;

c) the supplier's responsibility to a contracting authority is permanently secured under a general guarantee as determined by a subordinate normative act.

3. Special conditions for applying the provisions of paragraph 2 of this article to qualified suppliers registered in the White List shall be defined in a subordinate normative act.



4. A supplier shall be obligated to use the amount received as an advance payment only for the performance of obligations related to the public procurement contract.

5. The procedure and conditions for submitting and exempting from submission of an advance payment guarantee prescribed in paragraphs 1-3 of this article shall be defined in a subordinate normative act.

*Law of Georgia No 5975 of 30 March 2012 - website, 19.4.2012*

## **Chapter V - Monitoring and Control over Procurements**

### **Article 22 - Procurement report**

1. (Deleted)

2. (Deleted)

2<sup>1</sup>. When an electronic tender is conducted, the conclusions of experts and consultants (if any) involved in the tender, minutes of meetings of the tender committee, as well as other documents provided by a subordinate normative act shall be attached to a procurement report.

3. (Deleted)

3<sup>1</sup>. By not later than 30 January of the following year, contracting authorities shall submit, according to the simplified procedure determined by a subordinate normative act, progress reports on the performance of the contract, provided that the estimated total value of the annual procurement plan is less than GEL 50 000.

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

5. If the value of the procurement object is more than GEL 2 000 000, the head of a contracting authority shall submit a written procurement report on the object of procurement to the Prime Minister of Georgia within 20 days after the public procurement contract is awarded. The provisions of this paragraph shall not apply to the National Bank of Georgia, which submits a procurement report to the Board of the National Bank according to the Organic Law of Georgia on the National Bank of Georgia.

6. The Ministry of Finance of Georgia, ministries of the Autonomous Republics of Abkhazia and Ajara in the field of finance and the financial authorities of local self-government units shall provide, on a quarterly basis, to the Agency information on the funds actually allocated to budgetary organisations and institutions.

7. At any stage of the procurement, the Agency may require contracting authorities and procurement participants to provide any document and information related to the procurement, including information on performance of the contract.

8. In order to ensure transparency of procurement proceedings, the Agency, during the procurement proceedings, shall monitor the adherence to principles of publicity, fairness and non-discrimination, it shall also monitor strict adherence to the established procedures and reporting, open and effective competition, and availability of rational and free choice.

9. (Deleted)

10. The form of a simplified procurement contract, a simplified electronic tender contract, an electronic tender contract, a design contest contract, a public procurement contract and the format of progress reports on public procurements set out in Article 21(1<sup>1</sup>) of this Law, the procedures, periods and conditions for their preparation, submission and storage shall be determined in a subordinate normative act.

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 1690 of 24 September 2009 - LHG I, No 29, 12.10.2009, Art. 173*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 5560 of 20 December 2011 - website, 28.12.2011*

### **Article 22<sup>1</sup> - Inspection of procurements by the State Audit Office of Georgia**

1. The State Audit Office of Georgia shall inspect procurements by auditing the contracting authority.

2. Upon request of the State Audit Office of Georgia, a contracting authority shall provide any document and/or information related to the procurement.

3. A procurement participant shall be obliged to provide to the contracting authority, upon request, documents and/or information related to the procurement.



4. (Deleted)

*Law of Georgia No 882 of 26 December 2008 - LHG I, No 1, 15.1.2009, Art. 3*

*Law of Georgia No 1236 of 19 June 2009 - LHG I, No 13, 2.7.2009, Art. 67*

*Law of Georgia No 6550 of 22 June 2012 - website, 29.6.2012*

## **Chapter VI – Procedures for Appealing Procurement-related Actions and for Considering Disputes**

### **Article 23 - Procedures for appeal and for considering disputes**

1. Before the status defined by a subordinate normative act is assigned to a simplified electronic tender or to an electronic tender, a person interested in participating in procurement or a tenderer may appeal the actions of a contracting authority or of a tender committee to the contracting authority or with the Agency, if he/she/it believes that during the procurement proceedings the procedures prescribed by this Law and relevant normative acts have been violated and/or his/her/its rights have been infringed. The procedures and conditions for appealing a design contest shall be defined in a subordinate normative act.

2. A person interested in participating in the procurement, a tenderer or a supplier may appeal at any stage the actions of the contracting authority or the tender committee to a court, if he/she/it believes that during the procurement proceedings the procedures prescribed by this Law and relevant normative acts have been violated and/or his/her/its rights have been infringed.

2<sup>1</sup>. (Deleted)

2<sup>2</sup>. If a person interested in participating in the procurement or a tenderer appeals an action of a contracting authority, a contracting authority may not be required to suspend procurement procedures, except:

- a) during the period following the completion of an electronic reverse auction;
- b) in cases of procurement through a consolidated tender or a design contest, in cases determined under a subordinate normative act.

3. (Deleted)

4. (Deleted)

4<sup>1</sup>. A board shall be set up at the Agency for considering procurement-related disputes; the board shall be composed of the representatives of the Agency and of the non-governmental sector on a parity basis. The composition of the dispute resolution board and its rules of operation shall be defined in a subordinate normative act.

5. A contracting authority or the Agency shall make a substantiated written decision and communicate it to the plaintiff not later than 10 work days after a complaint is filed. Publication of the Agency's decision on its official website shall be regarded as notification of the decision.

6. (Deleted)

7. If a complaint is found to be justified after a detailed examination of the complaint and of the related circumstances by the Agency, the Agency shall be authorised to:

- a) point out the erroneous action to the contracting authority and require that the contracting authority perform procurement procedures in compliance with the legislation;
- b) require that the contracting authority review or cancel the decisions made;
- c) if the provisions of this Law are violated, raise with the relevant bodies provided by the legislation of Georgia the issue of responsibility of the parties to the procurement.

8. (Deleted)

9. An action may not be appealed, if the complaint relates to:

- a) the selection of a procurement method in compliance with the procedures determined by this Law and relevant normative acts;
- b) the decision of a contracting authority on suspension or cancellation of a procurement that has been made under this Law and relevant normative acts.

10. A complaint shall have a legal basis. The form of a complaint to be submitted to the Agency and the procedure for completing and submitting it shall be determined by a subordinate normative act. The Agency shall not consider a complaint submitted in violation of the provisions of this paragraph.

11. If a complaint is filed with a contracting authority or with the Agency, the contracting authority shall suspend procurement procedures for the period of consideration of the complaint.

12. A person interested in participating in a procurement, a tenderer or a supplier may appeal in court the decisions made by the contracting authority and the Agency regarding the complaint.



13. The damages that may be compensated to the plaintiff as a result of the consideration of a dispute under this article shall be limited to the compensation of the costs related to the participation in the procurement and shall not include the reimbursement of the estimated profit.

14. The appeal of an administrative-legal act of a competent authority shall not result in suspension of its operation.

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 627 of 5 December 2008 - LHG I, No 36, 12.12.2008, Art. 235*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 4950 of 24 June 2011 - website, 11.7.2011*

## **Chapter VII - Transitional and Final Provisions**

### **Article 24 - Activities to be implemented for bringing this Law into force**

1. (Deleted)

2. Within one month after entry of this Law into force, the Public Procurement Agency shall, according to the legislation of Georgia, approve Regulations for the Procedures for Performing Public Procurement.

2<sup>1</sup>. (Deleted)

2<sup>2</sup>. (Deleted)

2<sup>3</sup>. (Deleted)

3. Until 1 January 2008, this Law shall not apply to procurements to be performed by electricity and natural gas enterprises for rehabilitating or repairing property that is directly related to generation, transmission, dispatching, distribution of electricity, transportation, distribution of natural gas, as well as to the regulation of electricity and natural gas metering.

4. Until 1 January 2013, the provisions of this Law shall not apply to procurement of cellular communication services.

5. In order to ensure conformity of the Law of Georgia on Broadcasting with Article 1(3<sup>1</sup>)(l) of this Law, the Legal Entity under Public Law - the Public Broadcaster and the Government of Georgia shall jointly ensure the drafting and submission of a relevant law to the Parliament of Georgia by 20 December 2009.

6. From 1 March 2010 to 1 December 2010, contracting authorities shall perform public procurements in their own discretion, through or without an electronic procurement.

6<sup>1</sup>. The Government of Georgia shall ensure that the ordinance provided in Article 10<sup>1</sup>(3)(h) of this Law is adopted by 1 February 2011.

7. In order to identify procurement objects, by 1 May 2011 the Agency shall introduce a relevant classification system adopted by international organisations.

8. Successful tenderers of public procurement procedures that commenced before 1 December 2010 shall be selected and public procurement contracts shall be concluded with them under procedures applicable before 1 December 2010.

8<sup>1</sup>. When performing public procurement through a simplified procurement, a simplified electronic tender and an electronic tender until 31 December 2010, the matters related to the similarity of procurement objects and inclusion of procurements in annual procurement plans shall be defined in a subordinate normative act.

8<sup>2</sup>. Until the methodology for detection of artificial division of public procurement is developed, the Agency shall be authorised to additionally regulate by an individual administrative-legal act matters related to artificial division of public procurement.

9. When performing public procurement of international telephone services and internet services, in order to improve state security measures, additional requirements related to termination of international telephone calls of telecommunication service providers and the route of data exchange within the global internet network shall be determined by a normative act of the Minister of Internal Affairs of Georgia.

10. The competent authority prescribed by this Law shall ensure that:

a) by 30 December 2010 the provisional rules for performing public procurement electronically are approved;

b) by 1 May 2011 the procedure for conducting a simplified procurement, a simplified electronic tender and an electronic tender is approved;

c) by 1 April 2011 the conditions and procedure for public procurement of design services through a design contest are approved;



- d) by 1 May 2012 the conditions and the procedure for conducting a consolidated tender are approved;
- e) by 1 December 2012 the methodology for detection of artificial division of public procurements is developed;
- f) by 1 January 2012 the procedure for conducting a two-stage electronic tender or a two-stage simplified electronic tender is approved;
- g) by 1 May 2012 the regulations related the maintenance of the White List and the conditions of advance payment are formulated.

11. By 1 April 2011 the Ministry of Economy and Sustainable Development of Georgia and the Public Procurement Agency shall jointly ensure that a normative act (order) provided under Article 10<sup>1</sup>(3)(e) of this Law is approved.

12. By 15 April 2014 the Government of Georgia shall ensure that the Statute of the Legal Entity under Public Law - the Public Procurement Agency is approved.

13. The Regulations approved under Ordinance No 497 of the Government of Georgia of 27 December 2011 on Approving the Statute of the Legal Entity under Public Law - the Competition and Public Procurement Agency shall retain a legal force in the portion related to public procurements until the Statute of the Legal Entity under Public Law - the Public Procurement Agency provided in paragraph 12 of this article is approved.

14. From 31 March 2014 Ordinance No 166 of the Government of Georgia of 18 February 2014 on Determining the Legal Entity under Public Law - the Competition and Public Procurement Agency as an Competent Authority shall be declared void.

*Law of Georgia No 3481 of 18 July 2006 - LHG I, No 30, 27.7.2006, Art. 237*

*Law of Georgia No 4333 of 29 December 2006 - LHG I, No 1, 3.1.2007, Art. 3*

*Law of Georgia No 294 of 26 September 2008 - LHG I, No 22, 9.10.2008, Art. 152*

*Law of Georgia No 882 of 26 December 2008 - LHG I, No 1, 15.1.2009, Art. 3*

*Law of Georgia No 1236 of 19 June 2009 - LHG I, No 13, 2.7.2009, Art. 67*

*Law of Georgia No 2107 of 20 November 2009 - LHG I, No 40, 7.12.2009, Art. 290*

*Law of Georgia No 3163 of 28 June 2010 - LHG I, No 39, 19.7.2010, Art. 233*

*Law of Georgia No 3767 of 26 October 2010 - LHG I, No 62, 5.11.2010, Art. 398*

*Law of Georgia No 4068 of 15 December 2010 - LHG I, No 74, 24.12.2010, Art. 458*

*Law of Georgia No 4272 of 25 February 2011 - website, 2.3.2011*

*Law of Georgia No 4632 of 5 May 2011 - website, 25.5.2011*

*Law of Georgia No 5126 of 13 October 2011 - website, 27.10.2011*

*Law of Georgia No 5364 of 25 November 2011 - website, 6.12.2011*

*Law of Georgia No 5975 of 30 March 2012 - website, 19.4.2012*

*Law of Georgia No 2163 of 21 March 2014 - website, 27.3.2014*

## **Article 25 - Invalid normative acts**

The following shall be regarded as invalid upon entry of this Law into force:

- a) the Law of Georgia on Public Procurement of 9 December 1998 (Legislative Herald of Georgia, No 7, 1998, Art. 52);
- b) Order No 1 of the Chairperson of the Public Procurement Agency of 15 October 2001 on Approving Regulations on the Public Procurement Procedure.

## **Article 26 - Entry into force**

This Law shall enter into force from 1 January 2006.

**President of Georgia**

**M. Saakashvili**

**Tbilisi**

**20 April 2005**



