

**THE LAW OF UKRAINE OF 25 DECEMBER 2015 № 922-VII “ON PUBLIC
PROCUREMENT” (VERSION OF 24.07.2021)**

Law «On Public Procurement » replacing Law No. 922 of 2015

This Law establishes legal and economic principles of the procurement of supplies, works and services to meet the needs of the State, the local communities and the associated local communities.

This Law aims to ensure efficient and transparent procurement, create a competitive environment in the field of public procurement, prevent corrupt practices in this field, and develop fair competition.

It also aims to harmonise Ukrainian law with EU acquis for the implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand.

<p>Section I GENERAL PROVISIONS</p>

Article 1 - Terms and Definitions

1. The terms listed herein below shall have the following meaning in this Law:

1) “Authorised e-platform” means an information and telecommunication system authorised by the Authorised Body having complex system for protection of information with confirmed compliance to Law of Ukraine “On protection of information in the information and telecommunication systems” and being a part of the e-procurement system and the online service which offers the following functions: user registration, automatic posting, receipt and transfer of information and documents during procurement procedures, and services with automatic exchange of information accessed via the Internet;

2) “Automated risk indicators” means criteria with predetermined parameters, the use of which makes it possible to automatically select the procurement procedures containing signs of violations of the public procurement legislation;

2¹) “e-procurement system administrator” shall mean a legal entity designated by the Authorized Body to be responsible for ensuring operation of the Authorized Body’s procurement web portal and placing content on it;

3) “Abnormally low tender” means most economically advantageous tender as a result of e-auction with price (discounted price) which is more than 40 % less than the average value of the other tenders at the initial stage of the auction and / or is more than 30 % less than the next best tender as result of conducted e-auction. An abnormal low tender is determined automatically by the electronic procurement system, provided that there are not less than two participants that have submitted their tenders includes within lots;

4) "Life-cycle cost" means the purchase price plus other costs which will be directly incurred by the contracting authority in the use, maintenance or disposal of the procurement item and which are calculated according to an objective and transparent method set out in the tender documents;

5) “Authorised Body’s Public Procurement Web Portal” (hereinafter referred to as the “Authorised Body’s Web Portal”) means an information and telecommunication system having complex system for protection of information with confirmed compliance to Law of Ukraine “On protection of information in the information and telecommunication systems” that includes an e-auction facility and a database, being a part of the e-procurement system. Authorised Body’s Web Portal is online service that provides for generation, storage and publication of all procurement information, holding e-auctions, automatic exchange of information and documents, use of services with automatic exchange of information accessed via the Internet. Operation of the Authorised Agency’s Web Portal shall be ensured, *inter alia*, through granting Authorised e-platforms paid access to the e-auction facility and the database;

6) “Procurement contract” means a contract for pecuniary interest concluded between contracting authority and tenderer based on the results of the procurement procedure/simplified procurement and having as its object the paid providing of services, execution of works or supply of goods;

7) “Electronic procurement system” means an information and telecommunication system having complex system for protection of information with confirmed compliance to Law of Ukraine “On protection of information in the information and telecommunication systems” that provides for the implementation of procurement procedures, generation, posting, publishing and exchange of information and documents electronically, and comprises the Authorised Body’s Web Portal and Authorised e-platforms linked by secured automatic exchange of information and documents;

8) “Electronic catalogue” means a systematized database of actual proposals which is formed and maintained by centralized procurement organization in the electronic procurement system and used for procurement by contracting authority for the purpose of selecting the supplier of goods, the value of which are less than the value specified in points 1- 3 of part 1 of Article 3 of this Law. Functioning of the electronic catalogue is ensured in particular by providing paid access to this catalogue to the authorized electronic sites. For customers, the use of the electronic catalogue is free;

9) “Procurement contract performance security” means securing the fulfilment of the tenderer’s obligations to the contracting authority under the procurement contract;

10) “Tender/offer security” means securing the fulfilment of the tenderer’s obligations to the contracting authority resulting from the submission of the tender, which takes the form of a guarantee;

11) “Contracting authorities” – entities determined in accordance with article 2 of this Law purchasing supplies, works and services according to this Law;

12) “Information resource of the Authorised Body” means the web-site administrated by the Authorised Body for free-of-charge consultations of recommendatory character on public procurements, accessed via the Internet;

13) “competitive procurement procedure (further -- bidding)” refers to competitive selection of tenderers under procedures of open bidding, restricted bidding and competitive dialogue;

14) “Procurement monitoring” means the analysis of a contracting authority’s compliance with public procurement legislation during conduction of a procurement procedure, conclusion of contract and its performance aimed to prevent violations of public procurement legislation;

15) “The most economically advantageous tender/offer” means a tender/offer recognised to be the best one as a result of tender/offer evaluation in accordance with Article 29 of this Law;

16) “Announcement of a competitive procurement procedure” means announcement of an open bidding procedure, restricted bidding procedure or competitive dialogue procedure;

17) “Complaint Review Body/Review Body” refers to the Antimonopoly Committee of Ukraine;

18) “Successful tenderer” refers to a tenderer whose tender meets all criteria and conditions set by tender documents and has been found the most economically advantageous, and who was informed by the contracting authority on its intent to enter into the contract, or a tenderer who was informed by the contracting authority on its intent to enter into the contract pursuant to the results of the negotiated procedure;

19) “Successful tenderer of simplified procedure” refers to a tenderer whose tender meets all criteria and conditions set by Announcement of a simplified procurement, requirements to procurement item and has been found the most economically advantageous, and who was informed by the contracting authority on its intent to enter into the contract;

20) “a related person” shall be understood as a person that meets any of the following characteristics:

- a legal entity that exercises control over, or is controlled by a tenderer, or is subject to joint control together with such tenderer;

- a natural person or members of his/her family exercising control over a tenderer;

- an officer (official) of a tenderer Authorised to perform, on behalf of the tenderer, legal actions aimed at establishing, modifying or terminating civil-law relations, and family members of such officer (official);

- natural persons who are authorised persons of contracting authority, the contracting authority’s manager and/or their family members that exercise control over tenderers or are authorised to perform, on behalf of the tenderer, legal actions aimed at establishing, modifying or terminating civil-law relations.

Control shall be understood as the ability to decisively influence the economic activities of the tenderer. This may be exercised either directly or via other natural persons or legal entities, in particular, through exercising the right to possession or use of all their assets or a significant portion thereof; the right to decisively influence their composition or voting results; the ability to determine the conditions of economic activity, give binding instructions or to serve as the managing body of the tenderer; or through the ownership of a share (participatory interest, block of shares) which accounts for at least 25 % of the authorised capital of the tenderer.

For a natural person, the total shareholding in the authorised capital of a tenderer shall be determined based on the scope of equity held by such natural person, his/her family members and legal entities controlled by such natural person or his/her family members.

For the purposes of this Law, family members shall be deemed to be spouses, children, parents, siblings, grandparents, grandchildren, adoptive parents, adopted children, as well as other individuals, provided that they reside together with the related person on a permanent basis and maintain a common household with the said person;

21) “services” shall mean any procurement item, other than goods and works, in particular transportation services, introduction of new technologies, scientific research, research and development activities, medical and public amenity services, rental, leasing, as well as financial and consultancy services, minor repair, minor repair with development of design documentation”;

22) “Procurement item” refers to supplies, works or services purchased by the contracting authority within a single procurement procedure or within simplified procurement, in respect of which tenderers\offers are permitted to submit tenders or proposals for negotiation (in cases where a negotiated procedure applies). A procurement item shall be defined by the contracting authority in accordance with the procedure established by the Authorised Agency and with application of Common Procurement Vocabulary of European Union approved with the procedure established by legislation;

23) “Discounted price” means a price indicated by the tenderer in its tender\offer and adjusted taking account of values of other award criteria using a mathematical formula set by the contracting authority in the tender documents/announcement of simplified procurement;

24) “offer of tenderer of simplified procedure” means offer in respect of the procurement item or a part thereof (a lot) submitted by a tenderer to the contracting authority pursuant to the requirements set in Announcement of a simplified procurement, requirements to procurement item;

25) “Public Procurement (further – procurement)” is the acquisition of works, supplies or services by contracting authority in accordance with the procedure established by this Law;

26) “Framework agreement” means a transaction executed by one or several contracting authorities (including central purchasing organisation) in accordance with the procedure as established by this Law with several tenderers for the purpose of laying down the essential terms and conditions of procurement for certain supplies and services in order to enter into relevant procurement contracts within the duration of the framework agreement;

27) “works” is development of design documentation for construction facilities, scientific and design documentation for restoration of monuments of architecture and town planning, construction of new facilities, expansion, rehabilitation, major repairs, and restoration of existing facilities as well as industrial and non-industrial facilities, construction works with development of design documentation, standard setting activities in construction, geological survey, technical re-equipment of existing enterprises, as well as services related to works, including geodetic survey, drilling, seismic survey, aerial photography and satellite imagery and other services that are included in the estimated cost of the works, if the cost of such services does not exceed the cost of the relevant works;

28) “Simplified procurement” - the acquisition by contracting authority customer of goods, works and services, the value of which is equal to or exceeds UAH 50,000 and is less than the value established in the second and third paragraphs of the first part of the article 3 of this Law;

29) “Validity period of a tender” means the period specified by the contracting authority in the tender documents upon expiration of which the tender shall be deemed invalid;

30) “Complainant to the Complaint Review Body” (hereinafter referred to as the “complainant”) refers to a natural person or legal entity that applied to the Complaint Review Body seeking protection of its/his/her rights and legitimate interests with regard to a decision, an action or omission by the contracting authority which violate public procurement laws and which resulted in the infringement of a right or legitimate interest of such natural person/legal entity;

31) “Tender documents” means documents specifying the terms and conditions of bidding as developed and approved by the contracting authority, and published for free access in the e-procurement system;

32) “Tender” means a proposal in respect of the procurement item or a part thereof (a lot) submitted by a tenderer to the contracting authority pursuant to the requirements set in tender documents;

33) “technical specification on procurement item” means a set of technical specifications defining the characteristics of the supplies, service (services) or necessary for the performance of work on the construction object specified by the contracting authority, which may include indicators of environmental impact and climate, design features (including on suitability for persons with disabilities), compliance, productivity, resource-efficiency, safety, quality assurance procedures, requirements for the name of the product under which it is sold, terminology, symbols testing methods, packaging, marking and labeling requirements, user instructions, technological processes and production technologies at any stages of the life cycle of works, goods or services;

34) " Supplies” refers to the purchase, lease, rental or hire purchase, with or without an option to buy of products of any type and intended for any purpose, including raw materials, equipment, objects in solid, liquid, or gas form, as well as services associated with the delivery or installation of the products, if the cost of such services does not exceed the cost of the products;

35) “Authorised person(s)” refers to an officer (official) or other individual within staff of the contracting authority appointed to be in charge of organising and holding procurement procedures hereunder based on own administrative decision of this contracting authority or on employment agreement (contract);

36) “Authorised Body” means the central executive body responsible for the development and implementation of the State policy in public procurement sphere;

37) “tenderer/participant in procurement procedure/simplified procurement” means any natural person, natural person-entrepreneur or legal person (resident or non-resident) as well as group of participants which submitted a tender/offer or took part in the negotiations, in case when a negotiated procedure is applied.

In meaning of this Law group of participants may be in form of:

separate legal entity established by association of legal entities-residents;

separate legal entity established by association of legal entities (residents and non-residents);

association of legal entities-non-residents with or without establishment of separate legal entity;

38) “Central purchasing organisations” refer to legal entities owned by State or local self-governing authorities and designated by the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, or local self-governing authorities as contracting authorities responsible for organising and holding bidding and procurements under framework agreements on behalf of contracting authorities in accordance with this Law;

39) “Part of procurement item (lot)” refers to a part of supplies, works or services as determined by the contracting authority, in respect of which tenderers are permitted to submit their tenders/offers or proposals for negotiations, in cases when a negotiated procedure is applied.

Article 2 – Contracting authorities

1. Contracting authorities applying this Law are:

1) public authorities (bodies of legislative, executive and judicial law), law enforcement bodies, authorities of Autonomous Crimean Republic, local self-governing authorities and associations of local communities;

2) the Pension Fund of Ukraine, special-purpose insurance funds for temporary disability insurance, occupational accidents and diseases, health insurance and unemployment insurance (further – social insurance bodies);

3) legal entities - enterprises, institutions, organizations (except for those above in points 1 and 2 of this Part) and their associations that provide for satisfying the needs of the State or a local community (communities), if such activities are carried out as not having an industrial or commercial basis and based on legal acts and/or decisions of public authorities or local self-governing authorities, and if they have any of the following characteristics:

the legal entity is an administrator, recipient of budget funds;

public authorities or local self-governing authorities, or other contracting authorities have the majority of votes in the supreme governing body of the legal entity;

more than 50 % of shares (interests, participatory interests) in the legal entity’s authorized capital belong to the State or a local community.

4) legal entities and/or economic operators operating in one or several certain areas of economic activity defined in part 2 of this article and meeting at least one of the following criteria:

public authorities, authorities of the Autonomous Republic of Crimea, local self-governing authorities or other contracting authorities own a share of more than 50 % in the authorized capital of the legal entity and/or economic operator, or such authorities have the majority of votes in the supreme governing body of the legal entity and/or economic operator or the right to appoint more than a half of the members of the legal entity and/economic operator’s executive or supervisory board;

enjoying special or exclusive rights - the rights granted by a public authority or local self-governing authority within the scope of their powers pursuant to any regulation and/or individual legal act, which limit the number of operators in the areas referred in this Law to one or more entities, significantly affecting the ability of other entities to carry out activities in these areas. The rights granted as a result of contests (tenders, procurement procedures) announced in advance with public access, provided that possibilities to participate in such contests (tenders, procurement procedures) have not been limited and these rights have been granted based on objective criteria, shall not be deemed special or exclusive rights.

2. For goals of point 4 of part 1 of this article the activities in certain areas of economic activity mean activities carried out in one or several of the following areas:

1) Provision of transportation, distribution, storage (uploading, bailing) and supply of natural gas to third parties (consumers), natural gas production and provision of LNG facilities;

2) Provision of heat generation, transportation and supply;

3) Provision of production, transmission, distribution, sale and purchase, supply of electricity to consumers, centralised dispatcher control and provision of electric energy supply to / from the transmission / distribution system and ensuring the functioning of the day-ahead electricity market and the internal daily market and the organization of purchase and sale of electric energy in these markets;

4) Provision of the production, transportation and supply of potable water to consumers, as well as district sewage system operation;

5) Carrying out irrigation, drainage or drainage-dampening melioration measures if the volume of water used for supplying portable water is more than 20% of the total volume of water provided by irrigation or drainage systems;

6) Provision of services for the use of public railway transport infrastructure, ensuring the functioning of the city electric transport, including underground, and the operation of its facilities for the provision of transportation services, as well as urban bus services, subject to conditions determined by the relevant executive authorities and local self-government bodies at served routes, required traffic capacity and frequency of transportation services;

7) Provision of services of bus stations, ports, airports, air navigation services for aircraft flights;

8) Provision of postal services;

9) Exploring for oil, gas, coal or other solid fuels, production of oil, coal and other types of solid fuels.

3. For goals of point 4 of part 1 of this article the following activities are not considered to be activities in certain areas of economic activity:

1) the generation and supply of gas and heat to public networks where its generation comes as an unavoidable result of the contracting authority's other production activities, which are not activities in certain areas of economic activity, provided that the gas or heat is supplied only for the purposes of economic exploitation of this production, and the income from these activities does not exceed 20 % of the contracting authority's average annual income for the previous three years, including the current-year income;

2) Electricity generation, transmission and supply to public networks where generation is necessary for satisfying the contracting authority's own needs for the purposes of carrying out other activities, which are not activities in certain areas of economic activity, and the volume of electricity supplied by the contracting authority to public networks depends on its own consumption, provided that such own consumption amounts to at least 70 % of the total volume of electricity generated by the contracting entity and calculated using the average annual output indicators for the previous three years, including the current-year indicators;

3) Production, transportation and supply of portable water to public networks where such production is necessary for satisfying the contracting authority's own needs for the purposes of carrying out other activities, which are not activities in certain areas of economic activity, and the

volume of drinking water supplied by the contracting authority for public purposes depends on its own consumption, provided that such own consumption amounts to at least 70 % of the total volume of drinking water produced by the contracting authority and calculated using the average annual output indicators for the previous three years, including the current-year indicators;

4. The categories of contracting authorities applied in this Law:

1) public authorities and local self-governing authorities stipulated in point 1 of part 1 of this article;

2) social insurance bodies stipulated in point 2 of part 1 of this article;

3) enterprises, institutions, organizations stipulated in point 3 of part 1 of this article;

4) legal entities and/or economic operators operating in certain areas of economic activity as stipulated in point 4 of part 1 of this article.

Article 3 - Scope of the Law

1. This Law shall apply to:

1) contracting authorities stipulated in points 1-3 of part 1 of article 2 of this Law, provided that the estimated value of the works, goods or services to be procured equals to or exceeds UAH 200,000, in the case of goods and services; or UAH 1,500,000 in the case of works;

2) contracting authorities stipulated in points 4 of part 1 of article 2 of this Law, provided that the value of supplies or services to be procured equals to or exceeds UAH 1,000,000, and the value of works to be procured equals to or exceeds UAH 5,000,000.

3) contracting authorities determined by part 1 of article 2 of this Law carrying out simplified procurement in accordance with this Law and/or conclude contracts without using the electronic procurement system according to part 2 of this article.

2. Contracting authorities carry out simplified procurement by using the electronic procurement system in compliance with the procedure established by this Law.

3. In case of procurement of goods, works and services the value of which does not exceed UAH 50,000, contracting authority must follow public procurement principles and may use the electronic procurement system including e-catalogues for purchase of goods. In the case of a such procurement without the use of an e-procurement system, contracting authority shall publish in accordance with Article 10 of this Law the report on awarded contract in the e-procurement system.

The report on the awarded contract concluded without the use of an e-procurement system must contain:

1) the date of conclusion and the number of the contract / document (s) confirming the purchase of the goods (goods), works and services (services);

2) name, location and identification code of contracting authority in the Unified State Register of Enterprises, Organizations and Institutions of Ukraine (further – USREOU), its category;

3) name (for legal entity) or surname name, patronymic (for an individual) of the supplier of goods, works executor or service provider with whom a contract for the purchase has been concluded;

4) identification code of the legal entity in the Unified State Register of Enterprises and Organizations of Ukraine / registration number of the payer's tax card of the supplier of goods, works or service provider;

5) location (for a legal entity) or place of residence (for a natural person) of the supplier of goods, works or service provider and telephone number;

6) name of the contract item;

7) quantity, place and time of delivery of goods, performance of works or provision of services;

8) price and duration of the contract.

Other information may be included in the procurement contract report, which was made without the electronic procurement system.

4. Notions (relations) related to public procurement sphere are governed solely by this Law and may not be governed by other laws except as provided by this Law. Provisions of this Law may be modified only by means of the introduction of amendments to this Law.

If legislative changes to other legislative acts are required for the implementation of the provisions of the submitted law on amendments to this Law, such changes are set out in the section "Final provisions" (transitional provisions) of the draft law on amendments to this Law.

5. This Law shall not apply to the following procurement items:

1) supplies, works and services the procurement of which is classified as a state secret in accordance with the Law of Ukraine "On State Secrets" or which pursuant to the laws of Ukraine must be accompanied by special security measures;

2) supplies, works and services purchased abroad by Ukrainian diplomatic missions;

3) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments;

4) the acquisition, lease of land, buildings, other immovable property or title to land, buildings and other immovable property;

5) services of international arbitration courts, international commercial arbitrations related to consideration and settlement of disputes involving the contracting authority;

6) supplies, works and services procured according to agreements between the central executive body in charge of the development and implementation of the state national security, military, defence and military construction policies, and specialised purchasing organisations. The procurement of such supplies, works and services shall be made in accordance with the rules and procedures established by relevant specialised purchasing organisations.

7) services related to scientific and scientific and technical activities and financed on a competitive basis according to the procedure established by Articles 58 and 59 of the Law of Ukraine “On Scientific and Scientific and Technical Activities”;

8) employment contracts;

9) services on production and dissemination of audio-visual productions and advertisings in the context of a political election campaign;

10) supplies and services related to design, production of security paper, banknotes, coins and state awards of Ukraine, their storage, transportation and record-keeping;

11) services necessary for government borrowing, attraction of borrowings under state guarantees, servicing and repayment of the public debt, borrowings attracted against state guarantees;

12) supplies and services associated with transactions performed by the National Bank of Ukraine for the purpose of management of gold and foreign exchange reserves, their placement, purchase and sale in the secondary securities market, as well as for the purpose of making foreign exchange market interventions through purchase and sale of currency assets in foreign exchange markets;

13) services of financial institutions for granting credits, guarantees, as well as services necessary for preparation and implementation of investment projects, public-private partnership projects, including projects being implemented on the terms of concession granted by international financial organizations.

For the purposes of this Law, “international financial organizations” shall mean the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the International Development Association, the European Bank for Reconstruction and Development, the European Investment Bank, the Nordic Investment Bank, the Nordic Environment Finance Corporation, other international financial organizations to which Ukraine is a member.

For the purposes of this Law, the term “financial institution” shall be used in the meaning of the Law of Ukraine “On Financial Services and State Regulation of Financial Services Markets”, if a service provider is a resident. If a service provider is a non-resident, a “financial institution” shall be understood as a legal entity authorized to provide financial services under the legislation of the country of its registration, of which the contracting authority shall be provided with documented proof”;

14) services purchased by banks for the purpose of rendering banking services and performing banking transactions in accordance with the Laws of Ukraine “On Banks and Banking” and “On the National Bank of Ukraine”;

15) services provided by the National Bank of Ukraine in accordance with the law;

16) blank forms of documents certifying identity and Ukrainian citizenship, passports, blank forms of documents confirming identity and special status of a person, blank forms of other documents which must carry special protection elements in accordance with the legislation of Ukraine, election ballots for the election of the President of Ukraine and / or People’s Deputies of Ukraine, excise stamps, manufactured by enterprises belonging to the sphere of management of the central executive body implementing state policy in the field of organization and control over the

production of blank forms of securities, documents of strict reporting, as well as goods and services required for their production.

17) supplies and services needed by the Deposit Guarantee Fund to provide for the performance of its functions and exercise of its powers specified in the Law of Ukraine “On Deposit Guarantee System” and related to withdrawal of insolvent banks from the market;

18) service contracts on medical services for population in accordance with law;

19) supplies and services procured according to agreements between the central executive body in charge of the development and implementation of the state healthcare policy, and specialised purchasing organisations. Upon results of these procurements the central executive body in charge of the development and implementation of the state healthcare policy publishes in electronic procurement system the report with information according to procedure defined by the Authorised Body. The procurement of such supplies and services shall be made in accordance with the rules and procedures established by relevant specialised purchasing organisations with respect to procedure, the list of such goods and services and the list of specialised purchasing organisations determined by Cabinet of Ministers of Ukraine;

20) supplies, works and services, supplies, supplies provided by a supplier with experience in Europe and / or Asia and / or North America and / or South America and / or the Middle East and for at least five years (including related parties within the meaning of the Tax Code of Ukraine) required for scientific and technical and / or engineering services for exploration (geological exploration, exploration), drilling, development, extraction, intensification (reservoir fracturing, overhaul of wells, colt) Bing) wells and hydrocarbon deposits, their training ground to transportation pipelines and oil pipelines, and processing;

21) hematopoietic stem cells, works and services associated with their acquisition. Upon result of such procurement, the contacting entity shall publish in the electronic procurement system a report on the procurement contract concluded without the use of the electronic procurement system;

22) natural gas, which is procured by authorities of natural gas market defined by the Law of Ukraine "On Natural Gas Market" on commodity exchanges, regulated by the law, that determines the legal conditions for the establishment and operation (activities) of commodity exchanges, and which meet the requirements of the Code of the gas transmission system;

23) construction works (including services related to such works) under the Great Ring Road around Kyiv (Kyiv oblast) project;

The restrictions specified in points 1 and 6 of part five of this Article shall not apply if the procurement is carried out on the basis of the Law of Ukraine "On Defense Procurement".

6. With regard to contracting authorities stipulated in point 4 of part 1 of article 2 of this Law, this Law shall not apply to the following procurement items:

1) supplies, works and services produced, performed or rendered to the contracting authority or a group of contracting authorities by an affiliated undertaking when its only purpose is to support the activities of the contracting authority or one of the group of contracting authorities in certain areas of economic activity.

In meaning of this Law an “affiliated undertakings” are contracting authority’s divisions, whose property and operations are registered in the contracting authority’s consolidated balance

sheet, or economic operators over which the contracting authority can exercise a dominant influence, or economic operators which together with the contracting authority are subjects to such dominant influence by another contracting authority.

A dominant influence shall be presumed in any of the following cases:

the contracting authority holds more than 50 % of the undertaking's subscribed capital;

the contracting authority controls the majority of the votes in the supreme body of the undertaking or can appoint more than half of the undertaking's administrative, management or supervisory body;

2) supplies intended for resale to third parties, provided that the contracting authority does not occupy a monopolistic (dominant) position in the market of such supplies, and other economic operators are free to sell them under the same conditions as the contracting authority;

3) fuel and energy resources for electricity and heat generation and for geological survey of mineral deposits (including non-irradiated fuel elements (fuel pins) for nuclear reactors);

4) raw hydrocarbons, oil products for further processing and sale as well as related and required ancillary services, such as processing, production, transportation, freight, insurance, movement, cargo transportation, storage, loading/offloading, quality and quantity inspection, customs brokerage services, information and analysis services in respect of market prices and stock exchange quotations, financial services, services of stock exchanges, auctions and electronic tendering systems;

5) supplies, works and services if their prices (tariffs) are approved by collegial public authorities or other authorities within the scope of their powers or are determined in accordance with the procedure established by the aforementioned authorities, including where such prices are determined through auctions;

6) supplies, works and services specified in production sharing agreements executed in accordance with the Law of Ukraine “On Production Sharing Agreements”;

7) supplies and services in the day-ahead market, balancing market and ancillary services market in accordance with the Law of Ukraine “On the Principles of Functioning of the Electricity Market of Ukraine”;

8) electricity purchased and sold in the electricity market by the guaranteed buyer, market operator, system operator, balance responsible party within the balancing group in accordance with Law of Ukraine “On the Electricity Market of Ukraine”;

9) services of the accounting administrator, commercial accounting administrator, market operator, guaranteed buyer in accordance with the Law of Ukraine “On the Electricity Market of Ukraine”;

10) general interest services in process of functioning of electricity market in accordance with the Law of Ukraine “On the Electricity Market of Ukraine”.

11) natural gas, the procurement of which is carried out by the gas transmission system operator from the customer of transportation services in the amount of the positive daily imbalance allowed by such customer;

12) natural gas, the procurement of which is carried out by the customer of transportation services from gas transmission system operator in the amount of negative daily imbalance allowed by such customer;

13) natural gas, the procurement of which is carried out by gas storage operator and gas distribution system operators to ensure their own economic activities (including for their own production and technical needs, to cover production costs and technological costs, to perform balancing actions) in accordance with the Law of Ukraine "On Natural Gas Market", Code of the gas transmission system, Code of the gas storage facilities and the Code of gas distribution systems, provided that such procurement is done on commodity exchanges, the activities of which are regulated by the law that determines the legal conditions for the establishment and operation (activities) of commodity exchanges, and which meet the requirements of the Code of the gas transmission system.

7. Procurement of supplies, works and services the value of which equals or exceeds UAH 50,000 and is less than the value established in points 1 and 2 of the part 1 of this article of this Law, is carried out without the use of rules for conducting simplified procurement as established by this Law, if:

1) the contracting authority has cancelled the procurement procedure twice due to absence of tenderers. Therewith the procurement item, its technical and qualitative characteristics, and the requirements to the tenderers shall not differ from the requirements established by the contracting authority in announcement of simplified procurement.

2) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,

entering into a procurement contract with the winner of an architectural or artistic contest;

competition is absent for technical reasons;

there is necessity for the protection of intellectual property rights;

signing a contract with the supplier of "last hope" for the supply of electric energy or natural gas;

3) where it is strictly necessary for reasons of extreme urgency namely:

brought about by events unforeseeable by the contracting authority, the time limits for simplified procurement cannot be complied with;

due to complaining against contracting authority after bids evaluation but contract value in case of such urgency cannot prevails 20 % of estimated value of bidding that is complained against;

due to termination of the procurement contract due to the fault of supplier for the term sufficient for the tender, but in the amount not exceeding 20 % of the amount specified in the procurement contract, which is terminated due to the fault of such supplier;

4) when after concluding the procurement contract the contracting authority needs additional volume of goods from the same supplier, if the change of the supplier would oblige the procuring

entity to acquire goods having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. The procurement of additional volume of goods from the same supplier shall be carried out within three years after the conclusion of the procurement contract, if the total cost of such supply does not exceed 50 percent of the initial contract price;

5) when after concluding the procurement contract the contracting authority needs additional volume of similar works or services from the same tenderer. The possibility and conditions of such additional works or services may be provided for in the main procurement contract, which is concluded as a result of a tender / simplified procedure. Procurement of additional similar works or services from the same tenderer shall be carried out within three years after the conclusion of the procurement contract, if the total cost of such works or services does not exceed 50 percent of the price of the main procurement contract concluded as a result of tender / simplified procurement;

6) procurement of lawyer services;

7) procurement with use of electronic catalogue;

8) if goods and services are procured from the enterprise or organization that is founded by a civil society organization of disabled persons and is entitled to taxation benefits according to the legislation;

9) in case of procurement of services necessary for physical training and sports events, for physical training and sports rehabilitation as well as training and participation of the national teams of Ukraine in international sports events included in the Unified calendar plan of physical training and sports activities of Ukraine.

If procurement is performed in the cases provided for in this paragraph, the procuring entity shall publish a report on the procurement contract concluded without the use of electronic procurement system in the electronic procurement system, in accordance with Article 10 of this Law.

8. The peculiarities of the implementation of procurement procedures specified by this Law shall be established by separate laws for such goods, works and services:

1) services for the training of specialists, scientific, scientific and pedagogical and working personnel, advanced training and retraining of staff (postgraduate education) under state order;

2) supplies and services, which are procured in accordance with the programs of the Global Fund to Fight AIDS, Tuberculosis and Malaria in Ukraine, carried out in accordance with the law;

3) energy service (ESCO).

9. The peculiarities of procurements, defined by this Law, for guaranteed satisfaction of defense needs (except for supplies, works and services under agreements as defined in point 6 of part 5 of this article) by the Ministry of Defence of Ukraine and its intelligence body, the Ministry of Internal Affairs of Ukraine, the State Security Service of Ukraine, the National Guard of Ukraine, the State Border Service of Ukraine, the External Intelligence Service of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the State Emergency Service of Ukraine and other military formations and/or units during a special period, period of operation of united forces and in the period of introduction of a state of emergency or military state shall be established by a separate law.

10. The purchase of supplies, works and services and entering into contracts binding the contracting authority to pay for supplies, works and services before/without holding a procurement procedure/simplified procurement where required by this Law shall be prohibited.

Contracting authorities don't have the right to divide the procurement item into parts with the view to avoid an open procedure/simplified procurement or the application of this Law, in particular provisions of part 3 of article 10 of this Law.

Article 4 - Procurement Planning and Other Pre-conditions for Procurement Procedures

1. Procurement planning is carried according to the need to procure goods, works and services. Scheduled purchases are included in the annual procurement plan (hereinafter - the annual plan).

The annual plan and amendments thereto shall be published free of charge in the e-procurement system within five business days following their approval.

Procurements shall be made in accordance with an annual plan.

2. Procurement plan shall include following information:

- 1) name, location and code according to the USREOU of the procuring entity, its category;
- 2) the title of the procurement item indicating the CPV (also for each lot if lots are applied), the codes and names of other relevant classifiers of procurement item (if any);
- 3) the volume of budget allocation and/or the expected value of procurement;
- 4) code of economic classification of expenditures (for budget funds);
- 5) type of procurement namely:

procurement procedure – for procuring entities stipulated in points 1-3 of part 1 of article 2 of this Law in case if the value of the supplies, services is equal to or exceeds UAH 200, 000, and works – UAH 1,500,000;

procurement procedure – for procuring entities stipulated in point 4 of part 1 of article 2 of this Law in case if the value of the supplies, services equals or exceeds UAH 1,000,000, and of works – UAH 5,000,000;

simplified procurement -- for procuring entities stipulated in points 1-3 of part 1 of article 2 of this Law in case if the value of the supplies, services is less than UAH 200,000, and less than UAH 1,500,000 for works;

simplified procurement - for procuring entities stipulated in point 4 of part 1 of article 2 of this Law in case if the value of the supplies, services is less than UAH 1,000,000, and less than UAH 5,000,000 for works;

direct contract concluded without use of electronic procurement system - for procuring entities stipulated in points 1-3 of part 1 of article 2 of this Law in case of procurement according to parts 2 and 6 of article 3 of this Law;

direct contract concluded without use of electronic procurement system - for procuring entities stipulated in point 4 of part 1 of article 2 of this Law in case of procurement according to parts 2 and 6 of article 3 of this Law;

6) in the case of application of a framework agreement:

the duration of the framework agreement;

the party to the framework agreement (contracting authority or central purchasing organization that conducts the procurement on behalf of contracting authority).

If the annual plan is published by a centralized procurement organization, the name, location and identification code of the contracting authority (in the interests of which the framework agreement is carried out) in the USREOU, its category must be indicated additionally;

the estimated value, taking into account the total duration of the framework agreement.

3. The annual plan does not include purchases for the implementation of which this Law does not apply in the cases specified in parts 5 and 6 of Article 3 of this Law.

4. For the purpose of preparing the annual plan and individual tenders, contracting authorities may conduct market consultations and in this connection seek or accept recommendations and information from economic operators. Such recommendations and information may be used in the planning and conduct of procurement procedures, provided that they do not have the effect of violating Articles 5 of this Law. Market consultations can be conducted through an electronic procurement system by sending questions by contracting authority and receiving responses from economic operators or through open meetings with potential tenderers. The conduct of preliminary market consultations by contracting authority is not considered as involvement of economic operators for preparation of the requirements to tender documentation.

Article 5 - Procurement Principles and Non-Discrimination of tenderers

1. The procurement procedures shall be implemented in accordance with the below principles to ensure:

- 1) fair competition among tenderers;
- 2) maximum cost saving, efficiency and proportionality;
- 3) openness and transparency at all stages of the procurement process;
- 4) non-discrimination of tenderers and equal treatment to them;
- 5) objective and impartial evaluation of tenders/offers and award;
- 6) prevention of corrupt practices and abuse.

2. Domestic and foreign tenderers, regardless of their form of ownership and business legal structure, shall participate in procurement procedures/simplified procurement on equal conditions.

3. Contracting authorities shall grant free access to tenderers to procurement information provided for by this Law.

4. Contracting authorities may not set any discriminatory requirements to tenderers.

5. The contracting authorities, tenderers, the complainant, as well as their representatives shall in good faith enjoy their rights determined by this Law.

Abuse of rights, including the right to appeal against decisions, actions or inactions of the contracting authorities shall be prohibited.

Article 6 - International Commitments of Ukraine in the Sphere of Procurement

1. If an international treaty to which Ukraine is a party and recognised by the Verkhovna Rada of Ukraine as binding provides for the application of procurement rules other than those set out in this Law, the provisions of such international treaty shall prevail with respect to principles set in part 1 of article 5 of this Law.

2. Procurement of supplies, works and services financed through credits and loans granted under international agreements of Ukraine by the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the International Development Association, the European Bank for Reconstruction and Development, the European Investment Bank, the Nordic Investment Bank as well as by other international financial institutions, shall be implemented in accordance with the rules and procedures established by the said institutions with respect to principles set in part 1 of article 5 of this Law, or, if such rules and procedures are not specified, in accordance with this Law.

3. Procurement of supplies, works and services co-financed within the framework of projects funded through credits and loans as referred to in part 2 of this article shall be made in accordance with rules and procedures established by relevant institutions or, if such rules and procedures are not specified, in accordance with this Law.

Section II

STATE REGULATION AND CONTROL IN THE FIELD OF PROCUREMENT

Article 7 - State Regulation, Control in the field of Procurement and Civil Society control

1. The Authorised Body shall be responsible for the regulation and implementation of the state procurement policy within the scope of its powers established by this Law.

2. The central executive body in charge of the state policy in the field of treasury services shall:

1) before making payments under the procurement contract, shall verify the availability of the annual procurement plan, the procurement contract, and the report on the procurement using the e-procurement system confirming the fact of completion of the procurement procedure/simplified procurement followed by the award of the procurement contract;

2) take measures to prevent payments from the contracting authority's account pursuant to the financial liabilities assumed under the procurement contract in the following cases:

when documents required pursuant to point 1 of this paragraph are missing or do not comply with the legislative requirements;

when the procurement procedure/simplified procurement has been cancelled;

when a court decision invalidating the results of the procurement procedure/simplified procurement has taken effect;

during the period for which the procurement procedure is suspended in accordance to article 18 of this Law;

when there is a relevant decision of the Complaint Review Entity pursuant to Article 18 of this Law.

The existence of documents referred to point 1 of this paragraph shall be verified through the review of documents uploaded in the e-procurement system.

3. For the purposes of authorising payments under procurement contracts, banks, shall verify whether report on the procurement procedure results was uploaded in the e-procurement system. If the report is absent in the e-procurement system, the payment order shall be deemed improperly executed.

4. The Accounting Chamber, the Antimonopoly Committee of Ukraine, and the central executive body in charge of the state policy in the field of state financial control shall exercise control in the field of public procurement within the scope of the powers vested in them by the Constitution and the laws of Ukraine.

Bodies authorised to exercise control in the field of procurement shall not interfere with the procurement.

5. Civil society control shall be ensured through granting free access to all public procurement information to be published in accordance with this Law, through analysis and monitoring of the information published within the e-procurement system as well as through reporting, via the e-procurement system or in writing, of detected signs of violations of the public procurement legislation to the bodies authorized to exercise such control.

Involvement of the public in exercising control in the field of procurement is carried out in accordance with the Laws of Ukraine “On Civil Society Associations”, “On Public Appeals”, "On Access to Public Information" and “On Information”, “On openness of use of public funds”.

Citizens, civil society organizations and their associations shall not interfere with the procurement procedures/simplified procurement.

Article 8 - The Procedure for Public Procurement Monitoring

1. Monitoring of procurement procedure is carried out by the central executive body, which implements the state policy in the field of state financial control, and its inter-territorial bodies (hereinafter - the bodies of state financial control).

Procurement monitoring is carried out during the procurement procedure, conclusion of the procurement contract and its execution.

Procurement monitoring is not conducted regarding compliance of tender documents with the requirements of part four of Article 22 of this Law.

Procurement monitoring is carried out also in regard procurement procedures having peculiarities envisaged by laws stipulated in parts 8 and 9 of article 3 of this Law.

2. The decision to initiate procurement monitoring shall be taken by the head of the state financial control body or his deputy (or other officer authorised by the head) if one or more of the following grounds are present:

- 1) data of automatic indicators of risks;
- 2) information received from the bodies of state power, members of the Parliament of Ukraine, bodies of local self-government regarding the presence of signs of violation (violations) of legislation in the field of public procurement;
- 3) information of mass media containing a signs of violation (violations) of legislation in the field of public procurement;
- 4) signs of violation (violations) of legislation in the field of public procurement detected by the body of state financial control in the information published in the electronic procurement system;
- 5) information received from civil society organisation about the presence of signs of violations (violations) of legislation in the field of public procurement revealed by the results of civil society control in accordance with Article 7 of this Law.

For the analysis of data indicating the signs of violation (violations) of legislation in the field of public procurement, there can be used:

- information published in the electronic procurement system;
- information contained in unified state registers;
- information in databases open for access to the central executive authority, which implements the state policy in the field of state financial control.

3. On the basis of the decision to start monitoring by the state financial control body, an announcement about the commencement of procurement monitoring shall be made public in the electronic procurement system within two business days from the date of such decision is made, indicating the unique number of the Announcement of a competitive procurement procedure, assigned by the electronic procurement system and / or unique number of the announcement about the intention to conclude an contract in case of negotiated procedure, as well as a description of the grounds for procurement monitoring.

The notification of the commencement of procurement monitoring does not stop the procurement procedures specified by this Law.

4. The period of procurement monitoring can not exceed 15 business days from the date of publication of the decision to commence monitoring in the electronic procurement system.

5. During the period of procurement monitoring an authorised officer of the state financial control body has the right, through the electronic procurement system, to ask the contracting authority for explanations of decision-making and / or commission of actions or inactivity that are the subject of research within procurement monitoring. All such requests for explanation are automatically made public by the electronic procurement system. The contracting authority must provide relevant explanations through the electronic procurement system within three business days from the date of publication of the request for explanation of decision-making and / or commission of actions and inactions that are the subject of research within monitoring.

Within the time period for monitoring, the contracting authority has the right, on his own initiative, to provide an explanation of the decision making and / or the commission of actions or inactivity that are the subject of research within monitoring.

6. On the basis of the monitoring results, an officer of the state financial control body shall draw up and sign a conclusion on the results of the monitoring (hereinafter - the conclusion), which shall be approved by the head of the state financial control body or his deputy. Such conclusion shall be made public in the electronic procurement system within three business days from the date of its preparation.

7. The conclusion must include:

1) the name and location of the contracting authority, which was monitored, its identification code of the legal entity in the USREOU;

2) the name and CPV code (also in regard to each lot in case of allotment) of procurement item and its expected value;

3) the unique number of the announcement of the competitive procurement procedure, assigned by the electronic procurement system, and / or the unique number of the notice of intention to conclude the contract through negotiation procedure in the e-procurement system;

4) a description of the violation (violations) of the legislation in the field of public procurement identified by the results of monitoring;

5) obligations to eliminate violation (violations) of legislation in the field of public procurement.

The conclusion may include additional information determined by the state financial control body necessary.

If according to the results of monitoring violations of the legislation in the field of public procurement have not been revealed, the conclusion indicates the absence of violations (violations) of legislation in the field of public procurement.

If by the results of monitoring revealed signs of violation of the legislation, the adoption of which measures do not fall within the competence of the state financial control body, the relevant state authorities shall be notified in writing.

8. The contracting authority has the right within a period of three business days from the date of publication of the conclusion to apply to the state financial control body for clarifying the contents of the conclusion and its obligations specified in the conclusion.

Within five business days from the day from the date of publication of the conclusion of the financial control body, the contracting authority shall publish through the electronic system of procurement an information and / or documents evidencing removal of the violation (violations) of the legislation in the field of public procurement, set forth in the conclusion, or substantiated objections to the conclusion, or information on the causes of the impossibility of eliminating identified violations.

9. In case of confirmation by the state financial control body of the fact that contracting authority has eliminated (violations) of the legislation in the field of public procurement, set forth in the conclusion, which this body shall indicate in the electronic procurement system within five business days from the day the contracting authority published the relevant information in the electronic system, an official and/or an authorized person of the contracting authority is not brought to administrative liability for violations of the legislation in the field of procurement removed by the contracting authority in accordance with the conclusion.

10. In case of discrepancy of the contracting authority with the information set forth in the conclusion, it has the right to appeal the conclusion to the court within 10 business days from the day of publication of conclusion, that is to be indicated in the electronic procurement system during the next business day from the day of submission of appeal of the conclusion to the court. Contracting authority publishes information in the electronic procurement system about opening of proceeding in a court during 1 business day from date of receiving of such information and number of the proceeding in a court.

11. If the contracting authority has not eliminated the violation that led to its failure to comply with the requirements of this Law, as defined in the conclusion, as well as the conclusion is not appealed to the court, the state financial control body, after finishing time limit for appealing to court set in part 10 of this article, undertakes measures to bring to administrative liability for violation of public procurement legislation. Number of protocol (on administrative liability) is published in the electronic procurement system during 1 business day from date of such protocol is prepared as well as date and number of proceeding in a court are published during 1 business day from date of receiving of information about launching of proceeding in a court.

12. If the Review Body has accepted the complaint for review from a complainant in accordance with the procedure established by this Law, the state financial control body does not make a decision on the commencement of monitoring concerning those violations, circumstances, grounds which were or are subject to consideration by the Review Body irrespective of the Review Body's decision on such violations, circumstances, grounds.

13. If the Review Body has accepted of a complaint for review from a complainant in accordance with the procedure established by this Law after the decision to start the monitoring or after the publication of the conclusion, during the next business day from the day the complaint was lodged by a complainant in the electronic procurement system, the head the body of state financial control or its deputy stops the decision of the state financial control until the publication of the decision of the Review Body, and the contracting authority, until decision of the Review Body is published, stops performance of obligations to remove the violation (s) of public procurement legislation set out in the conclusion on those violations, circumstances, reasons which were the subject of the review by the Review Body with a respective notification in the electronic procurement system.

14. After publication of the decision of the Review Body the contracting authority in accordance with the procedure established by this article, fulfils obligations to eliminate the

violation (violation) of the legislation in the field of public procurement specified in the conclusion, in the part that was not subject to review by the Review Entity.

15. In the case of appealing in a court in regard to a decision of the Review Body, the decision to commence monitoring shall not be made regarding those violations, circumstances, or grounds which were or are the subject of judicial review.

16. If there are grounds established by part 2 of this article containing signs of violations and which were not subject to consideration by the Review Body and / or appeal in court, the decision to start monitoring of procurement on other signs of violation shall be made after the publication of the decision of the Review Body in the e-procurement system in the manner prescribed by Article 18 of this Law, or after the court decision has been enacted legally.

17. The exchange of information between the state financial control body and the contracting authority, established by this article, is carried out electronically through the electronic procurement system.

18. The generalized information specified in point 3 of part 1 of Article 9 of this Law shall be submitted by the central executive body implementing the state policy in the field of state financial control to the Authorized Body by March 1 of the year following the reporting fiscal year.

19. The form of the conclusion and the procedure for its completion shall be determined by the central executive body which implements the state policy in the field of state financial control.

20. The methodology for the determination of automatic risk indicators, their list and procedure of application shall be approved by the central executive body which implements the state policy in the field of state financial control under approval of the Authorized Body.

Article 9 - Authorised Body

1. The key functions of the Authorised Body shall be the following:

- 1) development and approval of regulations required for the implementation of this Law and for regulation of state policy in the field of public procurement;
- 2) analysis of the public procurement system functioning;
- 3) preparation and submission, not later than 1 April of year following reported budget year, to the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine and the Accounting Chamber of the annual report containing the analysis of the public procurement system functioning (regarding quantitative and value indicators in terms of procurement procedures and items, competition level, number of complaints) and the generalized information about results of control in the field of public procurement.

The annual report is mandatory published at official web-page of the Authorised Body;

- 4) summarising procurement practices, including international practices;
- 5) studying, summarising and disseminating best international procurement practices;

- 6) ensuring operation of the Authorised Body's Web Portal and the Authorised Body's Information Resource;
- 7) managing content of the Authorised Body's Information Resource;
- 8) communication with the public with regard to improvement of the public procurement system;
- 9) organisation of meetings and workshops dedicated to procurement matters;
- 10) international cooperation in the field of procurement;
- 11) development and approval of the following documents:
 - model tender documents;
 - model regulations on an authorised person;
 - model methodology for determining the estimated value of an item of procurement;
 - model methodology for determining the life-cycle cost;
 - procedure of identifying the procurement item;
 - procedure for publication of public procurement information;
 - procedure for conclusion and implementation of framework agreements;
 - form and requirements on tender/offer security;
 - procedure for organisation of testing of authorised persons;
 - list of formal errors;
- 12) providing general recommendations on the application of the public procurement legislation;
- 13) providing free-of-charge advice of recommendatory character through the Authorised Body's Information Resource;
- 14) cooperation with public entities and civil society organisations with regard to prevention of corrupt practices in the field of procurement;
- 15) communication of the public procurement policy and rules to the public;
- 16) authorisation and cancellation of authorisation of e-platforms;
- 17) consideration of requests for the designation and / or establishment of centralized procurement organizations;
- 18) Development together with other authorities of guidelines on peculiarities of procurement in various sectors and publication of these guidelines at the Authorised Body's Information Resource.

2. The Authorised Agency shall have the right to take actions and implement measures provided for by law in order to perform the functions vested in it.

Section III

GENERAL CONDITIONS OF THE PROCUREMENT PROCESS

Article 10 - Publication of Procurement Information

1. A contracting authority shall publish on a free-of-charge basis via the Authorised e-platforms the following procurement information in the e-procurement system in accordance with the procedure established by the Authorised Body and this Law:

1) announcement on competitive bidding procedures, tender documents and draft contract:

In case of announcement of an open bidding procedure - not later than 15 days prior to the submission deadline if the estimated value does not exceed the thresholds established in part 3 of this article and no later than 30 days in case of exceeding these thresholds;

In case of announcement of a competitive dialogue procedure - not later than 15 days prior to the submission deadline if the estimated value does not exceed the thresholds established in part 3 of this article and no later than 30 days in case of exceeding these thresholds;

In case of announcement of the restricted bidding procedure - not later than 30 days prior to the deadline for receipt of documents submitted for qualification selection;

2) announcement of simplified procurement and draft contract – not later than 6 business days prior to bids opening;

3) changes in the tender documents and explanations thereto (if any) in machine-readable format - within one day of the date of the decision on such changes or explanations.

Changes in the tender documents are published in chronological order together with deadline for tender submission modified every time with each change in the documents;

4) changes to announcement on simplified procurement and/or requirements to procurement item - within one day of the date of the decision on such changes;

5) notice on concluded framework agreement (in case procurement is made under framework agreements) - within seven days after conclusion of the framework agreement;

6) minutes on qualification selection -- within one day of their approval;

7) minutes on tenders consideration - within one day of their approval;

8) notice of intent to award a procurement contract - within one day of the date of the decision on selecting the successful tenderer of procurement procedure /simplified procurement;

9) information about rejection of a tender / offer - within one day of the adoption of the relevant decision;

10) procurement contract with all annexes - within 3 business days of the date of its conclusion;

11) notice of amendments to the procurement contract and addendum with amendments envisaged by part 5 of article 41 of this Law - within three business days of the date when such amendments entered into force;

12) report on the performance of the contract - within twenty business days of the date of expiry or termination of the contract, or complete fulfilment of the parties' obligations thereunder;

13) report on contract awarded without the electronic procurement system - within 3 business days of the day of conclusion of the contract.

2. The report on results of procurement with use of the electronic procurement system is published in accordance with article 19 of this Law.

3. Announcements of a competitive procurement procedure shall also be published in English on the Authorised Body's Web Portal within the terms set out in the part 1 of this Article, provided that the estimated contract value exceeds the amount equivalent to:

- EUR 133,000 for supplies and services;

- EUR 5,150,000 for works.

The applicable EUR exchange rate shall be the official exchange rate set by the National Bank of Ukraine as of the date of publication of the announcement.

1. The information referred to in the part 1 of this Article may be additionally published in other mass media, on the contracting authority's website (if any) or on the websites of relevant public entities and local self-governing entities.

2. Bidding/simplified procurement may not be held before/without the publication of the announcement of a competitive procurement procedure/simplified procurement in the e-procurement system in accordance with the part 1 of this Article.

3. Access to the information published in the e-procurement system is free and open. Procurement information specified in this Law shall be published in the electronic procurement system free of charge via the authorised e-platforms.

The procurement information, specified in part 1 of this Article, is published according to the requirements of the Law of Ukraine "On Access to Public Information", including in the form of open data.

In addition to information, specified in part 1 of this Article, other information may be published in the electronic procurement system.

Article 11 – Organisation of Procurement Activities of Contracting authority

1. The authorized person being responsible for the organization and conduct of procurement procedures / simplified procurement is determined or appointed by contracting authority in one of the following ways:

1) by imposing on the employee (employees) the functions of the authorized person(s) as additional duties with the corresponding additional payment in accordance with the legislation;

2) by introducing into a staffing scheme of a separate position (positions), which will be assigned the duties of performing the functions of an authorized person (authorized persons);

3) by concluding an employment contract in accordance with the legislation.

The authorized person may be responsible for organization and holding of procurement carried out according to paragraph 3 of Article 3 of this law.

2. Using the electronic procurement system authorized person enters own personal data, agrees for their processing and updates these data in case of their changes. Personal data, entered by authorized person into the electronic procurement system are not publicly available.

3. contracting authority has the right to appoint several authorized persons, provided that each of these persons will be responsible for the organization and implementation of respective procurement procedures / simplified procurement.

4. A person contracted by contracting authority (in case of such involvement) on basis of contract for the provision of services can not be determined as authorised person for procurement procedures / simplified procurement.

5. The determination or appointment of an authorized person should not create a conflict between the interests of contracting authority and tenderer, or between the interests of the tenderers in the procurement procedure/simplified procurement, the presence of which may affect the objectivity and impartiality of the decision to choose the winner of the procurement procedure / simplified procurement.

For goals of this Law “conflict of interest” means any situation where a staff member of the contracting authority or any person or body acting on behalf of the contracting authority who is involved in the conduct of the procurement procedure/simplified procurement or may influence the outcome of that procedure/procurement, has private interest, which may affect the objectivity or impartiality of its decisions or the commission or non-execution of actions during the procurement procedure / procurement and / or the contradiction between the private interest of the contracting authority’s employee or any person or body acting on behalf of the contracting authority and participating in conduction of procurement procedure / procurement, and its official or representative powers that affects the objectivity or impartiality of decisions or committing or non-committing actions during the procurement procedure / procedure.

6. An authorized person during the organization and conduct of procurement procedure / simplified procurement must ensure the objectivity and impartiality of the process of organizing and conducting procurement procedure / simplified procurement in interests of contracting authority.

7. The authorized person carries out the activity on the basis of the employment contract concluded with contracting authority or the administrative decision of contracting authority and respective internal regulation. An authorized person must have a higher, usually legal or economic education. In case of appointment of several authorized persons, the delimitation of their powers and responsibilities is determined by the decision of contracting authority.

Officials and representatives of tenderers, members of their families, as well as members of Parliament of Ukraine, members of the Verkhovna Rada of the Autonomous Republic of Crimea and members of local councils of cities, districts in the city, districts, province councils can not be designated or appointed as authorized persons.

8. Authorized persons can undergo training on the organization and implementation of procurement, including distance online training in the Internet.

The authorized person for the performance of his / her functions, as defined by this Law, confirms his / her level of possessing the necessary (basic) knowledge in the field of public procurement on the web-portal of the Authorized body by passing free testing. The procedure for organizing testing of authorized persons shall be determined by the Authorized body.

9. Model Regulations on authorised person shall be approved by the Authorised Body.

10. An authorized person:

1) plans procurement, draws up the annual procurement plan in the electronic procurement system;

2) carries out the selection of the procurement procedure;

3) conduct procurement procedures / simplified procurement;

3¹) publishes in the e-procurement system the report on the procurement contract awarded without using the e-procurement system, in case of procurement according to paragraph 7 of Article 3 of this Law

4) ensures equal conditions for all tenderers, objective and fair selection of the winner of the procurement procedure / simplified procurement;

5) ensures the drawing up, approval and storage of relevant documents on public procurement specified in this Law;

6) provides publication of information necessary to fulfil the requirements of this Law;

7) carries out other actions envisaged by this Law.

Decisions of an authorized person shall be made by a protocol signed by an authorized person.

11. For the preparation of tender documents and / or announcement on simplified procurement and requirements to procurement item and under contracting authority 's decision authorized person may involve other employees of contracting authority.

12. By the decision of contracting authority a working group may be set up consisting of the contracting authority's staff for consideration of tenders/ offers. In the case of the creation of a working group, the authorized person heads it and organizes its work. The working group is subject to the requirements of the second paragraph of part 7 of this article. The work of the working group covers consideration of tenders/offers, as well as negotiations in the case of a negotiated procedure, and decision of working group has an advisory nature.

13. Contracting authority may purchase goods and / or services through centralized purchasing organization.

Centralized purchasing organizations acquire all rights and obligations of the contracting authorities defined by this Law and bear responsibility in accordance with the laws of Ukraine.

Contracting authority concludes the contract for the purchase of the supplies and / or services with the winner of the procurement procedure by the results of the tender and / or the winner of the selection/competitive selection under the framework agreement, made in its interests by the central purchasing organization.

Contracting authorities provide the centralized purchasing organization with the necessary information on the need for bidding and / or procurement under framework agreements in accordance with legislation.

Subject to grounds for carrying out a negotiated procurement procedure as provided for by this Law, the contracting authorities obliged to carry out procurement through the centralized purchasing organization shall independently carry out procurement of goods and services with the application of the negotiated procurement procedure. Information on the need to procure such goods and services shall not be provided to the centralized purchasing organization.

The decision on the definition of a central purchasing organization may establish that the procurement is obligatory through a centralized purchasing organization for a certain list of contracting authorities and / or a list of goods and/or services, purchase of which through a centralized purchasing organization is mandatory.

The specifics of establishment and functioning of centralized purchasing organizations shall be approved by Cabinet of Ministers of Ukraine.

14. The selection of a centralized purchasing organization by contracting authority for organizing and conducting procurement in its interests is not public procurement in the understanding of this Law.

15. In case of setting up of electronic catalogues, they are maintained exclusively by centralized purchasing organizations.

The structure, the procedure for setting up and the use of electronic catalogues including the procedure of granting access to them and amount of fee shall be approved by the Cabinet of Ministers of Ukraine.

Article 12 – Electronic procurement system

1. Electronic procurement system shall be public, guarantee non-discrimination and equal rights of all interested parties in the process of registration, as well as equal access to information. Exchange and storage of information and documents shall be arranged in a way that secures integrity of data on tenderers and their tenders/offers during a procurement procedure/simplified procurement, and confidentiality thereof before opening the tenders/offers.

2. Electronic procurement system when receiving tenders/offers provides for:

- 1) precise registration of the exact time and date of the receipt of tenders/offers;
- 2) impossibility for anyone to have access to the received tenders/offers (or parts thereof) before the time and date of their submission deadline;
- 3) opening of the received tenders/offers indicated by in the announcement of the competitive procurement procedure/simplified procurement.

3. The submission of tenders/offers and evaluation thereof through the electronic procurement system must be arranged in a way that ensures that creation and submission of documents and data

comply with the requirements of the Law of Ukraine “On Electronic Documents and Electronic Document Management” and the Law of Ukraine "On Electronic Fiduciary Services".

4. The Electronic procurement system must allow storage and proper protection of all procurement information according to Law of Ukraine “On Protection of Information in informational-telecommunication systems”, possibility to interact with other information systems and networks that make up the information resource of the state, and access thereto by contracting authorities, tenderers, controlling bodies, Complaint Review Body, Authorised Body and other entities in accordance with this Law.

5. The Electronic procurement system must comply with requirements on:

- 1) exchange of information via the Internet;
- 2) public telecommunication tools and devices that are in general use and therefore do not restrict participation in procurement procedures/simplified procurement;
- 3) a system of electronic exchange of documents using identification methods for which the requirements are established by the Cabinet of Ministers of Ukraine;
- 4) the identification of tenderers and the precise registration of the exact time and date of receiving of tenders/offers (or lots thereof), provided that no one can have access to such data before the expiry of the terms for the submission deadline and the time and date of opening the tenders/offers;
- 5) availability of data storage system that stores during not less than 10 years all the documents received from contracting authorities, tenderers, the Complaint Review Body, controlling bodies and which were created in the process of tenders/offers evaluation, and allows automatic data backup and recovery;
- 6) continuous procurement process without interruptions in service.

6. In the process of tenders/offers opening and evaluation, the electronic procurement system must allow online data input/output, execution of commands and display of their outputs in real time.

For the purposes of holding an e-auction, Authorised e-platforms must fulfil the requirements of this article, secure equal and free access of all tenderers to such platforms, and allow all interested parties to follow the e-auction online in real time.

7. The procedure for the authorization of e-platforms, the disconnection of authorized e-platforms and the requirements for their functioning, as well as the requirements for the functioning of the electronic procurement system, provision of online services, and the procedure for granting access to them and the amount of fees shall be established by the Cabinet of Ministers of Ukraine.

8. Submission of information during the procurement procedure/ simplified procurement shall be made electronically through an electronic procurement system. Contracting authorities are prohibited from requiring tenderers to submit in paper the information submitted by them during the procurement procedure / simplified procurement.

9. During procurement procedures / simplified procurement all documents prepared by contracting authority shall be presented in Ukrainian, and, upon decision of contracting authority,

all documents may have an authentic translation into another language. The definitive text is Ukrainian.

Article 13 - Procurement Procedures

1. Procurements may be arranged through one of the following competitive procedures:

- open bidding;
- restricted bidding;
- competitive dialogue.

2. Exceptionally, and only in the circumstances set out in part 2 of Article 40, contracting authorities may apply the negotiated procedure.

3. Contracting authority shall hold procurement procedures provided for in part 1 of this Article, through the electronic procurement system.

Article 14 – Simplified procurement

1. Simplified procurement is carried out by contracting authority using an electronic auction in accordance with Article 30 of this Law.

2. Simplified procurement consist of the following consecutive stages:

- 1) publication of the announcement of a simplified procurement;
- 2) the period of clarification of the information specified by the announcement of a simplified procurement;
- 3) submission of offers by tenderers;
- 4) electronic auction in accordance to article 30 of this Law;
- 5) consideration of submitted offers regarding their compliance with the conditions specified in announcement of a simplified procurement and the requirements to procurement item;
- 6) determination of the winner and conclusion of the procurement contract;
- 7) publication of a report on the results of procurement according to article 19 of this Law.

3. Contracting authority shall publish an announcement on simplified procurement in accordance with Article 10 of this Law that includes:

- 1) name location and registration code in USREOU of contracting authority, its category;
- 2) name of the procurement item with indication of CPV (for each lot in case of allotment);
- 3) information on technical, qualitative and other characteristics of the procurement item;
- 4) the number and place of delivery of goods or the amount and place of performance of works or provision of services;

5) time of delivery of goods or the amount and place of performance of works or provision of services;

6) terms of payment;

7) estimated value of procurement;

8) period for updating the information on procurement (not less than three business days as of the day of publication of simplified procurement announcement in the electronic procurement system);

9) deadline for submission of offers (not less than two business days as of the day of expiry of the period for clarifying information on procurement);

10) list of criteria and methodology for offers evaluation with indication of the specific weight of each criteria;

11) the size and conditions for offer security (if required);

12) the size and conditions for contract security (if required);

13) the size of the minimum step of lowering the price during the electronic auction in the range from 0.5 % to 3 % of the estimated value of the procurement or in UAH.

In the announcement of a simplified procurement an additional information may be indicated.

4. Requirements to the procurement item, specified by contracting authority, may be specified by uploading individual files to the announcement of a simplified procurement or in electronic form with separate fields in the electronic procurement system.

In the requirements to procurement item containing a reference to a specific trademark or firm, the patent, design or type of the subject of procurement, its source of origin or manufacturer, contracting authority may indicate which equivalents are accepted in the offers of tenderers.

5. The announcement of a simplified procurement and the requirements to procurement item shall not contain requirements limiting competition and discriminating tenderers.

6. The requirements on offer security shall be determined by contracting authority in accordance with Article 25 of this Law and on contract security in accordant with article 27 of this Law.

7. In the period of clarification of information, tenderers have the right to communicate to contracting authority through the electronic procurement system for clarification of the information specified in the announcement and the requirements for the procurement item and / or request a contracting authority to eliminate the violation on a simplified procurement.

All requests for clarifications, requests for removal of violations are automatically disclosed in the electronic procurement system without identification of the entity which communicated to contracting authority.

Within one business day from the date of publication of request, contracting authority is obliged to provide clarifications, which are made public in the electronic procurement system, and /

or to make changes to the announcement of simplified procurement and / or requirements to procurement item.

In the case of amendments to the announcement on simplified procurement, the deadline for submission of proposals shall be postponed not less than two business days.

A contracting authority has the right, on own initiative, to make changes to the announcement of a simplified procurement and / or requirements to the procurement item, but before the start of the offer submission period. Changes made by contracting authority are posted and displayed in the electronic procurement system in the form of a new edition of the documents.

8. A conduction of simplified procurement with the use of an electronic auction requires at least two offers submitted.

In the event that only one offer has been submitted, the electronic procurement system after the expiration of the offer submission period automatically goes to the stage of consideration for compliance of the offer with the conditions specified in the announcement of simplified procurement and the requirements to the procurement item.

9. Offers shall be submitted by tenderers after the expiration of the period of clarification of the information, specified by contracting authority in the announcement on simplified procurement, electronically by filling in the electronic forms with separate fields, where information about the price and other evaluation criteria (in case of their setting by contracting authority) is indicated by uploading through the electronic procurement system necessary documents confirming compliance with the requirements determined by the contracting authority.

The electronic procurement system automatically generates and sends a message to the tenderers on receipt of their offers, with the indication of the date and time.

Each tenderer is allowed to submit only one offer, including to the defined in the offer about simplified procurement procedure of part of the offer (lot).

Offers submitted after submission deadline are not accepted by the electronic procurement system.

A tenderer's offer must contain confirmation of the provision of offer security, if such is envisaged by the announcement of a simplified procurement.

A tenderer has the right to make changes or withdraw its offer before the expiration of submission deadline without losing its offer security.

Such changes or the statement of withdrawal of offer are taken into account if they are received by the electronic procurement system before the expiration of the submission deadline.

10. Opening of offers is carried out in accordance with indents 1 and 2 of part 1 of article 28 of this Law.

11. A contracting authority considers offer that is determined by the results of the electronic auction as the most economically advantageous, for compliance with the conditions specified in the announcement of simplified procurement and the requirements to the procurement item.

The period for considering the most economically advantageous offer must not exceed five business days from the day the electronic auction is completed.

12. According to the results of evaluation and consideration of the offer a contracting authority makes award decision. The notice on intention to conclude contract contracting authority publishes in the electronic procurement system.

In case of rejection of the most economically advantageous offer, a contracting authority considers the next offer which according to the results of the assessment is the next most economically advantageous offer.

The next most economically advantageous offer is automatically determined by the electronic procurement system.

13. A contracting authority rejects an offer if:

1) offer does not meet the conditions specified in the announcement on simplified procurement, and requirements to procurement item;

2) the tenderer did not submit the offer security if such was required by the contracting authority;

3) the awarded tenderer has refused to sign the procurement contract.

4) if the tenderer has refused to sign the procurement contract with the procuring entity that conducts such a simplified procedure more than 2 times within one year.

14. Information about the rejection of the offer is published within one day from the day the decision in the electronic procurement system and automatically is sent to the tenderer, whose offer is rejected, through the electronic procurement system.

A tenderer whose offer is rejected may ask the contracting authority to provide additional reasoning regarding the reasons for offer's non-compliance with the terms specified in the announcement on simplified procurement and the requirements to the procurement item. The contracting authority is required to reply no later than three business days from the day of receipt of such request through the electronic procurement system.

15. The contracting authority may enter into a procurement contract with the successful tenderer in the simplified procurement, the next day after publication of the notice of intent to award the procurement contract but not later than in 20 days.

The procurement contract shall be concluded in accordance with the requirements of Article 41 of this Law.

16. Report on the results of procurement is published in accordance with Articles 10 and 19 of this Law.

17. A contracting authority cancels a simplified procurement in case of:

1) lack of further need for procurement of supplies, works and services;

2) the impossibility of eliminating violations that arose due to the revealed violations of the law on public procurement;

3) reduction of expenditures for the purchase of supplies, works and services.

18. Simplified procurement is automatically cancelled by the electronic procurement system in the event of:

- 1) rejection of all offers in accordance with part 13 of this article;
- 2) complete absence of offers.

A simplified procurement may be cancelled in part (by lot).

19. A notice of cancellation of simplified procurement is published in the electronic procurement system:

by contracting authority within one business day from the date of the decision made by contracting authority;

by the electronic procurement system within one business day from date of automatically cancellation of simplified procurement due to rejection of all offers in accordance with part 13 of this article or complete absence of offers.

Notice of cancellation of simplified procurement is automatically sent to all tenderers by the electronic procurement system same day when it is published.

20. In order to protect its rights and interests protected by law, a tenderer of the simplified procurement may apply to the contracting authority and / or to the authority exercising control over the contracting authority or to the court.

Decision and actions of contracting authority may be challenged by tenderer of simplified procurement in courts.

Article 15. Procurement under Framework Agreements

1. Conclusion of framework agreements is carried out as result of open bidding procedure taking into account requirements of this Article,

2. The announcement of the procurement aimed to conclude framework agreement shall include following information:

- 1) name location and registration code in USREOU of contracting authority, its category;
- 2) name of the procurement item with indication of CPV (for each lot in case of allotment);
- 3) the number and place of delivery of goods or provision of services;
- 4) estimated value of procurement;
- 5) deadline for submission of tenders;
- 6) terms of payment;
- 7) language(s) of tenders;
- 8) the size and conditions for tender security (if required);
- 9) date and time of opening of tenders;

10) the size of the minimum price reduction step during an electronic auction in percentage or currency and the mathematical formula that will be used when conducting an electronic auction to determine the performance of other evaluation criteria;

11) list of criteria and methodology for offers evaluation with indication of the specific weight of each criteria;

12) the duration for which a framework agreement will be concluded but not more than 4 years;

13) number of tenderers with which framework agreement will be concluded;

14) name, location and registration code of the USREI, location of procuring entity in which interest procurement will be conducted under framework agreement (in case of procurement will be conducted under framework agreement by centralised purchasing organisation in interests of procuring entity).

In the announcement of the procurement aimed to conclude framework agreement an additional information may be indicated.

3. The deadline for submission of tenders shall be established in accordance with paragraph 2 of the part 3 of Article 20 of this Law; disclosure of tenders shall be in accordance with the procedure stipulated by paragraph three of the part 1 of Article 28 of this Law; consideration and evaluation of tenders shall be in accordance with the procedure stipulated by the parts 2 and 12 of article 29 of this Law.

4. A framework agreement shall be concluded with several tenderers awarded as winners of open bidding procedure provided that at least three tenderers become parties thereto.

Where the number of received tenders is fewer than the stated number of tenderers, or in the case of a rejection of the received tenders on the grounds provided for in this Law, the contracting authority shall have the right to enter into a framework agreement with those tenderers whose tenders have not been rejected, if there are at least three such tenderers.

Framework agreements is concluded:

- in the case of procurement under the framework agreement by contracting authority – between this entity and the winning tenderers;

- in the case of procurement under the framework agreement by a centralized purchasing organization – between this centralized purchasing organization, all contracting authorities in the interest of which the framework agreement is concluded, as well as all winning tenderers.

5. One contracting authority may be a party to one or several framework agreements. The contracting authority shall submit a notice of the framework agreement concluded within seven business days of the date of the relevant framework agreement, to be published in accordance with Article 10 of this Law.

6. Notice of the framework agreement must include following information:

1) name location and registration code in USREOU of contracting authority, its category;

2) name of the procurement item with indication of CPV (for each lot in case of allotment);

- 3) indicative number and place of delivery of goods or provision of services;
- 4) supply unit price;
- 5) number of procurement procedure in the electronic procurement system;
- 6) date of conclusion of framework agreement;
- 7) time duration of framework agreements;
- 8) identification code of each participant in the USREOU or a taxpayer identification number, or passport series and number (for individuals who, because of their religious beliefs, refused to accept the taxpayer identification number and have officially notified the relevant controlling authority and have a passport mark indicating this) of the supplier of goods or service provider with whom the framework agreement is concluded;
- 9) location (for legal entity) or place of living (for physical person) of tenderers as parties of framework agreements, contact phones.

In the notice of the framework agreement an additional information may be indicated.

7. Contracting authority has right to conclude procurement contract exclusively with tenderers which are parties of framework agreement.

Conclusion of procurement contract under the framework agreement is made as result of selection or competitive selection.

8. The selection shall be carried out with use of the e-auction to be held in compliance with Article 30 of this Law.

If all essential terms and conditions of the procurement contract are specified in the framework agreement, the contracting authority shall have the right to enter into such contract based on results of the selection of tenderers as parties to the relevant framework agreement. In such case selection is based only on the lowest price.

9. In order to select the successful tenderer, the contracting authority shall send an invitation to submit tender offers to all tenderers - parties to the framework agreement. The contracting authority shall establish the timeframe sufficient for the tenderers to prepare their offers.

Invitations to tenderers and their tenders may not provide for any material change in the terms and conditions of the procurement contract and specifications of the relevant procurement item as set forth by the relevant framework agreement.

Any decisions, actions or inactions of the contracting authority and / or centralized purchasing organization that violate the rights and legitimate interests of the tenderer (s) as a result of the selection or competitive selection shall be resolved in court.

10. The specifics of procurement under framework agreements and their conclusion are regulated by the Authorized Body.

Article 16 - Qualification Criteria of Procurement Procedure

1. Contracting authority requests from tenderers for submission of documented information about their compliance with qualification criteria.

2. Contracting authorities may set one or more following qualification criteria:

- 1) availability of equipment, resources and technology;
- 2) availability of staff with the relevant qualification and necessary knowledge and experience at the economic operator's disposal;
- 3) demonstrated experience in the performance of contract(s) that were similar in regard to procurement item;
- 4) financial standing as demonstrated by financial reporting.

In restricted tender is applied contracting authority shall apply all qualification criteria listed here.

3. If the financial standing is set as the qualification criterion, the contracting authority has no right to require proof of minimum financial reporting (annual revenue (income)) exceeding the estimated value of the procurement (or its lot proportionally).

If, for the procurement of works or services, the contracting authority establishes a qualification criterion such as the availability of equipment, materials and technologies and/or the availability of staff who have the necessary knowledge and experience, the tenderer may involve the capacity of other business entities as subcontractors to confirm its compliance with this criterion.

4. In case of restricted bidding contracting authority sets all qualification criteria envisaged by part 2 of this article.

5. In the case of the association of participants, the verification of compliance with the qualification criteria is based on the combined indicators of each participant of such association on the basis of the information provided by the association.

Article 17 - Grounds for Refusal in Procurement Procedure Participation

1. Contracting authority shall decide on rejecting a tenderer and shall reject any tender or refuse in participation in the negotiated procedure (except for cases specified in points 2, 4, 5 of part 2 of Article 40 of this Law) if:

1) there is indisputable evidence that the tenderer offers, gives or agreed to give a reward, directly or indirectly, to any officer of the contracting authority, of another public authority in any form (proposal of employment, valuables, a service, etc.) with the view to influence the decision on selecting the successful tenderer or on choosing a certain procurement procedure by the contracting authority;

2) information on legal entity that is a tenderer is included in the Unified State Register of Perpetrators of Corruption or Corruption-related Offences;

3) an officer (official) of tenderer authorized by the tenderer to represent its interests during a procurement procedure, or an individual who is a tenderer has been hold liable by law for the commitment of a corruption offence or corruption related offence;

4) an economic operator (tenderer), during the last three years, has been hold liable for an infringement provided for in sub-paragraph 4 of paragraph 2 of Article 6, point 1 of Article 50 of the Law of Ukraine “On Protection of Economic Competition” in the form of anticompetitive concerted actions related to bid rigging;

5) an individual tenderer to the procurement procedure was convicted of a criminal offense committed for lucrative impulse (in particular, related to bribery and money laundering), whose criminal record has not been removed or expunged in the manner prescribed by law;

6) an official (officer) of tenderer to the procurement procedure, who signed the tender offer (or authorized to sign the contract in case of the negotiated procurement procedure), was convicted of a criminal offense committed for lucrative impulse (in particular, related to bribery and money laundering), whose criminal record has not been removed or expunged in the manner prescribed by law;

7) a tender is submitted by a tenderer or participant of negotiations in case of negotiation procedure that is a related person to other tenderers and/or to authorized person(s) and/or head of the contracting authority;

8) a tenderer has been declared bankrupt according to the procedure prescribed by law, and a liquidation procedure in respect of such tenderer has been underway;

9) the USROEI contains no information provided for by Article 9, paragraph 2, point 9 of the Law of Ukraine “On State Registration of Legal Entities, Entrepreneurs and Public Associations” (except for non-residents);

10) a legal entity that is a tenderer (except for non-residents) has no anti-corruption program in place or has no authorized officer in charge of the implementation of the anti-corruption program appointed, where the value of the contract for the procurement of supplies, services or works equals to or exceeds UAH 20,000,000 (incl. lots if any);

11) tenderer in the procurement procedure is a person/entity who has been sanctioned in the form of a ban on the implementation of her public procurement of goods, works and services in accordance with the Law of Ukraine "On Sanctions";

12) an officer (official) of tenderer as tenderer acting on its behalf or physical person-tenderer has been convicted by final judgment of an offence related to child labour or other forms of trafficking in human beings;

13) a tenderer has debts on payment of taxes and social securities (obligatory payments), unless such tenderer has taken measures to defer (postpone) such debt in accordance with the procedure and under the conditions determined by the legislation of the country of registration of such participant.

2. The contracting authority may decide on excluding the tenderer from a procurement procedure and can reject tender of tenderer if the tenderer has not executed obligations of the preliminary procurement contract concluded with the same contracting authority, leading to its early termination with sanctioned financial penalties and/or compensated damages – during 3 years from date of early termination of such contract.

A tenderer that is in the situation referred to in part 2 if this article may provide evidence of measures taken to demonstrate its reliability despite the existence of a relevant ground for exclusion. For this purpose, the tenderer shall prove that it has paid or undertaken to pay respective penalties and compensation in respect of any damage.

If such evidence is considered as sufficient by the contracting authority, the tenderer concerned shall not be excluded from the procurement procedure.

3. Tenderer in the electronic system during the submission of the tender confirms the absence of the grounds provided for in points 5, 6, 12 and 13 of the parts 1 and 2 of this article. The way of documentary proof according to the legislation regarding absence of the grounds provided for in points 5, 6, 12 and 13 of the parts 1 and 2 of this article, is determined by contracting authority for the provision of such documents only by the successful tenderer of the procurement procedure.

4. Contracting authority shall not request tenderers to submit documents to confirm lack of grounds indicated in points 1 and 7 of part 1 of this Article.

5. A contracting authority does not require a documentary confirmation of publicly available information published in the form of open data in accordance with the Law of Ukraine "On access to public information" and / or contained in open unified state registers, access to which is free.

6. The successful tenderer shall submit documents to the contracting authority to confirm lack of grounds indicated in sub-paragraphs 2, 3, 5, 6, 8, 12 and 13 of parts 1 and 2 of this Article, within ten days of the date of publication of notice of intent to award a procurement contract in the e-procurement system.

7. Where a tenderer intends to rely on the capacities of other economic operators as subcontractors in the amount of not less than 20 % of the value of the procurement contract in the case of the purchase of works or services, in order to confirm its compliance with qualification criteria in accordance with part 3 of Article 16 of this Law, contracting authority verifies such economic entities for the absence of the grounds specified in part 1 of this article.

Article 18 - Rules and Appropriate Authority for Filing Complaints against Procurement Procedures

1. For the purposes of unbiased and efficient protection of rights and legitimate interests of persons related to participation in the procurement procedures, the Antimonopoly Committee of Ukraine, as the Complaint Review Authority, shall set up a Commission (Commissions) for Review of Complaints on Violations of the Public Procurement Legislation and exercise other powers set out in this Law and the Law of Ukraine "On the Antimonopoly Committee of Ukraine". Decisions of the Commission for Review of Complaints on Violations of Public Procurement Legislation shall be adopted on behalf of the Antimonopoly Committee of Ukraine.

The powers, procedure of formation and operation of the Commission for Review of Complaints on Violations of the Public Procurement Legislation shall be established according to this Law and the Law of Ukraine "On the Antimonopoly Committee of Ukraine".

2. The complainant shall submit its complaint to the Complaint Review Authority in the form of the electronic document via the e-procurement system.

The complainant shall file its complaint in electronic form with affixing the qualified electronic signature to be considered as such according to the Law of Ukraine "On Electronic Trust

Services”, by means of filling in electronic forms with separate fields fully specifying the information provided for in paragraph 5 of this Article.

If the terms of the tender documents are being appealed, the documented proof/evidence shall be uploaded together with the complaint.

The filing fee shall be paid to submit a complaint to the Complaint Review Authority via the e-procurement system.

Upon payment, the complaint shall be automatically included in the register of complaints, and a relevant registration card shall be generated, which card shall be automatically published in the e-procurement system together with the complaint.

In case if the contracting authority within the framework of a unified procurement procedure distinguishes parts of the procurement item (lots), when filing a complaint with regard to a separate lot (lots) the registration cards shall be generated for each lot separately.

The complainant shall be liable for accuracy and reliability of the information provided by means of filling in the electronic form. In this case, the risks of occurrence of adverse consequences related to provision by the complainant of inaccurate or unreliable information by means of filling in the electronic form shall be borne by the complainant.

3. In case if the complaint is entered into the register of complaints and the registration card is generated for it, such complaint may not be revoked.

4. The registration card for the complaint shall contain the following information:

1) date and time when the complaint was filed by the complainant via the e-procurement system;

2) number of the complaint within the e-procurement system assigned upon its filing;

3) unique number of the announcement of the competitive procurement procedure published in the e-procurement system, or unique number of the notice of intent to award the procurement procedure contract, in case of application of the negotiated procurement procedure.

5. The complaint shall contain the following information:

1) name of the procuring entity of which decisions, actions or inactions are challenged;

2) name and place of residence (registered office) of the complainant;

3) grounds for the complaint, references to the procurement procedure violations or to the decisions, actions or inactions of the procuring entity, as well as facts that can prove the aforesaid;

4) reasoning of violation of the rights and legitimate interests of the complainant due to the decision, action or inactions of the contracting authority which contradict the public procurement legislation and resulted in violation of such person’s right or legitimate interests;

5) list of documents (evidence) proving violation of the rights and legitimate interests of the complainant due to the decision, action or inactions of the contracting authority which contradict the public procurement legislation and resulted in violation of such person’s right or legitimate interests related to its participation in the procurement procedure, in case if complaints relate to

tender documents and/or decisions made, actions or inactions of the contracting authority which took place before expiry of the tendering period;

6) the complainant's claims and their reasoning.

The complaint shall be supported with documents and materials (if any) to be filed electronically (including PDF files), confirming the information provided in the complaint and the fact of violation of the procurement procedure or unlawfulness of decisions, actions or inactions of the contracting authority.

If the complainant intends to take part in the review of the complaint by means of using telecommunications systems interactively in the real time mode, it shall submit to the Complaint Review Authority, together with the complaint, a respective application in the form of electronic document by means of uploading it via the e-procurement system within the time limit set for filing a complaint.

Immediately upon registration, a complaint with the supporting documents and its registration card shall be automatically sent to the Complaint Review Authority and to the contracting authority.

6. If the Complaint Review Authority based on the results of review of the complaint adopts a decision on satisfaction or partial satisfaction of such complaint, dismisses it without review in case if the contracting authority according to this Law remedied the violation specified in the complaint, or adopts a decision on termination of review of the complaint in case if the procuring entity according to this Law remedied the violations specified in the complaint, the fee for filing the complaint shall be returned to the complainant, and in other cases it shall be transferred to the State Budget of Ukraine.

7. The amount of the fee for filing a complaint, the procedure of payment and return thereof to the complainant in cases provided for in this Article shall be determined by the Cabinet of Ministers of Ukraine.

8. Complaints related to tender documents may be filed with the Complaint Review Authority following the publication of the announcement of the competitive procurement procedure, but not later than four days prior to the deadline for submission of tenders set before the introduction of changes to the tender documents.

Complaints concerning decisions made, actions or inactions of the procuring entity which took place before the expiry of the deadline set for submission of tenders may be filed within 10 days of the day when the complainant became or should have become aware of violation of its rights caused by the decision, action or inaction of the contracting authority, but not later than four days prior to the deadline for submission of tenders set upon adoption of such decision, action or inaction of the contracting authority.

Complaints concerning decisions, actions or inactions of the contracting authority which took place after the tender evaluation, shall be filed within 10 days of the day when the complainant became or should have become aware of the violation of its rights caused by the decision, action or inaction of the contracting authority, but before the day of conclusion of the procurement contract.

Complaints with regard to decisions, actions or inactions of the contracting authority which took place after consideration of tenders, the procedure of which is laid down in paragraph 12 of Article 29 of this Law, shall be filed within five days of the day of publication in the e-procurement system of the minutes on tenders consideration, in case if the announcement of the competitive procurement procedure is made according to paragraph 3 of Article 10 of this Law.

In case when the contracting authority has introduced any changes in the tender documents, in such case after the expiry of the term set for filing complaints, as provided for by the first paragraph of this paragraph, provisions of the tender documents that have not been changed shall not be subject to complaint.

If a complaint(s) was/were filed with the Complaint Review Authority with regard to the provisions of the tender documents, based on results of which the Complaint Review Authority adopted one or several decisions on the merits, after the expiry of the term set for filing complaints, those provisions of the tender documents with regard to which a complaint(s) was/were not filed prior to the expiry of such term shall not be subject to complaint.

In case of failure to meet the time limits referred to in the first to the fourth paragraphs of this paragraph, complaints shall be automatically rejected by the e-procurement system.

9. After expiry of the term set for filing complaints as provided for by the first paragraph of paragraph 8 of this Article, complaints may be filed only with regard to amendments to the tender documents submitted by the contracting authority, within 10 days of publication of such amendments on the web portal of the Authorized Body, but not later than four days before the date set for submission of tenders, which date was established when introducing such amendments.

10. Complaints with regard to the awarded procurement contracts and their invalidity according to this Law, including claims for compensation of damages to the complainant due to violation of this Law, shall be reviewed in a judicial procedure.

11. The Complaint Review Authority shall, within three business days upon entering the complaint into the register of complaints, publish its decision on acceptance of the complaint for review in the e-procurement system, indicating the date, time and place of the review of the complaint, or a reasoned decision to dismiss the complaint without review.

The e-procurement system automatically publishes decisions adopted by the Complaint Review Authority and sends notices to the complainant and to the procuring entity.

12. The Complaint Review Authority shall dismiss a complaint without review in the following cases:

1) the complainant files a complaint with regard to the same violation, within the same procurement procedure and on the same grounds which have already been reviewed by the Complaint Review Authority and in respect of which the Complaint Review Authority has already adopted a relevant decision;

2) the complaint does not conform to the requirements of paragraphs 2, 5, 8 and 9 of this Article;

3) the contracting authority, in accordance with this Law, has remedied the violations referred to in the complaint;

4) before publishing the complaint, the contracting authority had made a decision to cancel the procurement procedure or recognise it null and void, to cancel the negotiated procurement procedure, unless either of these decisions has been challenged.

13. The Complaint Review Authority shall make a decision to discontinue review of the complaint if the circumstances specified in points 1 to 4 of paragraph 12 of this Article are established by the Complaint Review Authority after acceptance of the complaint for review.

14. The start date of the complaint review shall be deemed to be the date of publication of the registration card of the complaint in the e-procurement system.

The term for review of the complaint by the Complaint Review Authority shall be 10 business days of the date of acceptance of the complaint for review, which term may be reasonably extended by the Complaint Review Authority up to 20 business days.

15. Decisions based on the results of review of complaints shall be adopted at a session of the Commission for Review of Complaints on Violations of the Public Procurement Legislation.

Upon the prior written request of either party as specified in the complaint (for the complainant) or explanations (for the procuring entity), the parties (the complainant and the procuring entity) shall be invited to the session of the Commission for Review of Complaints on Violations of the Public Procurement Legislation for giving additional explanations etc., whereby the complainant, the procuring entity and other participant of the procurement procedure (if the procuring entity's decision adopted with regard to its tender is being challenged) shall be entitled to take part in such review of the complaint by means of using telecommunications systems interactively in the real time mode, and such review of the complaint shall be open, everyone interested may be present during its consideration. Those present during the review may use photo, video and sound recording devices. The operative part of the decision adopted by the Complaint Review Authority based on the results of the open review of the complaint shall be announced publicly.

Failure by the parties to attend the session of the Commission for Review of Complaints on Violations of the Public Procurement Legislation shall not prevent it from adopting a decision based on the results of consideration of the complaint.

16. The Complaint Review Authority shall review the complaint and adopt a decision on the basis of the information placed in the e-procurement system as of the time of filing the complaint, and the information obtained thereon.

In order to obtain advice and expert opinion, the Complaint Review Authority may involve representatives of public authorities (in agreement with the management of the public authorities), experts and specialists, who may not be related persons and who have special knowledge needed for professional and impartial review of the complaint.

The complainant and the contracting authority may submit opinions of experts and specialists possessing special knowledge.

Opinions of representatives of public authorities, experts and specialists shall be published in the e-procurement system and included in materials in the case involving consideration of the complaint.

For reviewing complaints, the Complaint Review Authority shall have the right to request and obtain, in electronic form from contracting authority, tenderers, controlling authorities, the Authorized Body and from other persons, relevant information, documents and materials concerning implementation of procurement procedures. The procedure of arrangement of formation of such requests and obtaining information via the e-procurement system shall be laid down in the Rules of Procedure of the Commission for Review of Complaints on Violations of the Public Procurement Legislation.

Contracting authorities, tenderers, controlling authorities, the Authorized Body and other persons shall, within three business days of the day of receipt of the request of the Complaint Review Authority, but not later than the day preceding the day of the review of the complaint, provide the Complaint Review Authority, by means of publication in the e-procurement system, with the relevant information, documents and materials with regard to holding procurement procedures.

The information, documents and other materials which the complainant and/or the contracting authority deems necessary to add for the purpose of review of the complaint, shall be submitted not later than three business days before the date of the review of the complaint by the Commission for Review of Complaints on Violations of the Public Procurement Legislation via the e-procurement system. The specified information, documents and materials shall be submitted electronically with the affixed qualified electronic signature to be considered as such according to the Law of Ukraine “On Electronic Trust Services”, by means of filling in electronic forms with separate fields.

In case of failure by the complainant, the contracting authority to meet the time limits and the procedure for submission of information, as provided for in this paragraph, such information might be not taken into account by the Complaint Review Authority when reviewing such complaint.

17. After publication of the complaint in the e-procurement system, the e-procurement system shall automatically suspend the start of e-auction and shall not publish the procuring entity’s decision to cancel the procurement contracts or recognize it null and void, to cancel the negotiated procurement procedure, the procurement contract and the report on the procurement procedure results.

The contracting authority shall be prohibited to take any actions and adopt any decisions with regard to the procurement procedure, in particular to adopt a decision to cancel the procurement procedure or recognize it null and void, to cancel the negotiated procurement procedure, to award the procurement contract, except for actions aimed at elimination of the violations specified in the complaint.

In case that the contracting authority has remedied the violations specified in the complaint, the procuring entity shall notify the Complaint Review Authority thereof within one business day after the violation has been remedied and place the proof in the e-procurement system.

Award of the procurement contract during the process of challenge shall be prohibited.

Review of the complaint shall suspend running of the deadlines set in paragraphs 10 and 12 of Article 29, paragraph 6 of Article 33, paragraph 7 of Article 40 of this Law.

The specified time limits shall continue from the day following the day of adoption of a decision by the Complaint Review Authority based on the results of the review of the complaint, a decision to discontinue review of the complaint or a decision to dismiss the complaint without review.

Once the Complaint Review Authority adopts a decision to dismiss the complaint as a result of its review, a decision to discontinue review of the complaint or a decision to dismiss the complaint without review, the e-procurement system automatically, not earlier than two days following the publication of the decision in the e-procurement system, sets the time and date of e-auction and sends notices to all persons who submitted their tenders.

18. Based on the results of review of the complaint, the Complaint Review Authority shall have the right to adopt a decision:

1) on establishing no violations of the procurement procedure (including violation of the procedure of publication or failure to publish information on procurement procedures provided for by this Law);

2) on remedies to be applied in order to remove such violations, in particular, it may bind the procuring entity to cancel its decisions in full or in part, to provide the necessary documents, explanations, to remove any discriminatory conditions (including those set out in the technical specifications constituting a part of the tender documents), to bring the tender documents into compliance with legislative requirements, or, if removal of committed violations is impossible, to cancel the procurement procedure.

19. Based on the results of the complaint review proceedings, the Complaint Review Authority shall adopt a reasoned decision in which the following information shall be indicated:

1) conclusion made by the Complaint Review Authority on violation or no violation of the procurement procedure;

2) conclusion made by the Complaint Review Authority as to whether the complaint must be satisfied in full or in part or dismissed;

3) the grounds for and substantiation of the decision made;

4) when a complaint is satisfied in full or in part, – the obligation of the contracting authority to remedy the violation of the procurement procedure and/or to resume the procurement procedure since the date of a provisional legitimate decision or legitimate action of the procuring entity.

20. A decision of the Complaint Review Authority shall contain the following information:

1) name of the Complaint Review Authority;

2) summary of the complaint;

3) reasoning of the decision;

4) operative part of the decision;

5) deadline for challenge of the decision.

21. Within one business day of adoption of the decision based on the results of review of the complaint, the Complaint Review Authority shall publish information about the operative part of the decision in the e-procurement system, and publish the decision in the e-procurement system within three business days of the day of its adoption. The decision based on the results of review of the complaint is automatically published in the e-procurement system and sent to the complainant and the contracting authority once it is placed in the e-procurement system.

22. Decisions of the Complaint Review Authority shall come into force on the day of their adoption and shall be binding for the respective procuring entities and other persons concerned.

If the decision of the Complaint Review Authority adopted based on the results of review of the complaint by the Complaint Review Authority was not challenged in court, such decision shall be executed not later than within 30 days of the day of its adoption by the Complaint Review Authority.

23. The complainant, contracting authority may appeal against the decision of the Complaint Review Authority in the District Administrative Court with territorial jurisdiction covering the city of Kyiv within 30 days of the date of its publication in the e-procurement system.

24. The right to appeal shall not restrict the complainant's right of recourse to court without prior recourse to the Complaint Review Authority.

Article 19 - Report on the Results of Procurement done in the electronic procurement system

1. The report on the results of procurement done in the electronic procurement system shall contain the following information:

- 1) name, location and identification (registration) code under USREOU of contracting authority, its category;
- 2) the title of the procurement item indicating the CPV and lots (if any), the codes and names of other relevant classifiers of procurement item (if any);
- 3) the quantity and place of delivery of supplies, or volume and place of the performance of works or the provision of services according to the awarded contract, including CPV codes. Where the contract is divided into lots the information must be provided for each lot;
- 4) the type of procurement;
- 5) the evaluation criteria applied;
- 6) the number of tenderers, as well as the name and location of the tenderer to whom the procurement contract was awarded;
- 7) the prices of tenders/offers (price offered during negotiations if a negotiated procedure applied), and the amount of the procurement contract;
- 8) the date of publication of the notice of the framework agreement concluded under which the procurement contract was awarded (in the case of procurement under framework agreements) in the e-procurement system in accordance with Article 10 of this Law;
- 9) the date of publication of the notice of intention to award a contract in the e-procurement system in accordance with Article 10 of this Law;
- 10) the date of publication of the announcement of competitive procurement procedure/simplified procurement in the e-procurement system in accordance with Article 10 of this Law;
- 11) if no procurement contract has been awarded as a result of the procurement procedure - the grounds for the decision on non-award of the procurement contract;
- 12) the date of signing the procurement contract;
- 13) the existence/lack of circumstances referred to in Article 17 of this Law (in case of procurement procedures);

14) consolidated information about presenting or failure to present documents confirming the tenderers' compliance with the qualification criteria in accordance with Article 16 of this Law (in case of procurement procedures);

15) in the case of a procurement of works and services – the full name and location of each economic operator that is supposed to be engaged by the successful tenderer as sub-contractor for at least 20 % of the procurement contract value, if so provided for by the procurement contract.

2. The report on the results of a procurement procedure shall be automatically generated by the e-procurement system and published within one day of the publication of the procurement contract by the contracting authority in the e-procurement system or the cancellation of a procurement procedure or declaring it void.

Section IV OPEN BIDDING

Article 20 - Conditions of Applying an Open Bidding

1. Open bidding is the main procurement procedure.
2. In open bidding any interested economic operator may submit a tender. At least two tenders must be submitted for conduction of the open bidding.
3. The minimum time limit for the submission of tenders shall be 15 days from the date on which the announcement of open bidding is published in the e-procurement system.

If the announcement of the open procedure is published according to the provisions of part 3 of Article 10 of this Law, the time limits for submitting tenders shall be not less than 30 days of the date of such publication.

Article 21 - Announcement of Open Bidding

1. The announcement of an open bidding shall be published free of charge in the e-procurement system in accordance with Article 10 of this Law;
2. The announcement of an open bidding shall contain:
 - 1) name, location and identification code under USREOU of contracting authority, its category;
 - 2) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);
 - 3) the quantity and place of delivery of supplies, or volume and place of the performance of works or the provision of services;
 - 4) the estimated value of the procurement item;
 - 5) time frame for the delivery of supplies, the performance of works, the provision of services;
 - 6) the deadline for submitting tenders;

- 7) contract payment conditions;
- 8) the language(s) to be used for preparing tenders;
- 9) the amount, type and conditions of tender security (if requested by the contracting authority);
- 10) the date and time of tenders opening if the announcement of open bidding is published according to the provisions of part 3 of Article 10 of this Law;
- 11) the size of the minimum step of lowering the price during the electronic auction in the range from 0.5 % to 3 % of the estimated value of the procurement or in UAH;
- 12) the mathematical formula to be used during the e-auction to calculate discounted price with use of other evaluation criteria (if applied).

The announcement of open bidding may contain other information.

3. The date and time of tenders opening, except as provided for in point 10 of part 1 of this article, and the date and time of holding an e-auction shall be assigned automatically by the e-procurement system on the day when the contracting authority publishes the announcement of open bidding in the e-procurement system.

Article 22 - Tender Documents

1. Tender documents shall be published free of charge by contracting authority together with announcement of competitive procedure in the e-procurement system for public access by filling in the respective fields in the electronic procurement system. Tender documents shall not be subject to copyright and/or related rights.

2. Tender documents must contain the following information:

- 1) instructions for preparing tenders;
- 2) one or several qualification criteria for tenderers in accordance with Article 16, the requirements set forth in Article 17 of this Law, and information about the method of documentary confirmation of the tenderers' compliance with the established criteria and requirements of the legislation. The contracting authority shall not require documentary confirmation of compliance with the requirements of Article 17 if such information is available in the form of open data in accordance with the Law of Ukraine "On access to public information" and / or contained in open unified state registers, access to which is free.

The contracting authority in case of groups of undertakings (legal entities) participating in the procurement procedure, may specify separate conditions for providing information and a way of confirming the compliance of such groups with the set qualification criteria and requirements set forth in Article 17 of this Law;

3) The required technical, qualitative and quantitative characteristics of the procurement item, including technical specifications (plans, drawings, figures or descriptions of the procurement item, as appropriate). Technical, qualitative characteristics of procurement item and technical specifications on procurement item shall be determined by contracting authority with specific requirements set in part 4 of Article 5 of this Law;

4) information on Labels, Test Reports and Certificates which confirm the compliance of the procurement item with the requirements of contracting authority (in case of need);

5) the quantity of goods and place of their delivery;

6) the location where the works shall be performed or where services shall be provided, and the volume thereof;

7) time frame for the delivery of supplies, completion of works, provision of services;

8) a draft procurement contract specifying the procedure of the introduction of amendments to its terms and conditions;

9) a description of a particular part (lot) or parts of the procurement item for which tenders may be submitted, if tenderers are allowed to submit tenders for a part of the procurement item (lot). The contracting authority may provide for the possibility of concluding one procurement contract with same tenderer in case if it is awarded as the winner in several lots;

10) a list of award criteria and the method of tender evaluation indicating the weight of each criterion.

A description of the method of tender evaluation based on the 'life-cycle cost' criterion must include each of the elements to be included in the calculation and the information to be submitted by tenderers for confirmation of each element of life-cycle cost. In case of necessity for discounting expenses of the life cycle of future periods, a contracting authority may use the current discount rate of the National Bank of Ukraine. The cost of a life cycle can be considered as the sum of all expenses of a life cycle in accordance with the requirements of this Law or as the sum of all expenses of a life cycle divided into the estimated unit of operation of the procurement item;

11) the time period during which tenders shall be deemed valid, that may not be shorter than 90 days of the tenders opening date;

12) the currency to be used for expression of the price offered in a tender;

13) the language(s) to be used for preparing tenders;

14) the deadline for submitting tenders;

15) the amount, type and conditions of tender security (if requested by the contracting authority);

16) the amount, type, terms and conditions for the provision, repayment or non-repayment of the procurement contract performance security (if required by the contracting authority);

17) the full name, position and address of one or several officers of the contracting authority authorised to maintain communication with tenderers;

18) in the case of the procurement of works or services – a requirement for tenderers to indicate information in their tenders (full name and location) on each economic operator that is supposed to be engaged by the successful tenderer as sub-contractor for at least 20 per cent of the procurement contract value;

19) the description and examples of formal (unessential) errors that shall not result in rejecting a tender if detected therein. Formal (unessential) errors shall mean errors related to the form of the tender that do not affect the tender's content, namely technical and typing errors.

3. The tender documents may also contain other information in accordance with the legislation that the contracting authority considers necessary to include.

Tender documents may contain rules of indication in the procurement contract of monetary equivalent in national or foreign currency at the official rate established by the National Bank of Ukraine as of the date of the electronic auction.

4. Tender documents should not contain requirements limiting competition and result in discrimination of participants, as well as requirements for documentary confirmation of information on compliance with the requirements of tender documentation, if such information is public, disclosed in the form of open data in accordance with the Law of Ukraine "On access to public information" and / or contained in open unified state registers, access to which is free.

5. Contracting authority are prohibited from requiring tenderers to certify the documents (materials and information) submitted in the tender, with the stamp and signature of the authorized person, if such documents (materials and information) are provided in the form of an electronic document through an electronic procurement system with the imposition of electronic signature based on the qualified electronic signature certificate, according to requirements of the Law of Ukraine "On Electronic Trust Services.

Article 23 - Technical Specifications, Labels, Certificates, Test Reports and other Means of Proof

1. Technical specifications must include the information about all the required characteristics of the works, services or goods being purchased, including their technical, functional and qualitative characteristics. These characteristics may include the description of the specific technological process, manufacturing technology, goods supply sequence, performing of necessary works and providing a service / services.

Technical specifications may include information on the transfer of intellectual property rights on the item of procurement.

2. For all procurement which is intended for use by natural persons, the technical specifications shall, except in duly justified cases, be drawn up so as to take into account accessibility criteria for persons with disabilities or design conditions for all users.

3. Technical specifications may be in the form of a list of operational or functional requirements, including environmental characteristics, provided that such requirements are sufficiently precise so that the procurement item is clearly understood by contracting authority and by tenderers.

In the event that it is not possible to complete the description of the characteristics, the technical specifications may contain references to the standard characteristics, requirements, symbols and terminology associated with the products, works or services that are procured, provided by existing international, European standards, other common technical European norms, other technical reference systems recognized by the European standardization bodies or national standards, norms and rules. The phrase "or equivalent" must be added to each reference.

4. Technical specifications shall not refer to a specific make or source, or a particular process which characterises the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production. If such reference is necessary, it shall be accompanied by the words 'or equivalent'.

5. Contracting authority may request from tenderers proofs that proposed supplies, services or works with their specific environmental or other characteristics are compliant with requirements set out in the tender documentation. When establishing environmental or other characteristics of supplies, services or works the contracting authority shall indicate in the tender documentation which labels, test reports, or certificates confirm conformity of procurement item to such characteristics.

Labels, test reports and certificates must be issued by conformity assessment bodies whose competence is validated by accreditation or by other means specified by legislation.

6. If the tenderer has no access to relevant labels, test reports, or certificates or no possibility to obtain them within the tender submission deadlines for reasons which are not attributable to it, it may submit a technical dossier (passport) demonstrating that it meets the same objective criteria. The contracting authority shall evaluate the dossier (passport) and determine whether it demonstrates compliance, providing reasons for its decision.

In all cases where reference is made in the tender documents to a specific label, test report or certificate, the contracting authority shall accept labels, test reports and certificates which demonstrate that equivalent requirements are met and which are issued by conformity assessment bodies whose competence is validated by accreditation or by other means specified by legislation.

Article 24 - Providing Explanations Relating to Tender Documents and Changes therein

1. A natural person/legal entity, not later than 10 days before the expiry of the term for submitting tenders, shall have the right to request explanations from the contracting authority via the e-procurement system regarding the tender documentation and/or request the contracting authority to remedy violations committed during the procurement procedure. All requests for explanations and remedying violations shall be automatically published within the e-procurement system without identifying the requester. The contracting authority shall provide explanations in response to such request within three business days of its publishing, and shall publish them in the e-procurement system in accordance with Article 10 of this Law.

2. The contracting authority has the right at its own discretion or in case of elimination of violations of the legislation in the field of public procurement stated in the conclusion of the state financial control body in accordance with Article 8 of this Law, or upon requests, or based on a decision of Complaint Review Body to introduce changes in the tender documents. In case of the introduction of changes in the tender documents, the terms for submitting tenders shall be extended by the contracting authority within the e-procurement system so that the period from the introduction of changes in the tender documentation till the expiry of deadline for submitting tenders shall be at least seven days.

Changes introduced by the contracting authority in the tender documents shall be displayed in the e-procurement system as a new version of the tender documents additionally to the initial version of the tender documentation. The contracting authority shall publish the list of changes to be introduced in a separate document, along with the changes in the tender documents as such.

In case of untimely provision of explanations regarding the content of the tender documentation by the contracting authority, the e-procurement system shall automatically suspend the procurement procedure. In order to resume the procurement procedure, the contracting authority shall publish the explanations regarding the content of the tender documents in the e-procurement system, with an extension of the term for submitting tenders of at least seven days.

The information specified in this part shall be published by the contracting authority in accordance with Article 10 of this Law.

Article 25 – Tender/Offer Security

1. Contracting authority may indicate requirements for the provision of a tender/offer security in the announcement of competitive procurement procedure/simplified procurement and in the tender documents.

If the contracting authority requires the provision of a tender/offer security, the tender documents/announcement of simplified procurement shall specify the terms and conditions for its provision, such as the type, amount, validity period and reservations regarding the non-repayment of the tender/offer security to the tenderer. In this case, the tenderer shall provide its tender/offer security simultaneously with the tender itself.

The amount of the tender/offer security in monetary terms may not exceed 0.5 per cent of the expected value of the works and 3 per cent of the expected value of the goods or services on conditions specified in the tender documentation/announcement of simplified procurement.

2. If tenders/offers are submitted with regard to a part of the procurement item (lot), the amount of the tender/offer security shall be set by the contracting authority on the basis of the estimated value of the procurement item in respect of each particular part (lot) thereof.

3. The tender/offer security shall not be returned in the event:

- 1) of withdrawal of the tender/offer by the tenderer upon expiry of the term for submitting tenders but before the expiry of period during which tenders are deemed valid;
- 2) of the successful tenderer failing to sign the procurement contract;
- 3) of the successful tenderer failing to provide documents confirming the lack of grounds provided for by Article 17 of this Law;
- 4) of the successful tenderer failing to provide the procurement contract performance security after the receipt of the notice of intent to award the contract, if provision of such security is provided for by the tender documentation/announcement of simplified procurement.

4. The tender/offer security shall be returned to the tenderer in the event of:

- 1) the expiry of the period of validity of the tender/offer security set in the tender documentation/announcement of simplified procurement;
- 2) the successful tenderer entering into the procurement contract;
- 3) the tender/offer being withdrawn before the deadline for submitting tenders;

4) the procurement procedure/simplified procurement being terminated if no procurement contract is signed with any tenderer that submitted their tenders/offers.

5. At the request of the tenderer, the contracting authority shall notify the security issuing institution on the occurrence of a reason to return tender/offer within five days from the occurrence of one of the grounds specified in part 4 of this Article.

6. The funds provided as a tender security (in the event they are not subject to return to the tenderer) shall be transferred to the relevant budget, or, if procurement is made by legal entities (their associations) that don't receive financing from the state (local) budget, they shall be transferred to the account of the relevant entity (association).

Article 26 – Tender/Offer Submission Procedure

1. A tender shall be submitted electronically via the e-procurement system by means of completing an electronic form with separate boxes to be filled in with information about the price, other evaluation criteria (if established by the contracting authority), information from the tenderer about its compliance with the qualification criterion/criteria, requirements of Article 17 of this Law and the tender documents, and by uploading the documents required by the contracting authority in the tender documents.

The e-procurement system shall automatically generate a notice of receipt of the tender and send it to the tenderer specifying the date and the time of receipt. The electronic system shall provide for a possibility for everyone to submit tender on equal conditions.

2. Each tenderer may submit only one tender/proposal (also in respect of the part (lot) of the procurement item as defined in the tender documents/announcement of simplified procurement).

3. Received tenders shall be automatically registered in the register, reflecting information about submitted tenders namely:

1) unique number of announcement on competitive procurement procedure/simplified procurement designated by the electronic procurement system;

2) name and identification code of tenderer under USREOU;

3) date and time of submission of tenders/offers.

4. The tender price can not exceed the estimated value of the procurement item specified in the announcement of the competitive procurement procedure/simplified procurement.

5. A tender shall contain confirmation of the provision of the tender security by the tenderer, if such security is required in the announcement of competitive procurement procedure.

6. Tenders/offers received by the electronic procurement system after the expiration of the deadline for their submission or those with price exceeding the estimated value of the procurement shall not be accepted and automatically returned to the tenderers which submitted them.

7. Tenders shall be valid during the period specified in the tender documents.

The contracting authority shall have the right to request the tenderers to extend the validity period of their tenders before the expiry of the said period. Tenderer shall have the right to:

reject the said request; in such case the tender security provided by the tenderer shall not be forfeited; or

satisfy the request and extend the validity period of the submitted tender and the provided tender security.

8. Tenderer shall have the right to amend or withdraw a tender before the deadline for submitting tenders without its tender security being forfeited. Such amendments or statement of tender withdrawal shall be taken into consideration, if received via the e-procurement system before the deadline for submitting tenders.

9. The tenderer corrects inconsistencies in the information and / or documents submitted by in its tender, identified by the contracting authority after the opening of the tenders, by downloading through the electronic procurement system of corrected or new documents in the electronic procurement system, within 24 hours from the moment the contracting authority has published in the electronic procurement system of a notice requesting the elimination of such inconsistencies.

The contracting authority shall consider the submitted tenders with consideration of correction or non-correction by the tenderers of found inconsistencies.

10. In the case when a tender/offer is submitted by group (association) of undertakings (legal entities), it must include the document on the establishment of such group.

The contracting authorities shall not have the right to require from group (association) of undertakings (legal entities) the specific legal form to submit a tender/offer or to participate in negotiations in the case of a negotiated procurement procedure.

11. Documents not envisaged by law for tenderers - legal, natural persons, including natural persons - entrepreneurs, are not submitted by them as part of the tender /offer and are not required during negotiations (in case of negotiated procurement procedure).

The absence of documents not envisaged for by the legislation for tenderers - legal entities, individuals, including natural persons - entrepreneurs, in the tender/offers, cannot be grounds for rejection by contracting authority.

Article 27 - Procurement Contract Performance Security

1. The contracting authority shall have the right to request the successful tenderer to provide the procurement contract performance security by the date of the procurement contract, if the tender documents or announcement on simplified procurement requires the provision of such security.

2. The Contracting authority shall return the procurement contract performance security:

- 1) after the successful tenderer completes the performance of the contract;
- 2) in case the results of the procurement procedure or the procurement contract have been recognised as invalid in court;
- 3) in the circumstances provided for in Article 43 of this Law,
- 4) in accordance with the terms and conditions laid down in the contract but not later than five banking days of the day when the said circumstances occurred.

3. The amount of the procurement contract performance security shall not exceed 5 per cent of the contract value.

4. The funds provided as the procurement contract performance security (in the event they are not subject to return) shall be transferred to the relevant budget, or, if procurement is made by legal entities (their associations) that receive no financing from the state (local) budget, they shall be transferred to the account of the relevant entity (association).

Article 28 – Tenders/Offers Opening

1. Information about prices/discounted prices shall be opened automatically before the start of the e-auction.

Tenders/offers with the information and documents confirming the tenderers' compliance with the qualification criteria and information and documents describing technical specifications of the procurement item shall be opened automatically by the e-procurement system immediately upon completion of the e-auction.

If the announcement of a competitive procurement procedure is published according to the provisions of part 3 of Article 10 of this Law, on the date and at the time of expiry of the term for submitting tenders as specified in the announcement of the competitive procurement procedure, the e-procurement system shall automatically open *all* tender files except for information about prices/discounted prices.

2. While opening tenders, full information contained in the tenders shall be disclosed automatically, and the list of tenderers shall be created and sorted from minimum to maximum price/adjusted price.

Information is not opened if it is reasonably determined by the tenderer as confidential, including that containing personal data. The information on the proposed price, other evaluation criteria, technical specifications, technical specifications and documents confirming compliance with the qualification criteria in accordance with Article 16 and the requirements established by Article 17 of this Law can not be confidential.

The contracting authority, the Complaint Review Body and the central executive authority, which implements the state policy in the field of state financial control, have access in the electronic procurement system to information that is identified by a tenderer as confidential.

3. The tenders opening minutes shall be generated and made public by the electronic procurement system automatically on the day of the tenders opening.

4. The tenders opening minutes shall include:

1) name, location and identification code under the USREOU of contracting authority, its category;

2) contact person of contracting authority, authorized to communicate with tenderers;

3) the unique number of announcement on competitive procurement procedure/simplified procurement designated by the electronic procurement system;

4) title of the procurement item;

- 5) date and time of the tenders/offers opening;
- 6) name (for legal entity) or surname, name, patronymic (for an individual) of tenderers;
- 7) information and documents confirming the compliance of tenderers with the qualification criteria / (conditions and requirements determined in the announcement of simplified procurement), as well as information and documents containing the technical description of the procurement item;
- 8) information on the price of the tender/offer before the start of the auction and after the end of the auction.

A tenders opening minutes may include another information.

Article 29 - Consideration and Evaluation of Tenders / Offers

1. Tenders/offers shall be evaluated based on the criteria and methods of evaluation specified by the contracting authority in the tender documents/announcement of simplified procurement and by way of applying an e-auction.

The date and the time of e-auction shall be assigned automatically by the e-procurement system.

2. If the announcement of a procurement procedure is published according to the provisions of part 3 of Article 10 of this Law, the contracting authority shall evaluate only those tenders not rejected in accordance with this Law.

3. The evaluation criteria shall be the following:

- 1) price; or
- 2) life-cycle cost; or
- 3) price with other evaluation criteria, for example: terms of payment, completion period, warranty maintenance, technology transfer of and training of managerial, scientific and production personnel, application of environmental and / or social protection measures related to the procurement item.

4. In case of application of life-cycle cost evaluation criteria it can include in addition to price one or several cost elements to be incurred by contracting authority during the life cycle of the product (goods), work (works) and service (services), namely:

- 1) related to the use of supplies, work (works) or service (services), in particular energy consumption and other resources;
- 2) related to maintenance;
- 3) related to the collection and utilization of supplies;
- 4) related to the influence of external environmental factors during the life cycle of supplies, work (works) or service (services), if their monetary value can be determined, in particular, the impact of greenhouse gas emissions, other pollutants and other costs, related to the reduction of the environmental impact (environment).

If life-cycle cost is applied as evaluation criteria, all its components should not contain requirements limiting competition and discriminating participants.

5. Before the e-auction, information about price and the list of all prices proposed in the tenders/offers sorted from minimum to maximum without specifying the names or any identifying information on tenderers shall be automatically disclosed in the e-procurement system.

6. If other award criteria are established to apply along with price, indicators of such other award criteria and the discounted price shall be automatically identified by the e-procurement system before the e-auction according to the evaluation methods specified by the contracting authority in the tender documents/ announcement of simplified procurement, following which the information about the discounted price and the list of all discounted prices under the tenders/offers shall be disclosed, sorted from minimum to maximum without specifying the name or any identifying information on tenderers.

7. During an e-auction, prices proposed in the tenders/offers and the discounted prices shall be displayed in the electronic system.

8. If the contracting authority along with the price, applies other evaluation criteria for selection of the most economically advantageous tender, their value equivalent or relative weights in the total score of tender/offer evaluation shall be indicated in the tender documents/ announcement of simplified procurement. The relative weight of the price/life-cycle cost criterion shall not be less than 70 per cent except for application of competitive dialogue procedure.

9. Once the evaluation of tenders/offers is completed, the contracting authority shall consider only the provisionally most economically advantageous tender based on the evaluation results, in terms of its compliance with the requirements set in the tender documents/announcement of simplified procurement.

10. The period for considering the provisionally most economically advantageous tender/offer shall not exceed five business days from the date when it was recognised as provisionally most economically advantageous tender/offer. The period for considering tender/offer may be reasonably extended by the contracting authority up to 20 business days. If the period for considering tender/offer is extended, the contracting authority within one business day after day when such decision is made shall publish a relevant notice in the e-procurement system.

11. In the event of rejecting the provisionally most economically advantageous tender/offer, the contracting authority shall consider the tender/offer coming next best in the list of the tenderers based on the results of the evaluation in accordance with procedure and time frames set in this article.

12. If the announcement of competitive procurement procedure is published in accordance with the provisions of part 3 of Article 10 of this Law, the contracting authority shall consider the tenders for compliance with the requirements of the tender documents before conducting an automatic evaluation of tenders within a period not exceeding 20 working day.

The Minutes on tender's consideration must be prepared on basis of the results of tender evaluation and published by the contracting authority in the e-procurement system pursuant to Article 10 of this Law.

The Minutes on tender's consideration must include following:

- 1) name, location and identification code under the USREOU of contracting authority, its category;
- 2) the unique number of announcement on competitive procurement procedure designated by the electronic procurement system;
- 3) list of tenders;
- 4) name (for legal entity) or surname, name, patronymic (for an individual) of tenderers;
- 5) the result of consideration of each tender (rejection of the tender / admission to the e-auction);
- 6) the reasons for the rejection of the tender (if any rejection) in accordance with Article 31 of this Law.

When the contracting authority publishes the minutes on tender's consideration, the e-procurement system shall automatically send relevant notices to all tenderers, and the list of tenderers whose tenders have not been rejected under this Law shall be published. The date and time of the e-auction shall be assigned by the electronic system automatically, but not earlier than five days after the publication of the minutes on tender's consideration.

The Minutes on tender's consideration may include other information.

13. Contracting authority and tenderers may not initiate any negotiations concerning changes in the content of the submitted tender/offer or the proposed price.

14. Tenderer with most economically advantageous tender must submit within one business day the justification in arbitrary form on prices or values of the corresponding goods, works or services of the tender, if it is abnormally low.

Contracting authority may reject an abnormally low tender if the tenderer fails to provide an adequate justification for the prices or values indicated in tender, and must reject an abnormally low tender in the absence of such justification within the period specified in the first indent of this paragraph.

The justification for an abnormally low tender may include information on:

- 1) achieving savings due to the technological process of production of goods, of providing services or construction technology;
- 2) favourable conditions under which the tenderer can supply goods, provide services or perform work, in particular a special price offer (discount) of the tenderer;
- 3) receiving a state aid in accordance with the legislation.

15. Based on the results of consideration and evaluation of the tenders / offer, the contracting authority shall select the successful tenderer and decide on awarding the contract under this Law.

Contracting authority shall have the right to request public authorities, enterprises, institutions and organisations to confirm the information provided by a tenderer within the scope of their competence.

If there is verified information that a tenderer does not comply with the qualification criteria, or there are grounds specified in Article 17 of this Law, or it is a fact that the tender of that tenderer contains false information, which is essential for the results of the procurement procedure, the contracting authority shall reject the tender of such tenderer.

In case if the tenderer is awarded as successful tenderer of several or all lots, contracting authority can conclude one contract with such tenderer uniting parameters of the lots.

16. If contracting authority during the consideration of the tender found inconsistencies in the information and / or documents submitted by the tenderer in the tender and / or submission of which is required by the tender documents, it publishes in a term which can not be less than two business days before the expiration of the term of consideration of tender, the notice requesting the elimination of such inconsistencies in the electronic procurement system.

Contracting authority publishes the notice requesting the elimination of such inconsistencies in information and / or documents:

- 1) on confirming conformity of tenderer with qualification requirements according to article 16 of this Law;
- 2) to confirm the right to sign the tender and / or the procurement contract.

The notice requesting the elimination of such inconsistencies must contain following information:

- 1) list of identified inconsistencies;
- 2) reference to provision of tender documents in respect to which inconsistencies were identified;
- 3) a list of information and / or documents to be submitted by the tenderer to remove identified inconsistencies.

The contracting authority can not post more than one notice about the same tenderer with the requirement to eliminate inconsistencies in the information and / or documents submitted by the tenderer in the tender except for cases related to execution of decision of the Complaint Review Body.

Article 30 - Electronic Auctions

1. An electronic auction is a repeated process of lowering prices or discounted prices that has three stages and runs online in interactive real time mode. Discounted prices are determined taking account of the indicators of other award criteria and based on the formula prescribed by the evaluation method.

2. In order to hold an e-auction, prices/discounted prices of all tenders shall be sorted in the e-procurement system from minimum to maximum without specifying the tenderers' names. The highest price/discounted price shall be the starting price. Before each following stage of the auction, the new starting price shall be set based on the results of the previous stage of the auction.

3. If tenderers proposed the same price/discounted price, the latest submitted tender/offer among those with the same price shall be the first to reduce the price in the e-auction.

4. A tenderer may reduce the price/discounted price of its tender once during each stage of the auction by at least for one step below the previous price/adjusted price.

5. The electronic procurement system automatically calculates abnormally low prices/discounted prices for tenders at all stages of the auction and informs the tenderer and the contracting authority about it.

6. Information about the amount of the minimum step of price reduction during the e-auction shall be expressed as percentage or monetary units.

7. During each stage of the e-auction, all the tenderers shall be provided with access to the e-auction process, in particular, to information about the position of their prices or adjusted prices in a list sorted from maximum to minimum in the e-procurement system at each stage of the auction, and information about the number of tenderers at the current stage of the e-auction without specifying their names.

Article 31 - Rejection of Tenders

1. A contracting authority shall reject a tender with publication of justification in e-procurement system if:

1) a tenderer:

failed to meet the qualification criterion/criteria set in Article 16 of this Law, and/or the grounds referred to in part 1 of Article 17 of this Law;

failed to meet the requirements set in indent 1 of part 3 of article 22 of this Law;

has noted in the tender untrue (false) information that is essential in determining the results of the procurement procedure, which contracting authority identified in accordance with part 15 of Article 29 of this Law;

has not provided a tender security if such provision was required by contracting authority and/or tender security does not meet the conditions specified by contracting authority in the tender documents;

has not corrected the inconsistencies in the information and / or documents submitted by tenderer and as identified by the contracting authority after the opening of tenders within 24 hours from the moment when the contracting authority publishes a notice in the electronic procurement system with the requirement to eliminate such nonconformities;

has not provided explanations/justification on abnormally low tender within the time term specified in part 2 of Article 29 of this Law;

defined as confidential the information which can not be defined as confidential in accordance with the requirements of part 2 of Article 28 of this Law;

2) the tender of the tenderer:

does not meet the requirements of the technical specification and other requirements regarding the procurement item of tender documentation;

submitted in other language(s) that was required by tender documentation;

has expired;

3) successful tenderer:

has refused to sign the procurement contract in accordance with the requirements of the tender documentation or to conclude of the procurement contract;

has not provided in the manner indicated in the tender documentation documents proving the absence of the grounds stipulated by Article 17 of this Law;

has not provided license or permit as envisaged by part 2 of article 41 of this Law;

has not provided procurement contract performance security, if such provision was required by contracting authority.

2. Information about the rejection of a tender, including the reasons for rejection (with reference to the relevant provisions of this Law and the conditions of the tender documents with which such tender and/or tenderer does not comply, indicating exactly such inconsistency), shall be published in the e-procurement system within one day of the relevant decision, and a relevant notice shall be automatically sent to the tenderer whose tender was rejected via the e-procurement system.

3. If the tenderer whose tender was rejected believes that the arguments indicated in the notice are not sufficient, that tenderer may once again request the contracting authority to provide additional information about the reasons of non-compliance of its tender with the requirements of the tender documents, in particular, with technical specifications, and/or its non-compliance with the qualification criteria, and the contracting authority is obliged to provide such information to the tenderer within five days upon receipt of the request via the e-procurement system.

Article 32 - Cancelling Procurement Procedures or Recognising a Procurement Procedure Void

1. Contracting authority shall cancel the procurement procedure if:

1) there is no further need for the procurement of supplies, works and services;

2) it is impossible to remedy violations caused by the detected infringements of the public procurement legislation with description of these infringements which impossible to remedy;

2. The bidding is automatically cancelled by the e-procurement system in cases when:

1) number of tender offers is
less than two tender offers submitted for open auction;
less than three tender offers submitted for a competitive dialogue procedure;
less than three tender offers submitted for open auction with framework agreement
less than four tender offers in the qualification selection of the first stage of restricted bidding

2) in case of contracts valued above the thresholds of part 3 of Article 10, less than two tenders were admitted for the evaluation; or in case of competitive dialogue procedure, second stage of restricted procedure and framework agreement – less than three tenders were admitted for the evaluation;

3) all tenders were rejected in accordance with this Law.

3. Cancellation of a procurement procedure on the above grounds part 1 and 2 of this article shall be clearly provided for in the tender documentation.

4. A bidding may be cancelled partially (in respect of a particular lot).

5. A contracting authority shall have the right to declare a procurement procedure void if:

1) procurement has become impossible due to force majeure; or

2) budget allocations for the procurement of supplies, works and services were reduced.

6. Contracting authority shall have the right to declare a procurement procedure partially void (in respect of a particular lot).

7. In case of the cancellation of a procurement procedure by the contracting authority or declaring it void, the contracting authority shall indicate, within one business day following the date of relevant decision, in the e-procurement system grounds for making such decision.

In case when a procurement procedure is cancelled for the grounds as referred to in part 2 of this Article, information on cancellation of the procurement procedure shall be automatically published in the e-procurement system.

Article 33 - Decision and Notice on Intent to Award the Procurement Contract

1. A decision on the intent to award the procurement contract shall be made by the contracting authority on the day of award to the successful tenderer.

Within one day of the date of such decision, the contracting authority shall publish a notice of intent to award a contract in the e-procurement system.

2. A notice of intent to award a contract must include following information:

1) name, location and identification code under the USREOU of contracting authority, its category;

2) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);

3) quantity, place and time frame of delivery of goods, performance of works of providing of services;

4) name (for legal entity) or surname, name, patronymic (for an individual) of awarded tenderer;

5) the price of the tender/offer.

A notice of intent to award a contract may include another information.

3. Information on the name and location of the successful tenderer shall be automatically sent to the successful tenderer and other tenderers via the e-procurement system on same day when such decision is made.

4. Any tenderer other than the successful tenderer selected based on the results of tender/offer evaluation and consideration, may request the contracting authority via the e-procurement system to provide information about the tender/offer submitted by the successful tenderer, including about its advantages compared to the tender/offer of the requester, and the contracting authority must respond to such request within five days of the receipt of such request.

5. In order to secure the right to appeal against decisions of a contracting authority to the Complaint Review Authority, a procurement contract may be concluded not earlier than 10 days of the date of the publication of the notice of intent to award the procurement contract in the e-procurement system.

6. The contracting authority shall enter into a procurement contract with the successful tenderer within the period of validity of its tender, but not later than 20 days of the date of the decision on intent to award the procurement contract according to the requirements set out in the tender documents and tender of the successful tenderer. If justified by the need, the period for concluding the contract may be extended up to 60 days.

In case of filing a complaint to the Complaint Review Body after publication of the notice of intent to award a contract in the e-procurement system, the period of time for the conclusion of the procurement contract is suspended.

7. In the event the successful tenderer refuses to sign the procurement contract in accordance with the requirements set out in the tender documents/announcement on simplified procurement, or in the event of failure to conclude the procurement contract within the time period specified in this Law or the successful tenderer's failure to submit documents confirming the lack of grounds provided for by Article 17 of this Law, the contracting authority shall reject the tender of such tenderer and select the successful tenderer from among the tenderers whose tenders' validity period has not yet expired and makes decision on the intent to award the procurement contract according to procedure and terms specified in this article.

Section V

COMPETITIVE DIALOGUE

Article 34 - Conditions of Applying a Competitive Dialogue

1. Competitive dialogue may be applied by the contracting authority if it is not possible to specify the required technical and qualitative characteristics (specifications) of works or the type of services, and negotiations with tenderers are needed in order to take an optimal decision concerning the procurement.

2. The competitive dialogue procedure can be applied by contracting authority if one of the following conditions exists:

1) the contracting authority can not specify requirements to the procurement item due to its nature or complexity requires negotiations, in particular in the case of procurement of legal services, the development and implementation of information systems, software, R&D services, experiments or developments;

2) performance of the procurement contract provides for the development of a project/design for the execution of works (provision of services) or the use of new innovative solutions;

3) contracting authority can not determine the exact technical specification using existing technical standards.

3. The procedure of competitive dialogue can not be applied in the case of the purchase of works and services with a ready-made project/design for their implementation or provision.

4. Competitive dialogue is carried out in 2 stages.

Article 35 - Competitive Dialogue Proceeding

1. Announcement of the competitive dialogue shall be made public in the e-procurement system in accordance with Article 10 of this Law.

Announcement of the competitive dialogue shall include:

- 1) name, location and identification code under USREOU of contracting authority, its category;
- 2) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);
- 3) ground for application of competitive dialogue in accordance with article 34 of this Law;
- 4) the estimated value of the procurement item;
- 5) the deadline for submitting tenders for first stage;
- 6) the language(s) to be used for preparing tenders;
- 7) the amount, type and conditions of tender security (if requested by the contracting authority);
- 8) the date and time of opening of tenders for first stage.

Announcement of the competitive dialogue may contain other information.

2. At the first stage of competitive dialogue, all tenderers shall be invited to submit a tender to provide information on their compliance with the qualification criteria, requirements established by the contracting authority in the tender documents, and description of the procurement solution without stipulating the price.

Information with the description of the procurement solution at the first stage of the competitive dialogue shall be submitted in a tender as a separate file.

The tender documents shall include:

- 1) procurement item with a description of needs and necessary characteristics of the works or services that to be procured;
- 2) minimum non-negotiable procurement requirements;
- 3) qualification criteria for tenderers in accordance with Article 16 of this Law;
- 4) the grounds established by Article 17 of this Law;

- 5) technical, qualitative and other characteristics of the procurement item;
- 6) the time and place at which work will be performed or services will be provided;
- 7) evaluation criteria.

The deadline for submitting tenders at the first stage of a competitive dialogue shall not be less than 30 days of the date of the publication of the notice on the competitive dialogue in the e-procurement system according to Article 10 of this Law.

As a result of the tender opening procedure at the first stage of the competitive dialogue, all information included in the tenders shall be automatically disclosed, except for the description of procurement solution to be disclosed to the contracting authority only.

Following the tender opening procedure, the contracting authority shall consider the tenders in terms of their compliance with the requirements established in the tender documents of the first stage.

All tenderers whose tender were not rejected, if there are at least three such tenderers, shall be invited by the contracting authority to participate in negotiations.

The contracting authority shall have negotiations with each tenderer separately, and joint meetings with all tenderers may be held additionally. All aspects of procurement may be discussed during the negotiation for the purposes of identifying means and solutions in respect of the work or services to be procured. In the course of negotiations, the contracting authority shall not apply a discriminating approach to different tenderers, nor disclose the proposed solutions or other confidential information to other tenderers that was received from the tenderer participating in the negotiations without the consent of the latter.

Minimum requirements on procurement item and evaluation criteria are not subject to discussion.

Following the negotiations, the contracting authority shall modify the tender documents in terms of the technical requirements and requirements to the quality of procurement item (but without any changes to evaluation criteria), and invite all tenderers who participated in the negotiations to participate in the second stage.

3. At the second stage, the tenderers shall be required to submit their final tenders with indication of price. The deadline for submitting tenders at the second stage shall be at least 15 days of the receipt of invitation to participate in the second stage. Consideration and evaluation of tenders at the second stage shall comply with the requirements set out in Article 29 of this Law.

4. The contracting authority shall award the procurement contract to the successful tenderer according to the requirements of this Law.

Section VI

RESTRICTED BIDDING PROCEDURE

Article 36 - Conditions of Applying of the Restricted Bidding Procedure

1. The restricted bidding procedure shall be applied if it is necessary to pre-qualify the qualification of tenderers by conducting a qualification selection and if the announcement restricted procedure is made public in accordance with the provisions of part 3 of Article 10 of this Law.

2. The restricted bidding procedure is conducted in two stages.

Article 37 - The proceeding of restricted bidding

1. Announcement of the restricted bidding shall be made public in the e-procurement system in accordance with Article 10 of this Law

Announcement of the restricted bidding shall include:

- 1) name, location and identification code under USREOU of contracting authority, its category;
- 2) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);
- 3) the quantity and place of delivery of supplies, or volume and place of the performance of works or the provision of services;
- 4) the estimated value of the procurement item;
- 5) time frame for the delivery of supplies, the performance of works, the provision of services;
- 6) all qualification criteria in accordance with Article 16 of this Law and information on the method of documentary confirmation of the compliance of the tenderers with the established criteria, as well as the minimum allowable parameters for each established qualification criterion, the weight of each criterion and the method for evaluating of parameters exceeding the minimum allowable level for selection of tenderers in the qualification selection to be invited to submit their tenders at second stage;
- 7) the number of tenderers that will be invited to participate in the second stage based on the results of the qualification selection;
- 8) deadline for submission of proposals for participation in qualification selection;
- 9) date and time of disclosure of proposals for participation in qualification selection;
- 10) terms of payment;
- 11) language (s) in which proposals should be prepared;
- 12) amount, type and conditions for the provision of tender security (if contracting authority requires it);
- 13) the size of the minimum step of lowering the price during the electronic auction in percent or monetary units and the mathematical formula that will be used when conducting the electronic auction at the second stage of restricted bidding to determine the indicators of other evaluation criteria.

2. Other information relevant participation in restricted bidding is indicated by contracting authority in the tender documents, which is made public together with the announcement of restricted bidding.

3. When publishing the announcement of a restricted bidding, a contracting authority may, via the electronic procurement system, send an invitation to participate in the restricted bidding similar in content to the announcement of a restricted bidding to economic operators that may meet the requirements set out in the tender documents.

Article 38 - The qualification selection of tenderers for restricted bidding

1. The first stage of restricted tender is the qualification selection of tenderers.

If less than four tenderers have submitted the documents for the qualification selection, the restricted bidding is automatically cancelled by the electronic procurement system.

2. Tenderers in response to announcements and invitations (in case of sending by contracting authority) to participate in the restricted procedure, are invited to submit only documents for participation in the qualification selection, which should contain information on the compliance of the tenderer with all qualification criteria in accordance with the article 16 and the requirements established by Article 17 of this Law.

Not receiving an invitation does not deprive other tenderers of the right to apply for participation in the qualification selection.

3. The deadline for submission of documents for participation in the qualification selection of the first stage of restricted bidding must not be less than 30 days from the date of publication of the announcement of restricted bidding in the e-procurement system.

4. All information in the documents submitted by tenderer for participation in the qualification selection will be disclosed the next day after the deadline for submitting the documents for participation in the qualification selection of the first stage.

5. After opening of the documents submitted by tenderers for qualification selection at the first stage, contracting authority considers them to comply with the requirements set in the tender documents for the first stage and carries out an assessment of the qualification data of the tenderers to meet the established requirements in accordance with the assessment methodology during period not exceeding 20 business days.

6. On the basis of the review and assessment of the qualification data of the tenderers, a minutes of qualification selection is drawn up.

The minutes of qualification selection must include:

- 1) name, location and identification code under USREOU of contracting authority, its category;
- 2) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);
- 3) all qualification criteria in accordance with Article 16 of this Law and information on the method of documentary confirmation of the compliance of the tenderers with the established criteria,
- 4) the minimum allowable parameters for each established qualification criterion, the weight of each criterion and the method for evaluating of parameters exceeding the minimum

allowable level for selection of tenderers in the qualification selection to be invited to submit their tenders at second stage;

5) the list of tenderers that submitted proposals for participation in qualification selection;

6) the list of tenderers whose proposals for qualification selection were rejected due to non-compliance with the minimum allowable parameters of qualification criteria and / or requirements established by Article 17 of this Law, indicating the reasons for the rejection;

7) list and results of evaluation of tenderers whose proposals for participation in the qualification were not rejected, ranked by the results of the qualification assessment of tenderers on the basis of comparison of the information provided by them in the context of each qualification criteria according to the method of evaluation of parameters;

8) list of tenderers admitted to participate in the second stage of bidding.

7. The minutes of qualification selection is made public by contracting authority in the e-procurement system within one day from the date of its approval. After publication of minutes of the qualification selection the electronic procurement system automatically sends it to all participants.

8. If less than four tenderers submitted documents for qualification selection, restricted bidding is cancelled by the electronic procurement system automatically.

Article 39 - The second stage of restricted bidding

1. The second stage of restricted bidding is carried out if, according to the results of the qualification selection for participation in the second stage of restricted procedure, the number of tenderers admitted to the second stage is same as defined in the announcement of restricted procedure but not less than three.

2. All tenderers admitted to the second stage are invited by contracting authority to submit a tender which provides information on the compliance with the technical, qualitative and other characteristics of the procurement item, terms of delivery of goods, time and place where the work will be performed or services will be performed. At the second stage of restricted bidding tenders are submitted with indication of price. The information on the description of the technical, qualitative and other characteristics of the procurement item is submitted by a separate file.

3. When opening tenders for the second stage, all information is automatically disclosed, except for the price information that is opened during the auction.

4. The deadline for the submission of tenders in the second stage shall not be less than 25 days from the date of receipt of the invitation to submit the final tenders.

5. The evaluation of tenders is carried out in accordance with Article 29 of the Law, except for requirements of parts 2 and 12 of Article 29 of the Law.

6. Contracting authority and tenderers can not initiate any negotiations on the modification of the content or the price of the submitted tenders.

Section VII

NEGOTIATED PROCEDURE

Article 40 - Conditions for applying a Negotiated Procedure

1. The negotiated procedure is an exceptional procedure where the contracting authority awards a procurement contract after holding negotiations regarding prices and other conditions with one or several economic operators.

2. The contracting authority may only apply the negotiated procedure as exemption in the following cases:

1) the contracting authority has cancelled the open bidding (also in regard lot if any) twice due to the insufficient number of tenderers. Therewith the procurement item, its technical and qualitative characteristics, and the requirements to the tenderers shall not differ from the requirements established by the contracting authority in tender documents;

2) where the works, goods or services can be supplied only by a particular economic operator for any of the following reasons:

the item of the procurement is the creation or acquisition of a unique work of art or artistic performance,

entering into a procurement contract with the winner of an architectural or artistic contest;

lack of competition for technical reasons, which the procuring entity shall prove with documents;

there is necessity for the protection of intellectual property rights;

entering into procurement contract with the supplier of "last hope" for the supply of electric energy or natural gas;

3) the urgent need for procurement in connection with:

the occurrence of special economic or social circumstances that make it impossible for the contracting authority to comply with the time limits for competitive procurement procedures and related to the immediate elimination of the consequences of emergencies;

the provision by Ukraine of humanitarian assistance to other countries, in accordance with the established procedure;

the termination of the procurement contract due to the participant's fault and for a period sufficient for a new procurement procedure in the amount not exceeding 20 % of the amount set in a suspended contract. The use of negotiated procurement procedures in such cases is carried out by contracting authority in respect of each procedure;

complaining on decisions, actions or inactivity of the contracting authority in relation to the ongoing tender after evaluation of the tenderers' bids, in the amount not exceeding 20 % of the estimated value of the contested bidding;

procurement of goods, works and services to meet the needs of defense during the legal regime of martial law in Ukraine or in certain localities by procuring entities specified in the Law of Ukraine "On Defense Procurement".

4) for supply contracts only, for additional deliveries by the original supplier which are intended either as a partial replacement or extension of supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. The duration of such contracts shall not exceed three years and the total value of additional deliveries should not exceed 50 % of the original contract concluded as result of bidding;

5) for additional works or services consisting in the repetition of similar works or services entrusted to the same economic operator to which the contracting authority awarded an original contract. The possible use of this procedure shall be stipulated in the original tender documents. This procedure may be used only during the three years following the conclusion of the original contract and the total value of additional works and services should not exceed 50 % of the original contract;

6) for the purchase of supplies under procedure for restoring solvency in accordance with the legislation;

7) procurement of legal services related to the protection of the rights and interests of Ukraine, including legal protection of national security and defence, in a dispute settlement procedure, representation in proceedings in foreign jurisdictions that involve a foreign entity and Ukraine based on the relevant decision of the Cabinet of Ministers of Ukraine or decisions of the National Security and Defence Council of Ukraine enforced pursuant to the law as well as procurement of goods, works and services in case of participation of the contracting authority in international exhibition events on the basis of the decision of the Cabinet of Ministers of Ukraine.

3. The contracting authority (except for the cases specified in points 2, 4, 5 of part 2 of this Article) during the negotiations requires the tenderer(s) to confirm the absence of grounds to refuse in participating in the procurement procedure in accordance with the part 1 of Article 17 of this Law.

4. Based on the results of negotiations held with the tenderer(s), the contracting authority shall decide on its intent to award the contract.

5. The notice of intent to award the contract shall be published free of charge in the e-procurement system within one day of the date of the decision.

6. The notice of intent to award the contract shall contain:

1) name, location and identification code under USREOU of contracting authority, its category;

2) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);

3) quantity, place and time of delivery of goods, performance of works or provision of services;

4) name, identification code of each participant in the USREOU or a taxpayer identification number, or passport series and number (for individuals who, because of their religious beliefs, refused to accept the taxpayer identification number and have officially notified the relevant controlling authority and have a passport mark indicating this) of the goods supplier, contractor or service provider;

- 5) location and contact phones of tenderer(s) with which the negotiations have been conducted;
- 6) agreed price from the procurement procedure participant;
- 7) the condition for the use of the negotiated procurement procedure in accordance with part 2 of this article;
- 8) justification of the use of the negotiated procurement procedure with references to expert, regulatory, technical and other documents confirming the existence of conditions for the use of negotiated procurement procedure.

The notice of intent to award the contract may include other information.

7. Contracting authorities shall have the right to conclude a procurement contract based on the results of the negotiated procedure not earlier than 10 days (five days - in the case of the use of negotiated procedure on the grounds specified in point 3 of part 2 of this article, as well as in the case purchase of oil, crude oil products, electric energy, services for its transmission and distribution, centralized supply of heat energy, centralized supply of hot water, district heating services, telecommunication services, in that including broadcasting of radio and television signals, services for centralized water supply and / or drainage and public railway transportation services) from the date of publication of the notice on intent to award the procurement contract.

Peculiarities of entering into a procurement contract upon the results of negotiated procurement procedure on the grounds specified in paragraph, item 3 of part two of this Article shall be regulated by the Law of Ukraine "On Defense Procurement".

8. The negotiated procurement procedure is cancelled by contracting authority in case of:

- 1) if contracting authority committed a violation that affected the objectivity of determining the awardee tenderer of the procurement procedure;
- 2) the impossibility of eliminating violations that have arisen because of the revealed violations of procurement legislation;
- 3) absence of further need for procurement of goods, works and services;
- 4) reduction of budget expenditures for the purchase of goods, works and services;
- 5) not signing by an economic operator in the procurement contract for a period of 35 days (20 days - in case of use of negotiated procurement procedure on the grounds specified in point 3 of part 2 of this article, as well as in the case of purchasing oil, crude oil products, electric energy, services for its transfer and distribution, centralized heat supply, centralized hot water supply, district heating services, telecommunication services, including broadcasting of radio and television signals, centralized water supply and / or drainage and public railways transportation services) from the date of publication of the notice on intent to award the procurement contract.

The negotiated procurement procedure can be cancelled by contracting authority partially (by lot).

<p style="text-align: center;">Section VIII PROCUREMENT CONTRACT</p>
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Article 41 - Main Requirements for Procurement Contracts and Modifications

1. A procurement contract shall be concluded in accordance with provisions of the Civil Code of Ukraine and the Commercial Code of Ukraine, subject to the specific rules established by this Law.

2. The winner of the procurement/simplified procurement procedure, when entering into the public procurement contract, shall provide:

- 1) respective information on right to sign procurement contract;
- 2) copy of a permit or a licence for a specific business activity, if the legislation requires such permit or licence to be obtained to run the relevant business and such condition was indicated in tender documents/announcement of simplified procurement or required during negotiations in case of negotiated procedure.

In case when a group/associations of participants becomes an awarded tenderer, the license or permit copy is provided by one of the members of such association.

3. Contracts that provide for payments for supplies, works and services before/or without holding procurement procedures/simplified procurement shall be prohibited, except in the cases specified in this Law.

4. The terms and conditions of the procurement contract shall not deviate from the tender/offer submitted by the successful tenderer as a result of an e-auction (including prices per unit of goods) or the price offered by the tenderer in case of application of the negotiated procedure, except for the cases when national or foreign currency equivalent is used in the procurement contract and / or cases of recalculation of the price of the e-auction result in the direction of reducing the tender / offer without reducing the volume of the procurement.

5. The essential terms and conditions of the procurement contract may not be modified after its signing to fulfil the obligations of the parties in full, except for the following cases:

- 1) reduction of volume of procurement, particularly in view of the actual expenditures of the contracting authority;
- 2) increase of the price for a unit of supplies changed by maximum 10 % and no more than once every 90 days (except benzine, diesel fuel, gas and electricity) in case of price fluctuations for such supplies in the market, and provided that such an adjustment does not increase the amount specified in the contract;
- 3) improvement of the quality of the procurement item, provided that such improvement will not result in the increase in the amount specified in the contract;
- 4) the prolongation of duration of the contract and term for the fulfilment of obligations related to the delivery of supplies, the performance of works and the provision of services in case of occurrence of documented objective circumstances that caused such prolongation, including the force-majeure, a delay in financing the contracting authority's expenditures, provided that such changes will not result in the increase in the amount specified in the contract;
- 5) negotiation about lowering the price in the procurement contract (for the same quantity (volume) and quality of goods, works and services), including the case with market price fluctuations on these goods;

6) the price was changed due to the changed rates of taxes and duties and/or tax preferences, in proportion to such changed rates;

7) the consumer price index established by state statistics bodies under the law changed, or in case of change of the foreign currency exchange rate, Platts or ARGUS quotes and indicators, the regulated prices (tariffs) and rates applicable to the procurement contract if the procurement contract provides for a procedure of price adjustment;

8) the terms and conditions changed in connection with the application of provisions of part 6 of this Article.

Due to the necessity of satisfying defence needs during the validity of the martial law regime in Ukraine or in some of its localities, the essential terms of the contract (after its signing and until fulfilment of the obligations by the parties in full) may be changed by the contracting authority, defined in the Law of Ukraine "On Defence Procurement", namely: the volume of procurement, the amount of the contract, the time frame of the contract and the fulfilment of the obligation on obligations related to the delivery of supplies, the performance of works and the provision of services.

6. The duration of a procurement contract may be extended for a period sufficient to hold a procurement procedure/simplified procurement at the beginning of the following year, provided that the amount of the procurement does not exceed 20 % of the amount specified in the original contract, which was concluded in the previous year, and that the expenses for the said purpose have been approved in accordance with the established procedure.

7. In case of modifications to the contract envisaged by part 5 of this article, the contracting authority must publish notice of amendments to the contract.

8. The notice of amendments to the contract must contain:

1) name, location and identification code under the USREOU of contracting authority, its category;

2) the unique number of announcement on competitive procurement procedure or the unique number of notice of intention to award the contract (in case of negotiated procedure) designated by the electronic procurement system;

3) the date of conclusion and the number of the contract;

4) name (for legal entity) or surname, name, patronymic (for an individual) of the tenderer with whom a contract has been concluded;

5) identification code under the USREOU / registration number of the taxpayer's registration card (for natural persons) of tenderer with which contract has been concluded;

6) the location (for a legal entity) or place of residence (for an individual) of the tenderer with whom the contract has been concluded, the telephone number;

7) date of modifications to the contract;

8) cases applied for modifications the essential terms of the contract as envisaged in this Article;

9) description of modifications made to the essential terms of the contract.

The notice of amendments to the contract may include other information.

9. In case a procurement contract expires, is fully executed or terminated, the contracting entity must publish the report about procurement contract fulfillment.

Article 42 - Report on execution of the procurement contract

1. The report on the execution of the procurement contract shall include the following information:

1) the unique number of announcement on competitive procurement/simplified procurement procedure or the unique number of notice of intention to award the contract (in case of negotiated procedure) designated by the electronic procurement system;

2) the date of conclusion and the number of the contract;

3) the price in the contract;

4) the name, location and identification code under the USREOU of contracting authority, its category;

5) the name (for the legal entity) or the name, surname, patronymic (for the natural person) of the tenderer with whom the contract was concluded;

6) identification code of each participant in the USREOU or a taxpayer identification number, or passport series and number (for individuals who, because of their religious beliefs, refused to accept the taxpayer identification number and have officially notified the relevant controlling authority and have a passport mark indicating this) of the supplier of goods or service provider with whom the procurement contract is concluded;

7) the location (for the legal entity) or the place of residence (for the natural person) of the tenderer with whom the contract was concluded, telephone number;

8) the title of the procurement item and lots (if any) indicating the CPV, the codes and names of other relevant classifiers of procurement item (if any);

9) quantity, place and term of delivery of supplies, performance of works or providing of services;

10) the time of validity of the procurement contract;

11) the amount of payment(s) made under the procurement contract;

12) the reasons for termination of the contract, if termination happened.

The report on the execution of the procurement contract may contain other information.

Article 43 - Invalid Procurement Contract

1. A procurement contract shall be null and void in the following cases:

- 1) if contracting authority has entered into a procurement contract before/without a conduction of procurement procedure in accordance with the requirements of this Law;
- 2) if it was concluded in violation of the requirements of part 4 of Article 41 of this Law;
- 3) if it was concluded during the period of complaint review in accordance with Article 18 of this Law;
- 4) its conclusion in violation of the terms stipulated by part 5 and 6 of Article 33 and part 7 of Article 40 of this Law, except for cases of suspending of time terms in connection with the complaint review by the Complaint Review Body in accordance with Article 18 of this Law.

<p style="text-align: center;">Section IX LIABILITY IN THE FIELD OF PUBLIC PROCUREMENT</p>
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Article 44 - Liability for the Violation of Requirements of this Law

1. Authorised person(s), members of the Complaint Review Body, officers (officials) of the Authorised Body, officers (officials) of authorities in charge of the treasury services (servicing bank) shall be liable in accordance with the laws of Ukraine for the violation of requirements of this Law and regulations developed pursuant to this Law.

For the purchase of supplies, works and services before / without the procurement procedures / simplified procurement procedures specified in this Law and conclusion of contracts, which provide payment by the customer of goods, works and services before / without the procurement / simplified procurement defined by this Law, and for violation of this Law, the officials, the authorized person of the customer and the heads of customers are responsible in accordance with the laws of Ukraine.

Section X

FINAL AND TRANSITIONAL PROVISIONS

1. This Law shall come into force after six months of the day of its publication, except for Chapter VI, which shall come into force in 12 months after the day of the publication of this Law.

2. Since the day this Law enters into force the following laws are declared that they have become invalid:

1) Law of Ukraine "On peculiarities of procurement of non-irradiated fuel elements (spent nuclear fuel) for nuclear reactors" (Vidomosti of the Verkhovna Rada of Ukraine, 2012, No. 28, p. 307);

2) Law of Ukraine "On peculiarities of public procurement of postal services, postage stamps and envelopes" (Vidomosti of the Verkhovna Rada of Ukraine, 2013, No. 19-20, p. 185).

3. Paragraph 19 of Part 5 of Article 3 of this Law shall remain in force until 31 March 2022.

3¹. This Law shall not apply to cases where the subject of procurement is goods, works or services necessary to implement measures aimed at preventing the occurrence and spread, localization and elimination of outbreaks, epidemics and pandemics of coronavirus disease

(COVID-19). The list of such goods, works or services and their procurement procedure shall be approved by the Cabinet of Ministers of Ukraine.

Based on the results of such procurement, the contracting authority publishes in the electronic procurement system a report on the procurement contract concluded without the use of electronic procurement system, the procurement contract and all annexes thereto, a report on the implementation of the procurement contract in accordance with Article 10 of this Law.

In case of non-compliance with the requirements for publication of such reports, the guilty persons shall be prosecuted in accordance with the law.

3². It shall be established that before 24 August 2021, the contracting authorities identified by the Cabinet of Ministers of Ukraine may carry out procurement of goods, works and services necessary for ensuring preparation for and holding of events on the 30th Anniversary of Independence of Ukraine, in accordance with the list of goods, works and services approved by the Cabinet of Ministers of Ukraine, under a negotiated procedure laid down in Article 40 of this Law. In this case, the contracting authority shall have the right to award a procurement contract based on the results of the negotiated procurement procedure not earlier than five days from the date of publication of the notice of intent to award the procurement contract in the e-procurement system.

3³. It shall be established that before 28 June 2021, procurement of goods, works and services necessary for ensuring preparation for and holding of events on the 25th Anniversary of the Constitution of Ukraine shall be carried out by the contracting authorities under a negotiated procedure laid down in Article 40 of this Law. In this case the contracting authority shall have the right to award a procurement contract based on the results of the negotiated procedure not earlier than five days from the date of publication of the notice of intent to award the procurement contract in the e-procurement system.

4. To establish that by 1 January 2022:

1) a contracting authority may establish a tender committee(s) for the purposes of organizing and holding procurement procedures.

A contracting authority may appoint authorized person(s) and a tender committee(s) provided that each of them will be responsible for the purposes of organizing and holding concrete (different) procurement procedures.

For needs of this Law “tender committee” refers to the officers (officials) or other employees of the contracting authority appointed to be in charge of organizing and holding procurement procedures in accordance with this Law.

A tender committee shall be guided by the principles of collegiality and impartiality.

Membership in a tender committee or appointment of an authorized person(s) must not cause conflict of interest between a contracting authority and a tenderer or between tenderers as such conflict of interest may affect objectivity and impartiality of decision-making in selecting the successful tenderer.

Composition of the tender committee, as well as Regulations on the tender committee shall be subject to approval by the contracting authority.

A tender committee shall consist of at least five members. Where a contracting authority's staff consists of fewer than five persons, the tender committee shall be composed of all officers (officials) of the contracting authority.

Chairman of a tender committee shall manage the work of the committee.

Chairman of a tender committee shall be appointed by the contracting authority, organize the work of the committee and shall be personally responsible for the performance of functions vested in the committee.

Officers and representatives of tenderers, their family members, as well as people's deputies of Ukraine, deputies of the Supreme Council of the Autonomous Republic of Crimea and district/town/city/rayon/oblast councils may not be members of tender committees, nor may be appointed as authorized persons.

Tender committee plans procurements and approves the annual procurement plans; choose a procurement procedure; hold procurement procedures; provide for equal treatment of all tenderers, as well as objective and fair selection of the successful tenderer; make sure that necessary public procurement documents as specified by this Law are executed, approved and kept; provide for the publication of public procurement information and reports in compliance with this Law; exercise other powers provided for by this Law.

A decision of a tender committee shall be executed in the form of minutes with indication of the date of decision. Such decisions shall document the results of votes by members of the committee present at the meeting of the tender committee in respect of each particular matter on the agenda. The minutes shall be signed by all members of the committee present at the meeting. Refusal of a member of the tender committee to sign the minutes shall be documented in the minutes with the indication of the reasons for such refusal.

Model Regulation on tender committee shall be approved by the Authorized Body;

2) authorized persons shall confirm the level of knowledge in the field of public procurement, taking into account the requirements of the second paragraph of the eighth part of Article 11 of this Law.

5. Procurement procedures for supplies, works and services initiated prior to the entry into force of this Law shall be completed in accordance with the procedure in force prior to the entry into force of this Law.

6. Procurement contracts concluded in accordance with the procedure and conditions established before the entry into force of this Law shall be executed in full before the expiry of the period for which such contracts have been concluded. Amendments to such contracts shall be made in the manner and under the conditions established before the enactment of this Law.

7. To amend following legislative acts of Ukraine:

1) in the Code of Administrative Offences of Ukraine (Vidomosti of the Verkhovna Rada of the Ukrainian SSR, 1984, Annex to the issue no. 51, p. 1122):

Article 38 shall be reworded as follows:

"Article 38. Time limits for imposing administrative penalties

Administrative punishment may be imposed no later than two months after the commission of the offense and, in the case of a continued offense, not later than two months from the day of its detection, except for cases where administrative offenses under this Code are under the jurisdiction of the court (judge).

If cases of administrative offenses under this Code or other laws are subject to the jurisdiction of a court (judge), the penalty may be imposed no later than three months from the date of the offense and, in the case of a continued offense, not later than three months from the date of its detection, administrative offenses referred to in paragraphs 3- 5 of this Article.

The administrative punishment for committing the offense provided for in paragraphs 3- 6 of Article 164¹⁴ of this Code may be imposed within six months from the date of its detection, but not later than two years from the day of its commission.

Administrative punishment for committing corruption offenses as well as offenses under Articles 212¹⁵, 212²¹ of this Code may be imposed within six months from the date of its detection, but not later than two years from the day of its commission.

Administrative punishment for committing the offenses provided for in Articles 204¹ and 204² of this Code may be imposed within three months from the date of their detection, but not later than one year from the date of their committing, and in the case of committing such offenses by foreigners or stateless persons in respect of whom a decision is made on the forced return or forced expulsion from Ukraine - within the time required for their departure from Ukraine, but not later than the period stipulated by the law for their departure from Ukraine or securing their forced expulsion from Ukraine.

In case of closing of criminal proceedings, but in the presence of the administrative offense in actions of the offender, administrative punishment can be imposed not later than three months from the day of the decision on closing of criminal proceedings ";

Article 164¹⁴ shall be reworded as follows:

"Article 164¹⁴. Violation of the procurement legislation

Violation of the procedure for determining the procurement item; untimely provision or failure to provide by procuring entity with explanations on content of the tender documentation; the tender documentation has not been prepared in accordance with the requirements of the law; the amount of tender bid security set out in the tender documentation exceeds the limits set by law; failure to publish or violation of the time limits for publication of the procurement information; failure to publish or violation of the procedure for publication of information on the procurement under the Law "On Amending Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19) "; failure to provide information and documents in cases provided by law; breach of terms of the tender proposal consideration -

entail the imposition of a fine on the official (officials), authorized persons of contracting authority in the amount of one hundred of non-taxable minimum incomes of citizens.

The acts provided for in paragraph 1 of this Article are committed by a person who has been subject to administrative penalties for the same violations during the year, -

entail the imposition of a fine on the official (officials), authorized persons of contracting authority in the amount of two hundreds of non-taxable minimum incomes of citizens.

Purchase of supplies, works and services before / without procurement procedures / simplified procurement in accordance with the law; the use of competitive dialogue or restricted bidding, or negotiated procurement procedures on conditions not envisaged by law; non-rejection of tenders to be rejected in accordance with the law; rejection of bids on grounds not provided for by law or not in accordance with the requirements of the law (groundless rejection);

concluding with the tenderer who has won the procurement procedure a procurement contract whose conditions do not meet the requirements of the tender documentation and / or the tender offer of the winner of the procurement procedure; amending the essential terms of the procurement contract in cases not provided for by law; entering inaccurate personal data into the electronic procurement system and not updating if they are changed; violation of the deadline for the publication of the tender documentation -

entail the imposition of a fine on the (official), authorized persons of contracting authority in the amount from one thousand five hundred to three thousands of non-taxable minimum incomes of citizens.

The actions provided for in paragraph 3 of this Article are committed by a person who has been subject to administrative penalties for the same violations during the year, -

entail the imposition of a fine on officials (officials), authorized persons of contracting authority in the amount of from three thousand to five thousands of non-taxable minimum incomes of citizens.

Failure to execute the decision of the Antimonopoly Committee of Ukraine as review body on the results of consideration of complaints submitted according to the Law, -

entails a fine for a head of contracting authority in amount of the from two to five thousands of tax-free minimum incomes of citizens.

Conclusion of contracts providing for the payment for supplies, works and services before / without carrying out the procurement procedures / simplified procurement specified by law, -

entails a fine on the head of procuring entity in the amount from two to ten thousands of tax-free minimums of incomes of citizens”;

in article 221 digits “164⁵ – 164¹⁹” shall be replaced by such words and digits as “164⁵ – 164¹³, paragraphs third-sixths of article 164¹⁴, articles 164¹⁵ – 164¹⁹”;

paragraph one of article 234¹ shall be supplemented by such words and digits as “by violation of law on public procurement (paragraph one and two of article 164¹⁴);

in indent “bodies of state financial control (articles 163¹², 164¹², 164¹⁴)” of point 1 of paragraph 1 of article 255 digits “164¹⁴” shall be replaced by such words and digits as “paragraphs third-sixths of article 164¹⁴”;

2) in point 10 of part one of article 4 of Law of Ukraine “On sanctions” (Vidomosti of the Verkhovna Rada of Ukraine, 2014, No. 40, p. 2018; 2018, No. 1, p. 2) words “state procurement” shall be replaced by words “public procurement”;

3) point 2 of part two of article 62 of Law of Ukraine “On Prevention of Corruption” (Vidomosti of the Verkhovna Rada of Ukraine, 2014, No. 49, p. 2056) shall be reworded as:

“2) legal entities that are participants of procurement procedure in accordance with the Law of Ukraine "On Public Procurement", if the value of the purchase of supplies, services (services), works is equal to or exceeds UAH 20,000,000”;

4) part two of article 39 of Law of Ukraine “On Elections of the President of Ukraine” (Vidomosti of the Verkhovna Rada of Ukraine, 1999, No. 14, p. 81; 2004, No. 20-21, p. 291; 2009, No. 50, p. 754) shall be reworded as:

“2. Procurement of goods, works and services for the preparation and holding of elections of the President of Ukraine is carried out in accordance with the Law of Ukraine "On Public Procurement"”;

5) part two of article 51 of Law of Ukraine “On Elections of the Members of the Parliament Ukraine” (Vidomosti of the Verkhovna Rada of Ukraine, 2012, No. 10-11, p. 73) shall be reworded as:

“2. Procurement of supplies, works and services for the preparation and holding of elections of the Members of the Parliament of Ukraine is carried out in accordance with the Law of Ukraine "On Public Procurement"”;

6) part two of article 73 of Law of Ukraine “On Local Elections” (Vidomosti of the Verkhovna Rada of Ukraine, 2015, No. 37-38, p. 366) shall be reworded as:

“2. Procurement of supplies, works and services for the preparation and holding of regular local elections, extraordinary, additional and first elections of the delegates and village, town majors and second, interim local elections, extraordinary and first elections of village elders is carried out in accordance with the Law of Ukraine "On Public Procurement"”;

7) in point 7 of part one of article 15 of Law of Ukraine “On Political Parties in Ukraine” (Vidomosti of the Verkhovna Rada of Ukraine, 2001, No. 23, p. 118; 2013, No. 49-50, p. 449) words “Law of Ukraine “On performance of state procurement” shall be replaced by words “Law of Ukraine “On Public Procurement””;

8) in indent 4 of part two of article 1 of Law of Ukraine “On Electronic Commerce” (Vidomosti of the Verkhovna Rada of Ukraine, 2015, No. 45, p. 410) words “Law of Ukraine “On performance of state procurement” shall be replaced by words “Law of Ukraine “On Public Procurement””;

9) in Law of Ukraine “On the peculiarities of procurement of supplies, works and services for the guaranteed provision of defense needs” (Vidomosti of the Verkhovna Rada of Ukraine, 2016, No. 24, p. 488):

part one of Article 1 shall be supplemented by the following points 4¹ and 7¹:

"4¹) martial law -- within the meaning specified in the Law of Ukraine "On the Legal Status of Martial Law"”;

"7¹) the period of the operation of the Joint Forces -- the period during which the measures envisaged by the Law of Ukraine "On the Peculiarities of State Policy for Ensuring the State Sovereignty of Ukraine at Temporarily Occupied Territories of Donetsk and Luhansk Oblasts"”;

in the text of the Law the words "during the period of conducting an anti-terrorist operation, during the state of emergency" shall be replaced by the words "during the operation of the

combined forces, the anti-terrorist operation, during the period of introduction of martial law or state of emergency";

10) part two of article 2 of Law of Ukraine "On Administrative Services" (Vidomosti of the Verkhovna Rada of Ukraine, 2013, No. 32, p. 409; 2016, No. 51, p. 833; 2017, No. 27-28, p. 312, No. 31, p. 343) shall be supplemented by point 16 as follows:

"16) authorization of e-platforms and making decision on disconnection of authorized electronic platforms from the electronic procurement system provided by the Law of Ukraine "On Public Procurement";

11) in part three of article 2 of Law of Ukraine "On Medicines" (Vidomosti of the Verkhovna Rada of Ukraine, 1996, No. 22, p. 86; 2015, No. 24, p. 164) words "Law of Ukraine "On performance of state procurement" shall be replaced by words "Law of Ukraine "On Public Procurement";

12) in Law of Ukraine "On Standardization" (Vidomosti of the Verkhovna Rada of Ukraine, 2014, No. 31, p. 1058):

in part four of article 29 words "Law of Ukraine "On performance of state procurement" shall be replaced by words "Law of Ukraine "On Public Procurement";

second sentence of indent 7 of point 3 of the Section VI "Final and Transitional Provisions" shall be reworded as follows: "Procurement of indicated services for funds of the State Budget of Ukraine is carried out in accordance with the Law of Ukraine "On Public Procurement";

13) in point 10.1 of article 10 of Law of Ukraine "On Establishment of Free Economic Zone "Crimea" and Peculiarities of Performing of Economic Activity at Temporarily Occupied Territory of Ukraine" (Vidomosti of the Verkhovna Rada of Ukraine, 2014, No. 43, p. 2030) words "participants, participants of pre-qualification and contractors" shall be replaced by words "procurement participants" and words "Law of Ukraine "On performance of state procurement" shall be replaced by words "Law of Ukraine "On Public Procurement";

14) in point 10 of part one of article 9 and in part two of article 70 of Law of Ukraine "On National Bank of Ukraine" (Vidomosti of the Verkhovna Rada of Ukraine, 1999, No. 29, p. 238; 2010, No. 49, p. 570; 2015, No. 32, p. 315) words "Law of Ukraine "On performance of state procurement" shall be replaced by words "Law of Ukraine "On Public Procurement";

15) in part six of article 49 of Law of Ukraine "On Scientific and Scientific-Technical Activity" (Vidomosti of the Verkhovna Rada of Ukraine, 2016, No. 3, p. 25) words "Law of Ukraine "On performance of state procurement" shall be replaced by words "Law of Ukraine "On Public Procurement";

16) in Law of Ukraine "On Antimonopoly Committee of Ukraine" (Vidomosti of the Verkhovna Rada of Ukraine, 1993, No. 50, p. 472 with the following amendments):

in part one of article 1 and point 5 of article 3 words "in sphere of state procurement" shall be replaced by words "in sphere of public procurement";

in article 7:

in points 17¹ and 18 of part one words "Law of Ukraine "On performance of state procurement" and" shall be deleted;

in point 19 of part three words “and Law of Ukraine “On performance of state procurement” shall be deleted;

in point 20 of part one of article 16 and in point 20 of part one of article 17 words “Law of Ukraine “On performance of state procurement” shall be deleted;

17) in Law of Ukraine “On the Fundamental Principles of Exercising State Financial Control in Ukraine ” (Vidomosti of the Verkhovna Rada of Ukraine, 1993, No. 13, p. 110; 2014, No. 4, p. 61; 2018, No. 6-7, p. 45):

in the third part of Article 2, the words "and examinations of procurement" shall be deleted;

article 5 after the first part shall be supplemented with the following new part:

"The procedure and grounds for conducting procurement inspections by the state financial control body shall be established by the Cabinet of Ministers of Ukraine."

In this connection, parts two and three are considered respectively as parts three and four;

18) in point 1 of section II “Final Provisions” of the Law of Ukraine “On Amendments to Certain Laws of Ukraine on Ensuring Timely Access of Patients to Necessary Medicines and Medical Devices through Public Procurement with Specialized Procurement Organizations” (Vidomosti of the Verkhovna Rada of Ukraine, 2015, No. 24, p. 164) digits "2020" shall be replaced with digits "2022";

19) in the Law of Ukraine "On Ensuring the Functioning of the Ukrainian as State Language " (Vidomosti of the Verkhovna Rada of Ukraine, 2019, No. 21, p. 81):

1) part five of Article 30 after the words “by the state language” shall be supplemented by the words and digits "with taking into account the features defined in Article 33 of this Law";

2) Article 33 shall be supplemented by part six as follows:

"6. The marking of medicines and medical devices, as well as the texts of instructions for their use, shall be made in the state language. The marking of medicines and medical devices to be procured by a specialized procurement organization for the implementation of a procurement agreement between a central executive body providing the formulation and implementation of a public health policy and the relevant specialized procurement organization, and the instructions for their use may be in the original language. "

8. The Cabinet of Ministers of Ukraine shall, within six months from the day this Law enters into force:

bring its normative legal acts in compliance with this Law;

ensure that ministries and other central executive bodies bring their normative-legal acts into compliance with this Law;

ensure the adoption of normative legal acts necessary for the implementation of the provisions of this Law. "

The President of Ukraine

Volodymyr Zelenskyi

**KYIV
03.06.2021
№ 1530-IX**