PUBLIC PROCUREMENT ACT


In force from 1st of October 2004

Part one.
GENERAL RULES

Chapter one.
GENERAL PROVISIONS

Section I.
Objective and principles

Art. 1. This Act determines the principles, the terms and the procedure for the award of public procurement for the purpose of ensuring efficiency in spending budget and non-budget funds, as well as of resources related to carrying out activities of public importance defined by the law.

Art. 2. (1) (Prev. text of art. 2, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 01.07.2014) Public procurement shall be awarded subject to compliance with the terms and conditions and following the procedures established in this Act, in compliance with the following principles:

1. publicity and transparency;
2. (amend. - SG 37/06, in force from 01.07.2006) free and fair competition;

(2) (new - SG 37/06, in force from 01.07.2006) When a contracting authority provides special or exclusive rights for carrying out service to a person, who is not a contracting authority, the act, with which the rights are being provided, must require this person to observe the principle of non-admission of discrimination on the basis of nationality at assigning contracts for deliveries to third persons as a part of the activity, related to these rights.

Section II.
Objects and Subjects of Public Procurement

Art. 3. (1) Objects of public procurement are:

1. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) the delivery of goods, which are being carried out by virtue of purchase, renting, leasing with or without a right of purchase or installment plan, as well as all necessary preliminary activities related to the use of the goods, such as set up, testing of machines and equipment and other;
2. providing services;
3. (amend. – SG 40/14, in force from 01.07.2014) construction including:
   a) execution of construction works or engineering and execution of a construction project;
   b) execution or engineering and execution of one or several construction and installation works according to Appendix No 1;
   c) fulfilment with any resources of one or more activities related to the execution of construction project in compliance with the requirements of the contracting authority.
(2) (revoked - SG 37/06, in force from 01.07.2006; new – SG 33/12) Objects of public procurement are also:

1. supply of military equipment, including any parts, components and/or fixing components for it, including the equipment, included in the list of products, related to defense, adopted on the grounds of Art. 2, par. 1 of the Act on Export Control of Defence-Related Products and Dual-Use Items and Technologies;
2. supply of special equipment, including any parts, components and/or fixing components for it;
3. (amend. – SG 40/14, in force from 01.07.2014) construction and/or services, directly related to the equipment referred to item 1 and 2, for every and all component of its life cycle;
4. (amend. – SG 40/14, in force from 01.07.2014) construction and/or services for specific military purposes or special construction and special services.

Art. 4. Shall not be object of public procurement:

1. (suppl. – SG 37/06, in force from 01.07.2006) acquiring or renting of land, existing buildings or other real estates, as well as establishing title over limited real rights, except for the financial services, related to these transactions;
2. acquisition, creation, production and co-production of programmes by radio and television operators and submission of programme time;
3. (amend., SG 53/04, SG 34/2005; suppl. - SG 18/06, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 13.05.2014) financial services related to the issuance and transfer of securities or other financial instruments; the services provided by the Bulgarian National Bank; the services provided in connection with the undertaking and management of the government debt; the services provided in connection with the management of the system of the single account and fiscal reserve;
4. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 13.05.2014) scientific research and experimental works, including the field archeological studies where the contracting authority pays the service in full, but the benefits from them does not remain explicitly for the contracting authority in fulfilment of his activity;
5. (new, SG 53/04, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10) the arbitration and conciliation services;
6. (new - SG 37/06, in force from 01.07.2006) the labour contracts.
7. (new - SG 99/10, in force from 01.01.2011; amend. – SG 40/14, in force from 13.05.2014) the loans provided by and through the Bulgarian Development Bank, where this is provided under
international programs or contracts, or by the law.


Art. 5. (1) Public procurement for services, depending on the order by which they are assigned, are divided in:

1. (amend. - SG 37/06, in force from 01.07.2006) public procurement for services, included in appendix No 2, assigned by way of:
   a) open or limited procedure by contracting authorities under art. 7, items 1 through 4;
   b) open procedure, limited procedure or procedure of negotiation with notice by contracting authorities under art. 7, items 5 and 6;

2. (amend. - SG 37/06, in force from 01.07.2006) public procurement for services, included in Appendix No 3, which shall be assigned by way of open procedure, limited procedure or procedure of negotiation with notice.

3. (new – SG 33/12) public procurement for services referred to in Art. 3, par. 2, included in Attachment No. 5, which shall be assigned by way of a limited procedure or a procedure of negotiation with notice;

4. (new – SG 33/12) public procurement for services referred to in Art. 3, par. 2, included in Attachment No. 6, which shall be assigned by way of a limited procedure, a procedure of negotiation with notice or a procedure of negotiation without notice.

(2) (amend. - SG 37/06, in force from 01.07.2006) Public procurement including simultaneously services under Appendices No 2 and 3 shall be assigned by the order, provided for the services of higher cost.

(3) (new – SG 33/12) Public procurement including at the same time services referred to in Attachments No. 5 and 6 shall be assigned following the procedures, provided for the services of a higher value.

(4) (new – SG 94/08, in force from 01.01.2009; amend. – SG 52/10; prev. par. 3, amend. – SG 33/12) Public procurement under para 1, items 1 and 2 shall be assigned for a period of up to 5 years. As an exception in the cases of services related to provision of bank loans for financing of investment projects or European Union projects and programmes a 10-year term may be fixed, provided that the contracting authority states the reasons for this in the decision for initiation of the procedure or in the public procurement notice.

Art. 6. (suppl. – SG 37/06, in force from 01.07.2006) Subjects of the procedures for assigning public procurement are the contracting authorities, the participants and the contractors.

Art. 7. (amend. - SG 37/06, in force from 01.07.2006) Contracting authorities of public procurement are:

1. (suppl. – SG 93/11, in force from 26.02.2012; suppl. – SG 40/14, in force from 13.05.2014) the bodies of state power, the President of the Republic of Bulgaria, the Ombudsman of the Republic of Bulgaria, the Bulgarian National Bank, the Chief Prosecutor and administrative heads of the prosecution offices in the country, as well as other state institutions, established by a normative act;

2. the diplomatic and consular representations of the Republic of Bulgaria abroad, as well as the permanent representations of the Republic of Bulgaria to the international organisations;

3. the public organisations;

4. the associations of subjects under item 1 or 3;

5. the public enterprises and their associations, where they carry out one or several of the
activities under art. 7a – 7e;
6. the traders or other persons, who are not public enterprises, when on the grounds of special or exclusive rights they carry out one or several of activities under art. 7a – 7e.

Art. 7a. (new - SG 37/06, in force from 01.07.2006) (1) Activities, connected with natural gas, heating or electric power, are:
1. the provision or the exploitation of fixed networks for public services, related to the production, transfer or the distribution of natural gas, heating or electric power, the production of heating or electric power with the purpose of delivery to these networks or
2. the delivery of natural gas, heating or electric power to such networks.
(2) The delivery of natural gas or heating power to fixed networks for public services shall not be deemed as activity within the meaning of par. 1, in case:
1. the production of natural gas or heating energy is a result from the implementation of activity, other than the activities under par. 1 or art. 7b – 7e, and
2. the delivery to these networks aims solely the economical exploitation of the production of natural gas or heating energy, provided that the amount of the deliveries is not more than 20 percent of the average annual turnover of the producer in the last three years, including the current year.
(3) The delivery of electric power to fixed networks for public services shall not be deemed as activity within the meaning of par. 1, in case:
1. the production of electric power is designated for implementation of an activity, different from the activities under art. 7b – 7e, and
2. the deliveries to the network for public services depend entirely on the own consumption of the producer and do not exceed 30 percent of the average annual production in the last three years, including the current year.

Art. 7b. (new - SG 37/06, in force from 01.07.2006) (1) Activities, connected to drinking water, are:
1. the provision or the exploitation of fixed networks for public services, related to the production, transfer or the distribution of drinking water, or
2. the delivery of drinking water to such networks.
(2) The persons, carrying out activity under par. 1, shall apply the provisions of the Act also to activities, related to:
1. irrigation, drainage or other hydro-technical activities, provided that the amount of water, designated for drinking needs is more than 20 percent of the total quantity of water, supplied via these activities, or
2. the discharge or the purifying of waste waters.
(3) The delivery of drinking water to fixed networks for public services shall not be considered as activity within the meaning of par. 1, in case:
1. the production of drinking water is necessary for implementation of activity, different from the activities under par. 1 or art. 7a, art. 7c – 7e, and
2. the deliveries to the network of public services depend entirely on the own consumption of the producer and do not exceed 30 percent of the average annual production in the last three years, including the current year.

Art. 7c. (new - SG 37/06, in force from 01.07.2006) (1) (suppl. – SG 52/10) Activities, related to transport services, are the providing or exploitation of public services networks in the field of the
railway, tramway, trolley or the bus transport, as well as automated transport systems or rope-lines.

(2) Activity in the meaning of para 1 shall not be considered the providing of bus transport services to the population, in case other persons may freely provide these services under the same terms as the contracting authority.

Art. 7d. (new - SG 37/06, in force from 01.07.2006) (1) Activities, related to providing universal post service, are the services, referred to in art. 34 of the Postal Services Act.

(2) The persons, who carry out the activities under par. 1, shall apply the provisions of the Act to their overall activity.

Art. 7e. (new - SG 37/06, in force from 01.07.2006; amend. - SG 17/15, in force from 06.03.2015) Activities, related to the exploitation of definite geographical region, are:
1. production of oil and natural gas;
2. prospecting, exploration for or production of coal or other solid fuel;
3. the operation of aerodromes, ports or other terminal bases, used during air, water or internal water ways transport;

Art. 8. (1) (new - SG 37/06, in force from 01.07.2006) The contracting authority shall be obliged to conduct a procedure for assigning public procurement, if the grounds, provided for in the law, are present.

(2) (Prev. text of par. 1, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) The contracting authority or officials, authorized by them, shall organise and carry out the procedures for assigning public procurement and shall conclude the contracts for them. The authorization may not be used for separation of the public procurement with the purpose of evasion of an Act.

(3) (new - SG 37/06, in force from 01.07.2006; suppl. – SG 52/10) If the contracting authority is a collective body or a legal entity, the authorities under par. 2 shall be carried out by the person, who represents it.


(6) (Prev. text of par. 3, amend. - SG 37/06, in force from 01.07.2006) Two or more contracting authorities may take a decision for carrying out a joint procedure for assigning public procurement.

(7) (new – SG 94/08, in force from 01.01.2009; new – SG 40/14, in force from 01.10.2014) In the course of preparation of the procedure for the awarding of a public procurement, the contracting authorities shall be obliged to provide for the drawing up of technical specifications, of a methodology of bids assessment in the public procurement tender documentation with criteria of economically most favorable offer, and also of the application programs in case of competitions for a project, participation of minimum one expert having relevant professional competency related to the subject of the public procurement. Where the contracting authority does not have employees meeting the professional competency requirement, they shall provide outsourced experts from the list under Art. 19, par. 2, item 8 or others through awarding subject to compliance with the provisions of this Act. The documents referred to in sentence one shall be signed by the persons having drawn them up.

(8) (new – SG 40/14, in force from 01.10.2014) The outsourced experts under par. 7 cannot be:
1. included in the commission for conducting of the public procurement awarding procedure, respectively in the panel in a project competition;
2. participate in a public procurement awarding procedure, independently or in association with other persons, like participants, applicants, members of associations-applicants, subcontractors or through affiliated persons, unless the documents, in the drawing up of which they have been involved, have been amended in such a way that they do not provide to the applicant information giving them advantages before the remaining participants in the procedure.

Art. 8a. (new - SG 93/11, in force from 26.02.2012; amend. – SG 33/12) (1) Contracting authorities may receive supplies or services from or through a central body for public procurement orders.

(2) (amend. – SG 40/14, in force from 01.07.2014) The central body for public procurement orders shall have the rights and the obligations of a contracting authority concerning the conducting of procedures and concluding and implementation of contracts or frame agreements for the needs of other contracting authorities.

(3) Where the contracting authorities receive supplies or services following the procedure of par. 1, it shall be deemed that they have complied with the legal provisions, as far as the central body for public procurement orders have complied therewith. The central body and the contracting authority shall be held responsible for the legitimacy of the respective procedure conducted by them.

(4) (amend. – SG, 14/15) The Council of Ministers upon a proposal of the Minister of Economy may set up a central body for public procurement orders for the needs of the executive government bodies.

(5) (new – SG 40/14, in force from 01.07.2014) The regulations for the organization of work and fulfillment of functions of a public procurement central authority shall be set out by the act of its establishment.

Art. 8b. (new - SG 93/11, in force from 26.02.2012) Contracting authorities shall be obliged to accept internal regulations for the assignment of public procurement orders, which shall describe the procedure of planning and organization of conduction of the procedures and of monitoring of the implementation of the concluded public procurement contracts.

Art. 9. (1) (amend. - SG 37/06, in force from 01.07.2006; prev. Art. 9 – SG 33/12; suppl. – SG 40/14, in force from 01.07.2014) An applicant or a participant in a public procurement procedure may be any Bulgarian or foreign natural or legal person, as well as their associations. Contracting authorities shall not have the right to require from the association to have got a specific legal form in order to be eligible to submit an application for participation or a bid.

(2) (new – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) A candidate or a participant may not be suspended from the procedure for assignment of a public procurement on the grounds of its status or legal form, where it or members of the association are licensed to provide the respective service, carry out supplies or construction works in the Member State, in which they are based.

Art. 10. (amend. - SG 37/06, in force from 01.07.2006) A contractor of a public procurement shall be a participant in a public procurement procedure, with whom the contracting authority has concluded a public procurement contract.
Art. 11. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10) The decisions of contracting authorities, adopted in relation to the public procurement procedures, are individual administrative acts being issued pursuant to this Act.

(2) (new – SG 52/10) The decisions referred to in para 1 contain the following:
1. name of the contracting authority;
2. number, date and legal ground for issue of the act;
3. the procedure type and the subject of the procurement;
4. operative part, the contents of which depends on the stage of the procedure;
5. grounds – where required;
6. the body before which it can be appealed against an the time-limit;
7. full name and signature of the person who has issued the act, as well as the position he/she is holding.

(3) (new – SG 52/10) Contracting authorities shall not be entitled to admit pre-execution upon issue of decisions referred to in para 1.

Art. 12. (1) (amend. – SG 33/12) For projects referred to in Art. 3, par. 1 the Act shall not apply for:

1. (amend. - SG 37/06, in force from 01.07.2006) contracts for granting a concession for construction within the meaning of the Concessions Act;
2. (amend. - SG 37/06, in force from 01.07.2006) contracts, which the contracting authorities under art. 7, item 5 or 6 conclude in connection with activity, other than the activities under art. 7a – 7c and art. 7e or in connection with some of these activities, carried out in a third country and a network or geographic region in a Member state of the European Union are not used;
3. (amend. - SG 37/06, in force from 01.07.2006) contracts for delivery, concluded by a contracting authority under art. 7, item 5 or 6 for the purpose of sale or renting the object of the contract to third persons, in case that the contracting authority has no special or exclusive rights to sell or rent the object of such contracts, and other persons may freely carry out this activity under the same terms;
4. (amend. - SG 37/06, in force from 01.07.2006) contracts for supply of water, energy or fuel for production of energy, concluded by a contracting authority under art. 7, item 5 or 6, carrying out activity under art. 7a;
5. (new - SG 37/06, in force from 01.07.2006) contracts for supply of water, concluded by a contracting authority under art. 7, item 5 or 6, carrying out activity under art. 7b;
6. (prev. text of item 5, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 01.07.2014) contracts for services, supplies and construction works concluded by a contracting authority under art. 7, item 5 or 6 with an affiliated enterprise, on condition that at least 80 percent of the average annual turnover of the enterprise in the last three years comes from the provision of such services, supplies or construction works to affiliated enterprises;
7. (prev. text of item 6, amend. - SG 37/06, in force from 01.07.2006, and with regards to second sentence - in force from 01.01.2007) contracts, assigned by association, established by contracting authority for carrying out activity under art. 7a – 7e, to one of the participants in it;
8. (new - SG 37/06, in force from 01.07.2006) contracts, assigned by a participant in association, established by the contracting authority for carrying out activity under art. 7a -7e, to the association, if it has been established with the purpose to carry out the respective activity for a period of at least three years and the constituent act provides that the contracting authority will participate in it during the same period;
9. (prev. text of item 7, amend. - SG 37/06 and from 01.01.2007 with regards to second sentence; amend. - SG 93/11, in force from 26.02.2012) contracts for deliveries, assigned by one
contracting authority to another contracting authority under art. 7, item 1 and 3 or to association of such contracting authorities, who have exclusive rights to provide such services by virtue of a law, by-law or administrative act, the act for providing the exclusive rights shall be issued, observing the provisions of the Treaty on the functioning of the European Union;


11. (prev. text of item 9 - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. and suppl. – SG 40/14, in force from 01.07.) contracts concerning medicinal products under the provision of Art. 262, par. 6, item 1 of the Law for the Medicinal Products in Human Medicine, medical devices and dietary food for special medical purposes, concluded by the National Health Insurance Fund under Art. 45, para 15 of the Health Insurance Act.

12. (new – SG 19/11, in force from 09.04.2011) contracts for assigning activities related to establishing forests, conducting logging and timber and using of non-timber forest products according to the Forestry Act.

13. (new - SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) contracts, concluded by contracting authorities under Art. 7, item 1, 3 and 4 with a company or a state-owned enterprise under Art. 62, par. 3 of the Act of Commerce, for which the following conditions are met concurrently:
   a) its capital is owned totally by the state or a municipality or is owned by a holding the capital of which is a holding, the capital of which is fully a state and/or municipal ownership;
   b) it is a subject of control similar to the one exercised by the contracting authority over its own structural units;
   c) minimum 80% of the turnover are accumulated from activities, related to the provision of fulfillment of functions of the contracting authority.

14. (new – SG 33/12) contracts, awarded for implementation of an international treaty, concluded subject to compliance with the provisions of the Treaty on the Functioning of the European Union, between the Republic of Bulgaria and a third party and providing supplies, services or construction of projects, meant for joint implementation or operation by the parties having signed it;

15. (new – SG 33/12) contacts, awarded under specific procedural rules of an international organization;

16. (new – 40/14, in force from 01.07.2014) contracts awarded for the implementation of an international treaty, concerning the deployment of troops and related to undertakings of an European Union Member State or of a third country;

17. (new – 40/14, in force from 01.07.2014) contracts with a subject matter procedural representation and related thereto legal advice on cases before a judicial, arbitrary or reconciliation authority in the country, in another European Union member state or in a third country;

18. (new - SG 8/15) contracts for services, supplies or construction works, concluded by a contracting authority under Art. 7, items 1 and 5, related to construction of engineering facilities hindering border crossings in order to protect state borders;


2) (new - SG 37/06, in force from 01.07.2006) In the cases under par. 1, item 6, when the related enterprise has not achieved turnover for the precedent three years because of the date of its establishment or the initial moment of its activity, it is enough its business plans to provide for at least 80 percent of its average annual turnover to be achieved from the deliveries, the services or the construction, which shall be provided to related enterprises.

3) (new - SG 37/06, in force from 01.07.2006) If one or more than one enterprise, related to
the contracting authority, provides the same or similar services, deliveries or construction, the value under par. 1, item 6 shall be calculated, taking into account the total turnover, achieved respectively from the provision of services, deliveries, or construction to these related enterprises.

(4) (new - SG 93/11, in force from 26.02.2012) In cases referred to in par. 1, item 13, where the company has not achieved a turnover due to the date of its establishment or the time of commencement of its business, it shall be sufficient that at the time of its establishment it has been provided that its annual turnover shall be accumulated from the services, provided to the contracting authority.

(5) (new – 40/14, in force from 01.07.2014) The methodology of determination of the price of contracts referred to in par. 1, item 13 shall be set out by the Regulations for the application of the act.

(6) (new - SG 93/11, in force from 26.02.2012; prev. par. 5, SG – 40/14, in force from 01.07.2014) In case of withdrawal of any of the conditions referred to in par. 1, item 13, the contracting authority shall be obliged to terminate the contract within one month.

(7) (Prev. text of par. 2 - SG 37/06, in force from 01.07.2006; prev. par. 4 - SG 93/11, in force from 26.02.2012; prev. par. 6, SG – 40/14, in force from 01.07.2014) The contracting authority shall notify the Public Procurement Agency, upon its request, of:

1. (amend. - SG 37/06, in force from 01.07.2006) the cases for which the exceptions under para 1, item 2 shall apply;
2. the subject of the contracts under para 1, item 3;
3. (amend. - SG 37/06, in force from 01.07.2006) the name of the related enterprise, the object and the cost of the contract, as well as proof of the presence of the circumstances under para 1, items 6, 7 and 8 in the cases where these exceptions apply.

(8) (new – SG 33/12; prev. par. 7, SG – 40/14, in force from 01.07.2014) In cases referred to in par. 1, item 14, the contracting authority shall notify the Public Procurement Agency of the concluded contracts within 7 days.

Art. 13. (amend. – SG 33/12) (1) The Act shall not apply to contracts with the subject referred to in Art. 3, par. 2:

1. to be awarded under specific procedural rules:
   a) in compliance with international treaties, concluded by and between the Republic of Bulgaria, individually or jointly with one or more European Union Member States as one party and one or more third parties as second party;
   b) of an international organization, carrying out purchases for its own needs or for orders which have to be assigned in compliance with these rules;

2. the awarding of which is related to provision of information, the disclosure of which contradicts the key interests of state security according to the provision of Art. 346 of the Treaty on the Functioning of the European Union;

3. to be awarded for the needs of intelligence operations;

4. to be awarded within the cooperation program based on research and development activity, carried out by minimum two European Union Member States, for the development of a new product, and, where applicable, at the later stages for the entire or for parts of the life cycle of this product;

5. to be awarded in a third country, where the operative needs require the contracts to be concluded with contractors, located in the area of the operations, including for civil orders, implemented in the process of accommodation of forces outside the territory of the European Union;

6. to be awarded by the Council of Ministers of a different government, related to:
   a) supplies of military equipment or special equipment, or
   b) construction works and services, directly related to the equipment referred to in item "a", or
   c) construction works and services for specific military purposes or special construction works and special services;
7. for financial services, except for insurance services;
8. to be awarded for the fulfillment of an international treaty, related to accommodation of military forces and police forces in international missions and trainings;
9. (new – 40/14, in force from 01.07.2014) to be awarded by a contracting authority under Art. 7, items 1, 3 or 4 to a company or a state owned enterprise under Art. 62, par. 3 of the Act of Commerce, for which the following terms and conditions are met simultaneously:
   a) its capital is entirely owned by the state and/or a municipality or owned by a holding, the capital of which is entirely owned by the state and/or by a municipality;
   b) it is subject to control similar to that exercised by the contracting authority over their own structural units;
   c) minimum 80 per cent of the turnover is generated from activities related to the provision of fulfillment of contracting authority functions.

   (2) Upon accomplishment of the program referred to in par. 1, item 4 the participant from the Bulgarian side shall notify the European Commission the share of expenditures for research and development as a part of the total cost of the cooperation program, of the agreement for sharing of expenditures, and of the estimated share of purchases of a European Union Member State, if any.

   (3) (amend. – SG, 14/15) The Council of Ministers, upon a proposal of the Minister of Defense, the Minister of Economy, the Minister of Interior and the Minister of Finance shall adopt an ordinance, regulating:
   1. (suppl. – 40/14, in force from 01.07.2014) the criteria and the procedure of determination of presence of major national interests in the field of security and defense in the meaning of Art. 346 of the Treaty on the Functioning of the European Union, and
   2. the procedure of awarding of execution of investment projects for acquisition and/or upgrading of armaments, machinery and equipment for the needs of armed forces in cases referred to in par. 1, item 6;
   3. the terms and conditions and the procedure for conclusion of compensatory (offset) agreements – in cases referred to in par. 1, item 2.

   (4) (new – 40/14, in force from 01.07.2014) The methodology of determination of the price under the contracts referred to in par. 1, item 9 shall be set out by the Regulations for the application of the act.

Art. 13a. (new – SG 33/12) The contracting authorities shall not have the right to apply the grounds under Art. 4, par. 12 and 13 in order to bypass the law.

Art. 14. (amend. – SG 93/11, in force from 26.02.2011) (1) (suppl. – SG 33/12) The procedures referred to in this shall apply obligatorily in assigning public procurement with a subject under Art. 3, par. 1 of the following cost without VAT:
   1. (amend. – SG 33/12) for construction – such exceeding 264 000 BGN, and where the procurement has a place of fulfillment outside the country – such exceeding 1 650 000 BGN;
   2. (amend. – SG 33/12) for deliveries, services and a project competition – such exceeding 66 000 BGN, and where the procurement has a place of fulfillment outside the country – such exceeding 132 000 BGN;

   (2) (new – SG 33/12) Where the public procurements are with a subject referred to in Art. 3, par. 2, the contracting authorities shall apply the procedures under the law for the following costs, VAT exclusive:
   1. for construction works – equal to or exceeding 4 000 000 BGN;
   2. for supplies, services and a project competition – equal to or exceeding 400 000 BGN.
(3) (prev. par. 2, suppl. – SG 33/12) Contracting authorities may apply the simplified rules provided in this Act, where the public procurement orders with a subject referred to in Art. 3, par. 1 are of the following cost, VAT exclusive:

1. (amend. – SG 33/12) for construction – higher than 264 000 BGN and up to 2 640 000 BGN, and where the procurement has a place of fulfilment outside the country – higher than 1 650 000 BGN and up to 6 600 000 BGN;

2. (amend. – SG 33/12; amend. – 40/14, in force from 01.07.2014) for deliveries, services and a project competition – higher than 66 000 BGN, and where the procurement has a place of fulfilment outside the country – higher than 132 000 BGN up to the respective limit, referred to in Art. 45c, par. 2.

(4) (prev. par. 3, suppl. – SG 33/12) Contracting authorities may not conduct the procedures referred to in the law, but they shall be obliged to apply the terms and conditions and the procedures referred to in Chapter Eight "a" in case of public procurement orders with a subject referred to in Art. 3, par. 1, the cost of which, VAT exclusive, is:

1. (amend. – SG 33/12) for construction – from 60 000 BGN to 264 000 BGN, and where the procurement has a place of fulfilment outside the country – from 670 000 BGN to 1 650 000 BGN;

2. (amend. – SG 33/12) for deliveries or services – from 20 000 BGN to 66 000 BGN, and where the procurement has a place of fulfilment outside the country – from 66 000 BGN to 132 000 BGN.

(5) (prev. par. 4, amend. – SG 33/12) Contracting authorities shall not be obliged to apply the procedures referred to in the law or the terms and conditions and the procedures referred to in Chapter Eight "a" for procurements under Art. 3, par. 1 the cost of which, VAT exclusive is:

1. (amend. – SG 33/12) for construction – less than 60 000 BGN, and where the procurement has a place of fulfilment outside the country – less than 670 000 BGN;

2. (amend. – SG 33/12) for deliveries or services – less than 20 000 BGN to 60 000 BGN, and where the procurement has a place of fulfilment outside the country – less than 66 000 BGN.

3. (amend. – SG 33/12) for a project competition – less than 66 000 BGN.

(6) (prev. par. 5, amend. – SG 33/12) In cases referred to in par. 5, item 2 and 3 contracting authorities may not conclude a written agreement, and in this case they shall substantiate the expense by a primary payment documents.

(7) (new – SG 33/12) Contracting authorities shall not apply the procedures under the law and the terms and conditions and the procedures of Chapter eight "a" for public procurements under Art. 3, par. 2 of a cost less than those, referred to in par. 2, but shall be obliged to conclude a written agreement.

Art. 14a. (new – SG 93/11, in force from 26.02.2012) (1) In case an object of public procurement is provision of services, however including construction also, which ensues from the main object of the procurement, it shall be assigned as a public procurement for services.

(2) In case of assignment of a public procurement order including provision or goods and provision of services at the same time, the procedure applicable for the scope with a higher cost shall apply.

(3) (amend. – SG 33/12) When a contracting authority under art. 7, item 1 – 4 finances by more than 50 percent a construction contract, the persons, obtaining the financing and assigning the contract, shall be obliged to observe the provisions of this Act as a contracting authority where the total value of the contract, VAT exclusive, is equal to or exceeds 2 640 000 BGN.

(4) (amend. – SG 33/12) Where a contracting authority under art. 7, item 1 – 4 finance by more than 50 percent a services contract, related to the construction contract, the persons obtaining the financing and assigning the contract for services shall be obliged to observe the provisions of this Act as a contracting authority where the total value of the contract VAT exclusive is equal to or exceeds 391 160 BGN.
(5) In the cases referred to in par. 3 and 4 the contracting authority shall be obliged to exercise control for observing the law over the persons, having obtained the financing.

Art. 15. (1) (amend – SG 93/11, in force from 26.02.2012) The estimated cost of the public procurement shall be determined as of the date of the decision for opening the procedure for assigning of public procurement.

(2) (amend. – SG 94/08, in force from 01.01.2009) For determining the order of assigning public procurement its cost shall be calculated as follows:

1. (amend. - SG 37/06, in force from 01.07.2006) for a contract for delivery through leasing, renting with or without a right of purchase, as well as for purchase on the installment plan, in case the term:
   a) (suppl. – SG 37/06, in force from 01.07.2006) is up to one year – the total cost for the term of its validity;
   b) (suppl. – SG 37/06, in force from 01.07.2006) is more than one year – the cost for the term of its validity plus the reference remaining value of the delivery;
   c) (new - SG 37/06, in force from 01.07.2006) is not fixed or can not be fixed – the monthly value, multiplied by the figure 48;

2. for periodical contracts for delivery and/or service – on the basis of:
   a) the actual total value of similar contracts concluded during the preceding financial year and adjusted by the provided changes in the quantity or value of the respective delivery or service; or
   b) the expected value of the delivery and/or services during the next 12 months after the first delivery or service or for the period of the deliveries and/or services when it is longer than 12 months;

3. (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 33/12) for a contract for delivery, service and/or construction, providing options – amounting to the maximum admissible total value, including the option and renewals clauses;

4. for a contract for service which does not determine a total price:
   a) if it is for a period of up to 4 years – the total value of the contract for the term of its validity;
   b) (amend. - SG 37/06, in force from 01.07.2006) if the term could not be fixed in advance or it is longer than 4 years – the value of the monthly payment multiplied by the figure 48;

5. (suppl. – SG 37/06, in force from 01.07.2006) for a contract for insurance service – the due insurance premium and other payments;

6. (suppl. – SG 37/06, in force from 01.07.2006) for a contract for financial service – the price of the service, including the fees, commissions and interest and other payments;

7. for a contract for service preceded by a project competition, as well as for a project competition followed by a contract for service, the value shall be determined by the price of the service and the total value of the awards and other payments to the participants in the competition;

8. for a construction contract – on the basis of the value of the construction and the delivery of all goods and services for fulfilment of the construction, where they are provided by the contracting authority;

9. for a project competition the value of the procurement shall include the total value of the awards and other payments to the participants in the competition.

10. (new - SG 37/06, in force from 01.07.2006) for a frame agreement or dynamic purchasing system – on the basis of the maximum value expected, without VAT, of all contracts, envisaged to be concluded within the term of effect of the agreement or the system;

(3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) In determining the value of a public procurement shall be included all payments without VAT to the provider of the public procurement, including the options provided and repeat of the service or the construction under art. 90, par. 1, item 9, art. 103, par. 2, item 8 and art. 119c, par. 3, item 12.
(4) (amend. - SG 37/06, in force from 01.07.2006; amend – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) Where the public procurement includes several detached positions, each of them being object of a contract, the value of the procurement shall be equal to the sum of the values of all positions. If the total value of the positions is equal to or exceeds the limits under art. 14, par. 1, 2, 3 or 4 upon the assignment of the procurement at each detached position shall be observed the procedure, applicable to the total cost of the procurement.

(5) The choice of a method for determining the value of the contract for public procurement shall not be used for the purpose of avoiding the application of the law.

(6) Not admitted shall be the partition of a public procurement for the purpose of avoiding the application of the law, including through a progress construction, where the concluded stage cannot obtain a permit for using as an individual site.

(7) (new - SG 37/06, in force from 01.07.2006) At determination of the value of a construction contract the including of deliveries or services, which are not necessary for its fulfilment, shall not be admitted.

Section III.
Types of Procedures

Art. 16. (1) (amend. and suppl. - SG 37/06, in force from 01.07.2006; suppl. – SG 93/11, in force from 26.02.2012) The public procurement referred to in Art. 14, par. 1 shall be assigned by way of holding an open procedure, a limited procedure, competitive dialogue and procedures of negotiation.

(2) (revoked - SG 37/06, in force from 01.07.2006)

(3) (revoked - SG 37/06, in force from 01.07.2006)

(4) Open procedure is the procedure whereupon all interested persons may file offers.

(5) Limited procedure is the procedure whereupon offers may be filed only by candidates having received invitation from the contracting authority upon a preliminary selection.

(6) (new - SG 37/06, in force from 01.07.2006) Competitive dialogue is a procedure, where every interested person can submit application for participation and the contracting authority conducts a dialogue with the candidates, admitted upon a preliminary selection, with the purpose of definition of one or more proposals, which meet his/her requirements and after that he/she invites the candidates with suitable proposals to submit offers.

(7) (prev. text of par. 6 - SG 37/06, in force from 01.07.2006) The procedures of negotiation are:

1. (amend. - SG 37/06, in force from 01.07.2006) procedure of negotiation with notice, whereupon the contracting authority holds negotiations for determining the clauses of the contract with one or more participants chosen by him/her upon a preliminary selection;

2. procedure of negotiation without notice, whereupon the contracting authority holds negotiations for determining the clauses of the contract with one or more concretely chosen persons.

(8) (prev. text of par. 7, amend. - SG 37/06, in force from 01.07.2006) The contracting authority under art. 7, items 1 – 4 shall take a decision for assigning public procurement by way of open procedure and limited procedure at all times, when the conditions for conducting competitive dialogue or procedures of negotiation are not present.

Art. 16a. (new - SG 37/06, in force from 01.07.2006) Project competition is the procedure whereupon the contracting authority acquires a plan or a project, chosen by an independent jury on the grounds of a competition with or without adjudgement of awards.
Art. 16b. (new - SG 37/06, in force from 01.07.2006) (1) (amend – SG 93/11, in force from 26.02.2012) The contracting authorities may choose a contractor of a public procurement by way of open, limited procedure or procedures of negotiation with notice in the cases under art. 84, item 1, using electronic auction, as well as in the cases under art. 93b, par. 3 and art. 93i, if the technical specifications for the public procurement can be precisely defined.

(2) (suppl. – 40/14, in force from 01.07.2014) Object of electronic auction may not be public procurement for service and construction, whose subject is intellectual activity such as designing of spatial development schemes, of land development plans and of construction projects.

(3) The use of electronic auction shall be indicated in the notice for public procurement.

(4) The electronic auction may not be applied, if it prevents, restricts or violates the competition, provided that it also may not change the object of the procurement, indicated in the promulgated notice and in the specifications.

(5) The terms and the order for application of the electronic auction shall be settled by the Regulations for implementation of the Act.

Art. 16c. (new – 40/14, in force from 01.07.2014) (1) The contracting authority may request technical proposals to be submitted in the form of electronic catalogues, where the subject of the public procurement is for the supply of goods which are standardized or for which it is possible to issue or approve internal standards.

(2) The electronic catalogues are developed by the applicants subject to compliance with the regulatory requirements for the internal circulation of electronic documents, and also with all additional requirements for the implementation of the public procurement with a subject under par. 1 and according to the technical specifications and the form, determined by the contracting authority.

(3) Technical proposals submitted in the form of an electronic catalogue may have got attached documents thereto, supplementing them.

(4) The use of an electronic catalogue, and also the requirements thereto shall be indicated by the contracting authority in the public procurement announcement and may not be regarded as a technical obstacle for the participation in the procedure.

(5) The procedure of conducting of electronic procedures though electronic catalogue shall be set out by the Regulations for the implementation of the act.

Art. 16d. (new – SG 37/06, in force from 01.07.2006; prev. Art. 16c, amend. – SG 40/14, in force from 01.10.2014) (1) Where the subject of the public procurement is included in the list under Art. 30 of the Law for the integration of people with disabilities, the contracting authorities shall be obliged to announce, that the public procurement is intended for execution by specialized enterprises or co-operations of people with disabilities.

(2) The contracting authority shall be obliged to distinct as a separate item every good or service included in the list under par. 1 and is a part of the subject of the public procurement and to announce that this separate item is intended for implementation by specialized enterprises or co-operations of people with disabilities.

(3) Contracting authorities may determine public procurements the implementation of which is only within the scope of programs for opening of protected job positions.

(4) In cases referred to in par. 1 – 3, the announcement shall contain information stating that:

1. the public procurement/separate item is booked only for participation of specialized enterprises or co-operations of people with disabilities, or

2. the implementation of the public procurement is only within the scope of programs for
opening of protected job positions.

(5) In cases referred to in par. 1 and 2:
   1. the selection criteria determined by the contracting authorities are not applicable to
      applicants and participants which are specialized enterprises or co-operations of people with disabilities,
      and also for associations, of which only such persons are members;
   2. in the presentation of the applicant or the participant, contained in the application,
      respectively in the offer, a declaration stating whether the applicant or the participant, respectively every
      member of the association, is registered in the Register of specialized enterprises and co-operations of
      people with disabilities, maintained by the People with disabilities Agency or in an equivalent register of
      an European Union Member State shall be included.

(6) In the cases referred to in par. 1 and 2 where one or more specialized enterprises or
   co-operations of people with disabilities which are registered in the Register referred to in par. 5, item 2
   and/or their associations are participating in the procedure, and the bids of these persons meet the
   requirements of the contracting authority, the bids of the remaining participants shall not be considered
   and assessed.

(7) Where the applicant or the participant have indicated that they are going to use
   sub-contractors, the application for registration in the Register of specialized enterprises and
   co-operations of people with disabilities maintained by People with disabilities Agency or an equivalent
   register, shall be attached for the nominated subcontractors, as well.

Chapter two.
BODIES. PUBLIC PROCUREMENT REGISTER. BUYER'S PROFILE (TITLE SUPPL. – SG
40/14, IN FORCE FROM 01.10.2014)

Section I.
Bodies

Art. 17. (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 82/09, in force from
16.10.2009; amend. – SG, 14/15) The Minister of Economy shall carry out the state policy in the sphere
of public procurement.

Art. 18. (1) (suppl. – SG 37/06, in force from 01.07.2006; amend. - SG 82/09, in force from
16.10.2009; amend. – SG, 14/15) Established with the Minister of Economy shall be Public Procurement
Agency, called hereinafter "the Agency", which shall support him in implementing the state policy in
the sphere of public procurement.

   (2) The Agency is a corporate body with a seat in Sofia.

   (3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from
       01.01.2009) The financial support of the Agency shall be formed by budget revenue.

   (4) (new – SG 94/08, in force from 01.01.2009; amend. - SG 82/09, in force from 16.10.2009;
       revoked – SG 38/12, in force from 01.07.2012)

   (5) (new – SG 94/08, in force from 01.01.2009; revoked – SG 38/12, in force from 01.07.2012)

   (6) (prev. text of para 4 – SG 94/08, in force from 01.01.2009) The activity, the structure, the
       organisation of the work and the number of personnel of the Agency shall be determined by structural
       regulations adopted by the Council of Ministers.

Art. 19. (1) (suppl. – SG 37/06, in force from 01.07.2006; amend. - SG 82/09, in force from
16.10.2009; amend. – SG, 14/15) The Agency shall be managed and represented by an executive director who shall be appointed by the Minister of Economy.

(2) The executive director of the Agency:

1. (suppl. – SG 93/11, in force from 26.02.2012) shall issue methodological instructions for unification of the practice of implementation of the law and the related by-laws;

2. (amend. – SG 93/11, in force from 26.02.2012) shall issue opinions on principals’ inquiries;

3. (amend. - SG 37/06, in force from 01.07.2006; amend. and suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012) notify competent bodies in view of exercising control for compliance with the law;

4. (amend. – SG 52/10) appeal before the Commission for Protection of Competition the decisions of contracting authorities with which have been committed violations of the procedure for assigning public procurement, an which have been established by the European Commission prior to concluding the contract and are specified in the notification as per Art. 122p, para 1;

5. (amend. - SG 37/06, in force from 01.07.2006) shall work out draft normative acts and give opinion on international agreements in the sphere of public procurement;

6. shall keep Public Procurement Register;

7. (amend. - SG 37/06, in force from 01.07.2006 and from 01.01.2007 in the part, regarding the notification of the European Commission of amendments in the lists) shall maintain lists of the contracting authorities under art. 7 and notify the European Commission of amendments in the lists;

8. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) shall draw up, maintain and update a list of external experts for preparation in the development and conducting of public procurement awarding procedures;


10. (amend. - SG 37/06, in force from 01.07.2006) shall co-ordinate the activity, connected to the training of the subjects of the public procurement;

11. shall participate in the international cooperation of the Republic of Bulgaria with organisations from other countries in the sphere of public procurement;

12. (suppl. – SG 37/06, in force from 01.07.2006; amend. - SG 82/09, in force from 16.10.2009) shall present to the Minister of Economy, Energy and Tourism an annual report for the activity of the Agency;

13. (suppl. – SG 37/06, in force from 01.07.2006) shall compile and summarise the practice of applying the Act and implement monitoring of the public procurement;

14. (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 93/11, in force from 26.02.2012) shall carry out co-operation in the sphere of public procurement with other bodies and with branch organisations;

15. (new - SG 37/06, in force from 01.07.2006; amend. and suppl. – SG 94/08, in force from 01.01.2009) provide generalized information from the Public Procurement Register via the web-site of the Agency;

16. (new - SG 37/06, in force from 01.07.2006) shall support the process of electronic assignment of public procurement;

17. (new - SG 37/06, in force from 01.07.2006; suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) shall notify the European Commission of all international contracts under art. 12, par. 1, item 14;

18. (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) shall send upon request of the European Commission the information under art. 12, par. 7;
19. (new - SG 37/06, in force from 01.07.2006; suppl. – SG 52/10) shall send to the European Commission annual statistical accounts, as well as the orders as per Art. 121b, para 3 which have entered into force and the related thereto resolutions under Art. 122d, para 4 of the Commission for Protection of Competition;

20. (new - SG 37/06, in force from 01.07.2006) shall notify the European Commission of legal or factual problems in connection to participation of Bulgarian persons in procedures for assigning public procurement for services in third countries;

21. (new - SG 37/06, in force from 01.07.2006) shall notify the European Commission of legal or factual problems in connection to participation of Bulgarian persons in procedures for assigning public procurement in third countries, which are result of non-observance of the provisions of the international labour law;

22. (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 24/09; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) shall carry out preliminary control over public procurement procedures;
   a) financed fully or partially with resources from the European funds, as follows:
      aa) for construction, the cost of which is equal to or exceeding BGN2,640,000;
      bb) for supply or service, the cost of which is equal to or exceeding the respective cost, indicated in Art. 45c, par. 2;
   b) for construction works under Art. 3, par. 1, item 3 financed with budget funds beyond these referred to in item "a" amounting to or exceeding BGN9,779,000.

23. (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) shall promote the Good practices in assignment of public procurement orders, including those related to application of environmental, social and innovative requirements;

24. (new – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014) shall exercise preliminary control on the decisions for initiation of negotiation procedures without notice on the ground of Art. 90, para 1, items 3 through 9 and item 12, where the following terms and conditions are met simultaneously:
   a) they are issued by contracting authorities under Art. 7, item 1 – 4;
   b) public procurements are of the amount referred to in Art. 14, par. 1;

25. (new – SG 94/08, in force from 01.01.2009) shall keep a list of the persons who have failed to fulfil a public procurement contract, this being established by a final court ruling;


(3) (suppl. – SG 33/12) In connection with the implementation of his legal capacity the executive director of the Agency shall have the right to require from the contracting authority of public procurement the necessary information, and also to approve samples of documents.

(4) The contracting authority shall be obliged to submit the required information under para 3 within a period set by the executive director of the Agency.

(5) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) The directions contained in par. 2, item 1 shall be obligatory for the control bodies referred to in Art. 123, par. 1, where they are agreed upon with them. The agreeing procedure shall be determined by the regulations for application of the Act.

(6) (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) The contracting authority shall send to the Executive director of the Agency the decisions under para 2 by electronic means within 14 days from their entry into force.

(7) (new - SG 37/06, in force from 01.07.2006; amend. - SG 82/09, in force from 16.10.2009) The forms under par. 2, item 9 shall be approved by the Minister of Economy, Energy and Tourism and shall be promulgated in State Gazette.
(8) (new – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012) The following shall be published on the internet site of the agency:
1. the information referred to in par. 1, items 1, 6 – 8, 12, 13 and 25;
2. the approved forms referred to in par. 1, item 9;
4. other information, determined by the regulations for implementation of the Act.

Art. 20. (amend. - SG 37/06, in force from 01.07.2006; revoked – SG 93/11, in force from 26.02.2012; new – SG 40/14, in force from 01.10.2014) (1) The list under Art. 19, par. 2, item 8 shall include persons having professional competency related to the subjects and objects of public procurements and:
1. are suggested by professional associations and organizations in the respective branch or by authorities under Art. 19, par. 2 – 4 of the Administration act, with indication of their professional competency, or
2. have individually filed an application for registration with attached evidences of their professional competency.

(2) For every person on the list, the scope of their professional competency and the availability of a permit for access to classified information subject to compliance with the Classified Information Protection Act shall be indicated.

(3) The procedure of issuing and maintenance of the list shall be set out by the Regulations for the application of the act.

Art. 20a. (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012) (1) The preliminary control as per Art. 19, para 2, item 22 shall comprise:
1. the notice for the public procurement;
2. the decision for opening of a limited procedure on the grounds of Art. 76, par. 3, procedure of negotiation with an notice or a procedure of competitive dialogue;
3. Methodology of offers assessment – based on the most cost-efficient offer criterion;
4. (new – SG 40/14, in force from 01.07.2014) justifications for the determined selection criteria and the compliance of the criteria with the requirements referred to in Art. 25, par. 5 – 7.

(2) For the implementation of preliminary control the contracting authority shall be obliged prior to the opening of the procedure, to send to the agency the drafts of the documents referred to in par. 1.

(3) (amend. – SG 33/12; suppl. - SG 40/14, in force from 01.07.2014) Within 14 days after the receipt of the drafts referred to in par. 2, the agency shall issue an opinion about the compliance with the provisions with this Act and shall send it to the contracting authority. In case of identified inconformity, the opinion shall contain recommendations or specific instructions for their elimination.

(4) (amend. – SG 33/12; suppl. - SG 40/14, in force from 01.07.2014) Together with sending of the decision and the notice for opening a procedure for publishing in the register, the contracting authority shall send to the agency also the approved methodology of assessment of proposals – in case of criterion of economically most favourable offer. Failing to take into consideration the recommendations or specific instruction in the opinion referred to in par. 3, the contracting authority may attach also written justification thereof.

(5) (suppl. - SG 40/14, in force from 01.07.2014) Within 10 days after the publication of the
documents referred to in par. 1, items 1 and 2, the agency shall carry out assessment of their conformity with the issued recommendations or specific instructions and shall prepare a final legitimacy report.

(6) (suppl. - SG 40/14, in force from 01.07.2014) The report shall be sent to the contracting authority referred to in Art. 123, par. 1 and in cases referred to in Art. 19, par. 2, item 22, sub-item "a" and to the bodies responsible for funds management and spending under the respective program within the term referred to in par. 5.

(7) Preliminary control over the procedures referred to in Art. 76, par. 3 and in Art. 86, par. 3 shall be finalized with the opinion under par. 3.

(8) Exchange of information regarding the implementation of preliminary control shall be regulated by the regulations for the implementation of the Act.

Art. 20b. (new – SG 94/08, in force from 01.01.2009) (1) For the purpose of exercising the control as per Art. 19, para 2, item 24 the assigners are obliged to send the decisions for initiation of proceedings to the Agency as well as the invitation, approved by them and the evidence concerning the selection of the procedure type.

(2) The terms and the procedure for exercising the control under para 1 shall be set out by the regulation for implementation of the law.

Section II.
Public Procurement Register

Art. 21. (1) Created shall be Public Procurement Register. 
(2) (suppl. - SG 40/14, in force from 01.07.2014) Information related to public procurement shall be accumulated in the register in order to provide publicity and transparency of the process of their awarding and implementation. The Public Procurement Register shall be open for the public.

(3) (amend. – SG 94/08, in force from 01.01.2009) The contracting authority shall be obliged to send the information (in Bulgarian) intended for entry in the Public Procurement Register to the Executive director of the Agency.

(4) (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) The Executive director of the Agency shall specify by an order the electronic format and the technical requirements concerning the information under para 3. The order shall be published on the web site of the Agency.

(5) (new – SG 94/08, in force from 01.01.2009) Any piece of information sent in violation of the order as per para 4 shall not be published in the register and shall be considered unsent.

(6) (new – SG 94/08, in force from 01.01.2009) The terms and procedure for operation of the register shall be defined by the regulations for implementation of the Act.

Art. 22. The Public Procurement Register shall contain:
1. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) the decisions for opening, amendment and termination of procedures for assigning of public procurement;
2. the notices required for entry in the register;
3. the information regarding the assigned public procurement;
4. (new – SG 94/08, in force from 01.01.2009) information concerning the fulfilled public procurement contracts;
5. (new – SG 93/11, in force from 26.02.2012) information in the progress of the procedure in
case of appeal proceedings;

6. (prev. text of item 4 – SG 94/08, in force from 01.01.2009; prev. item 5 – SG 93/11, in force from 26.02.2012; suppl. - SG 40/14, in force from 01.07.2014) other information determined by a law or the regulations for implementation of the Act.

Art. 22a. (new – SG 93/11, in force from 26.02.2012) (1) Registration of particulars in the register shall be refused in the cases, where:

1. the information is provided not in compliance with the form approved for the respective type of a contracting authority;
2. the fields which are obligatory to be filled out are not;
3. the information has not been provided in compliance with the procedure provided in the regulations for the implementation of the Act;
4. there is a discrepancy in the information, provided in the documents related to the same order.

(2) The refusal under par. 1 shall be advised to the contracting authority within 5 days after the information has been received by the agency.

Section III.
Buyer’s profile (new – SG 40/14, in force from 01.10.2014)

Art. 22b. (new – SG 40/14, in force from 01.10.2014) (1) Contracting authorities shall be obliged to maintain buyer’s profile, which shall be a separate part of their internet site or of another internet address with provided publicity.

(2) Without violating applicable limitations regarding the disclosure of sensitive business information and competition rules, on the buyer’s profile shall be published as electronic documents:

1. preliminary announcements;
2. the decisions for opening of procedure and public procurement calls;
3. application documentations for the participation in the procedure;
4. the decisions for amendments in cases referred to in Art. 27a, par. 1 and the amended application documentation;
5. explanations on the application documentation;
6. calls for proposals under a limited procedure, competitive dialogue and contracting upon a call;
7. protocols and reports issued by the commissions for the conducting of procedures together with the attachments thereto;
8. the decisions under Art. 38 for the finalization of the procedures;
9. information about the dates and the grounds for releasing or retaining of participation guarantees deposited by the applicants or participants in every public procurement procedure;
10. public procurement contracts together with the obligatory attachments thereto;
11. subcontracts and supplementary agreements thereto;
12. frame agreements together with the obligatory attachments thereto;
13. supplementary agreements amending public procurement contracts;
14. information about the date, the grounds and the amount of every effected payment under public procurement contract and under subcontracts, including the down payments;
15. information about the date and the grounds for the finalization or for termination of contracts;
16. information about the dates and the grounds for releasing, utilization or retention of
performance bonds under every contract;
17. public calls referred to in Art. 101b together with the attachments thereto;
18. internal rules under Art. 8b;
19. opinion of the Agency Managing Director on contracting authority inquiries;
20. expert opinions approved by the Agency Managing Director based on the carried out preliminary monitoring of the specific public procurement procedure, and where the contracting authority does not accept any recommendation – the justification thereof;
21. any other useful general information, such as contact person, telephone and fax number, mailing address and email address and other documents and information, determined by the Internal Regulations under Art. 22d.

(3) In the documents referred to in par. 2, published on buyer’ profile, the information about which the applicants have attached a confidentiality statement under Art. 33, par. 4, shall be deleted, as well as the information protected by the law. Instead of the deleted information, the legal grounds thereof should be specified.

(4) Unless otherwise specified by this act, the documents referred to in par. 2, published in the Public procurements registry or on the Public procurements portal, and the application documentations shall be published on the buyer’s profile on the first work day after the day of their forwarding to the Agency. The contracts, supplementary agreements and documents related to the implementation of the contracts, shall be published within 30 days after:
1. the conclusion of the contracts and of supplementary agreements;
2. payment; for contracts with recurrent supplies of goods, the information about the effected payments shall be published as a summary by the 20th day of the month following the month of the effected payments;
3. the release of the guarantee;
4. the receipt by the contracting authority of the subcontract and of the supplementary agreement thereto;
5. generation of the respective replacing document.

(5) The documents and the information referred to in par. 2, related to a specific public procurement, shall be separated in an independent section in the buyer’s profile, representing electronic communication with individual identification number and generation date. The separate section shall be maintained on the buyer’s profile until the expiration of one year after:
1. the finalization of termination of the procedure – where no contract has been concluded;
2. the fulfillment of all obligations under the contract, respectively of all obligations under the contracts within the frame agreement.

(6) Beyond the cases referred to in par. 5 the documents and the information referred to in par. 2 shall be maintained on the buyer’s profile, as follows:
1. referred to in item 1 – for one year after the publication on the buyer’s profile;
2. referred to in item 18 – for one year after their amendment or withdrawal;
3. referred to in items 19 and 21 – permanently with relevant updates.

Art. 22c. (new – SG 40/14, in force from 01.10.2014) (1) To the unique number of every public procurement in the Public Procurement Register a hyperlink shall be displayed to the separate section on the buyer’s profile, where the documents and the information about the particular public procurement are available.

(2) Contracting authorities shall send to the Agency information about the hyperlink address together with the decision for opening of the procedure.
Art. 22d. (new – SG 40/14, in force from 01.10.2014) (1) Contracting authorities shall approve internal regulations on buyer’s profile maintenance, including on the attesting of the publication date of the electronic documents thereon, subject to compliance with and following the provisions of the Electronic Government Act.

(2) The internal regulations shall set out the procedure of sending of documents to the Public Procurement Register and their publication on buyer’s profile in cases determined in this act.

Part two.
ASSIGNING PUBLIC PROCUREMENT

Chapter three.
GENERAL RULES FOR ASSIGNING PUBLIC PROCUREMENT

Section I.
Advance notice

Art. 23. (1) (suppl. SG 31/05, in force from May 1, 2005, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.10.2014) The contracting authority shall send to the Agency for entry in the Public Procurement Register and shall publish on the buyer profile an advance notice for all procedures for assigning public procurement or for concluding frame agreements, which they intend to open in the following 12 months:

1. (amend. – SG 52/10) for delivery of goods and for services under art. 5, para 1, item 1 in categories, when the total value without VAT of the respective category of goods or services is exceeding 450 000 BGN;

2. (amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) for construction, where the total value of the procurement without VAT is equal to or exceeds BGN2 640 000, and where the public procurement is under art. 3, par. 2 – equal to or exceeding BGN4 000 000;

3. (new – SG 33/12) for supplies of goods under art. 3, par. 2 and for services under par. 5, par. 1, item 3 by categories, where the total value, VAT exclusive for the respective category of goods or services is equal or exceeds BGN1 000 000.

(2) (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) When publishing advance notice at the buyer profile, the contracting authority shall send via electronic means to the agency a notice according to a confirmed form. The advance notices may not be published in the buyer profile before the date of sending the notice.

(3) (new - SG 37/06, in force from 01.07.2006) The notices, indicated in par. 1, and the notice under par. 2 for deliveries and services must be sent till the 1st of March.

(4) (suppl. SG 31/05, in force from May 1, 2005, prev. text of par. 2, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) The contracting authorities shall be obliged to send an advance notices only when they are intending to use shortened terms under art. 64, par. 2, art. 81, par. 2 and art. 104, par. 1.

(5) (prev. text of par. 3, suppl. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) In the cases under para 1, item 1 the category of goods shall be determined by the contracting authority according to the Nomenclature of the Common Procurement Vocabulary (CPV), and the category of services – according to Appendix No 2..

(6) (prev. text of par. 4 - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) Publishing of an advance notice shall not oblige the contracting authority to carry out the respective procedures for assigning public procurement.

Section II.
Decision for Opening a Public Procurement Procedure and Notice for Public Procurement

Art. 25. (1) The contracting authority shall take a decision for opening a procedure for assigning public procurement by which shall approve the notice for public procurement and the documentation for participation in the procedure. The decision and the notice shall be sent to the Agency for entry in the Public Procurement Register in electronic form as well.

(2) The notice for public procurement shall contain at least the following information:

1. name, address, telephone, fax, electronic address of the contracting authority and a person for contact;

2. type of the procedure;

3. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) object, subject and estimated cost of the procurement and also quantity or volume, including of detached positions;

4. (amend. – SG 94/08, in force from 01.01.2009) code according to the nomenclature of the Common Procurement Vocabulary (CPV);

5. place and term of fulfilment of the procurement;

6. (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014) the selection criteria, where the contracting authority has set out such, including a requirement under Art. 49 and/or minimal requirements for the economic and financial status of the candidate or the participant and/or his/her technical capacities and/or qualification, as well as indication of the documents substantiating them;

7. terms and size of the guarantee for participation and of the guarantee for fulfilment of the contract;

8. terms and way of payment;

9. (suppl. – SG 94/08, in force from 01.01.2009) term of validity of the offers in open procedures;

10. (suppl. – SG 94/08, in force from 01.01.2009) criterion for assessment of the offers, and in case the relevant criterion is the economically most favourable offer – also the indices for complex assessment along with their relative weight, or, in those cases where their relative weight may not be specified due to objective reasons – the rating in descending order according to their significance;

11. (new - SG 37/06, in force from 01.07.2006) opportunity for providing options in the offers;

12. (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) opportunity the participants to submit offers only for one, for all or for one or more detached positions – in case the subject of the procurement includes several detached positions;

13. (prev. text of item 11 - SG 37/06, in force from 01.07.2006) place and term of receiving, price and way of payment of the documentation for participation in the procedure;

14. (prev. text of item 12, amend. - SG 37/06, in force from 01.07.2006) place and term of receiving the applications or the offers;

15. (prev. text of item 13 - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009) place and date of opening the offers or the applications for participation;

16. (prev. text of item 14 - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) date of publication of the advance notice under art. 23, if there is any;

17. (prev. text of item 15 - SG 37/06, in force from 01.07.2006) the date of sending the notice.

(3) The notice of the contracting authority may also stipulate:
1. (amend. - SG 37/06, in force from 01.07.2006) opportunity for conducting electronic auction;
2. (amend. and suppl. - SG 37/06, in force from 01.07.2006, amend. and suppl. - SG 37/06, in force from 01.07.2006) requirement for establishing a legal person where the participant, appointed for a contractor, is an association of natural and/or legal persons. The newly established legal person shall be bound by the offer, submitted by the association;

3. (revoked - SG 37/06, in force from 01.07.2006; new – SG 40/14, in force from 01.07.2014) opportunity of submission of offers for one or more of the nomenclatures in the separate items, included in the public procurement scope – in case of awarding of public procurement contracts for the delivery or drugs in humanitarian medicine or of medicinal products under the Medical Devices Act;

4. (revoked – SG 94/08, in force from 01.01.2009)
   (4) (new - SG 37/06, in force from 01.07.2006) In case of limited procedures, procedures of negotiation with notice and competitive dialogue procedures the contracting authority may also include in the notice a restriction of the number of candidates, who shall be invited to present offers, to negotiate or to take part in a dialogue, provided that there is sufficient number of candidates, meeting the requirements. In these cases in the notice shall be pointed out objective and non-discriminatory criteria or rules, which the contracting authority intends to apply, the minimum number of candidates, who will be invited, and in the contracting authority’s opinion – also the maximum number.

5. (prev. text of par. 4 - SG 37/06, in force from 01.07.2006; suppl. – SG 40/14, in force from 01.07.2014) The contracting authority shall not have the right to include in the decision, notice or documentation terms and conditions or requirements, giving privilege or restricting the participation of persons in the public procurement without a ground, and such which do not take into account the subject and the quantity or the scope of the public procurement.

6. (prev. text of par. 5, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012, suppl. – SG 40/14, in force from 01.07.2014) The selection criteria referred to in par. 2, item 6 and the documents substantiating the compliance thereto, must have taken into consideration and be in compliance with the object, subject, cost, complexity and the quantity of the scope of the public procurement and the purpose of construction works, supplies or services. Recognized experience in the respective sector may be required as a selection criterion, however no terms and conditions or requirements related to the implementation only of public procurements or to the implementation of specified particular programs or projects, or specifying the sources of financing, or of a particular number of completed contracts with specific indication of their subject etc., cannot be provided, if these terms and conditions or requirements are at variance to the provision of par. 5. Where the public procurement contains separate items, the selection criteria for each individual separate item must correspond to the listed particulars of the respective item.

7. (new – SG 93/11, in force from 26.02.2012) The selection criteria referred to in par. 2, item 6, set out by the contracting authority, must be the same for all participants in the procedure.

8. (new – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) In case of participation of associations, which are not legal entities, the compliance with the selection criteria shall be substantiated by one or more of the members of the association. In cases referred to in Art. 49 the registration requirement shall be substantiated by the member of the association meant to carry out the respective activity.


10. (new – SG 94/08, in force from 01.01.2009; prev. par. 7, amend. – SG 93/11, in force from 26.02.2012) Where the relevant criterion is the economically most favourable offer, the contracting authority shall not be entitled to include selection criteria as offers assessment parameters.

11. (new – SG 93/11, in force from 26.02.2012) For determination of the term referred to in par. 2, item 14 the contracting authority must take into consideration the complexity of the procurement and the time, required for preparation of applications for participation or of offers.
Art. 26. (1) (prev. text of art. 26, amend. - SG 37/06, in force from 01.07.2006) The contracting authority may also provide for in the notice under art. 25 additional requirements for the fulfilment of the public procurement, related to the protection of the environment, the unemployment and the opening of new positions for disabled persons, in compliance with the requirements of art. 25, para 5.

(2) (new – SG 33/12) In case of assignment of public procurements under art. 3, par. 2, in addition to the requirements referred to in par. 1, the contracting authority may provide also special requirements for implementation of the public procurement, related to reassignment to subcontractors, or such, intended to guarantee the classified information safety and/or supplies safety.

(3) (new - SG 37/06, in force from 01.07.2006; prev. par. 2 – SG 33/12) In the cases under par. 1, at preparation of the offer the participants shall also specify the manner of fulfillment of the additional requirements.

Art. 26a. (new – SG 52/10) (1) Upon assignment of a public procurement for delivery of transport vehicles, specified in Appendix No 3a, contracting authorities shall be obliged to take into account the energy aspects and the environmental impacts throughout the operational lifetime of the transport vehicles, including the following minimum requirements:

1. energy consumption, and
2. emissions of carbon dioxide (CO2), and
3. emissions of nitrogen oxides (Nox), non-methane hydrocarbons (NMHC) and particulate matter.

(2) In order to fulfil the requirements set out in para 1 contracting authorities shall:

1. set technical specifications for energy and environmental performance in the documentation of the public procurement, or
2. include indices where the assessment criterion is the most economically favourable offer.

(3) (suppl. – SG 33/12) In the cases referred to in para 2, item 2, where the impact aspects referred to in par. 1 are displayed in monetary form shall be applied methodology for calculation of costs of energy consumption, emissions of carbon dioxide, nitrogen oxides, non-methane hydrocarbons and particulate matter throughout the operational lifetime of transport vehicles. The methodology shall be defined by an ordinance of the Minister of Transport, Information Technology and Communications.

(4) (amend. – SG 93/11, in force from 26.02.2012) Contracting authorities are allowed not to apply the requirements set out in para 1 in those cases where:

1. they assign a public procurement for delivery of transport vehicles which are not subject to compulsory type approval or to individual approval pursuant to an ordinance of the Minister of Transport, Information Technology and Communications adopted on the grounds of Art. 38, para 4 of the Road Traffic Act or
2. (amend. – SG 33/12) the public procurement is for the cost referred to in Art. 14, par. 3.

Art. 27. (1) (new – SG 33/12; amend. – SG 40/14, in force from 01.10.2014) The notices for public procurements of a value under the thresholds, determined in Art. 45c, par. 2, shall be issued in the respective form, approved according to the procedure of Art. 19, par. 7.

(2) (amend. SG 31/05, in force from May 1, 2005; amend. – SG 37/06, in force from 01.07.2006; prev. art. 27 – SG 33/12; amend. – SG 40/14, in force from 01.10.2014) Upon publication of the notice in the Public Procurement Register, the contracting authority shall send information to the mass media regarding the public procurement. This information shall indicate at least the subject of the public procurement and the date of publication of the notice in the Register of public procurement orders
Art. 27a. (new – SG 93/11, in force from 26.02.2012) (1) (amend. – SG 33/12; amend. – SG 40/14, in force from 01.10.2014) The contracting authority may, on its own initiative or upon a violation warning, make single amendments of the notice and/or the documentation of the public procurement, related to provision of legitimacy of the procedure, correcting of blanks or of an obvious error of fact.

(2) (amend. – SG 40/14, in force from 01.10.2014) Each person may make a proposal for amendments in the notice and/or the documentation within 10 days after the publication of the notice for opening of the procedure.

(3) (amend. – SG 40/14, in force from 01.10.2014) The amendments referred to in par. 1 shall be carried out by a decision for an amendment within 14 days after the publication of the notice in the Public procurement Register. The decision and the amended documents shall be published on the buyer’s profile on the first business day following the day of their forwarding to the Agency.

(4) By the decision for amendment the contracting authority shall not have the right to amend the works and/or supplies according to the announced subject of procurement.

(5) In the decision referred to in par. 3 the contracting authority shall set out also a new term for receiving of offers or of applications, which may not be shorter than the initially fixed one.

(6) The contracting authority may not determine a new term referred to in par. 5, where the amendments do not affect the selection criteria, the requirements to the offer or the implementation of procurement.

(7) Upon expiration of the term referred to in par. 3 the contracting authority may publish a decision for amendment, only in case of extending of the terms announced in the procedure.

(8) The contracting authority shall be obliged to extend the terms announced in the procedure:
   1. where it is found out, that the initially determined term is not sufficient for preparation of offers, including because of required on the spot reviewing of additional documents to the documentation or a site visit;
   2. (amend. – SG 40/14, in force from 01.10.2014) in cases referred to in Art. 29, par. 3.

(9) The contracting authority may extend the terms announced in the procedure, where:
   1. within the initially determined term there are no submitted applications or offers or only one application or offer have been submitted;
   2. this is required following appeal proceedings;
   3. (new – SG 33/12) the term referred to in art. 51, par. 3 is not sufficient.

(10) By the publication of a decision for amendment in the Register of public procurement orders it shall be deemed that all interested parties have been duly notified.

Art. 27b. (new – SG 93/11, in force from 26.02.2012) (1) Article 27a shall not apply in the cases referred to in Art. 76, par. 3 and Art. 86, par. 3.

(2) In cases referred to in par. 1 the contracting authority may publish a decision for amendment in the Register of public procurement orders, thus extending the announced terms for submission of applications, where:
   1. within the initially fixed term there are no submitted applications or only one application has been submitted;
   2. this is required following appeal proceedings.

Section III.
Art. 28. (1) The documentation for participation in public procurement procedure shall contain:
1. the decision for opening public procurement procedure;
2. the notice for the public procurement;
3. (amend. – SG 93/11, in force from 26.02.2012) the full description of the subject of the procurement, including the detached positions;
4. the technical specifications;
5. (new - SG 37/06, in force from 01.07.2006; suppl. – SG 40/14, in force from 01.07.2014) the minimum requirements, which the options must meet, and the special requirements for their presentation, in case the contracting authority admits options, and in the cases referred to in Art. 25, par. 3, item 2- also the minimal requirements to the offers which are part of the nomenclatures in the separate items;
6. (prev. text of item 5, amend. - SG 37/06, in force from 01.07.2006) the investment projects when public procurement for construction requires such;
7. (prev. text of item 6 - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 01.07.2014) the methodology of determination of the complex assessment of the offer when the criterion for the assessment is economically the most favourable offer;
8. (prev. text of item 7 - SG 37/06, in force from 01.07.2006) a form of the offer, as well as instructions for its preparation;
9. (prev. text of item 8 - SG 37/06, in force from 01.07.2006) the draft contract;
(2) (amend. and suppl. - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 01.07.2014) The methodology of determination of the complex assessment of the offers shall contain the parameters of the complex assessment, their relative weight and precise instructions on the determination of the assessment by each individual parameter. The minimum and the maximum allowable values of the quantitative parameters may also be determined in the methodology and in compliance with the technical specifications. In the cases referred to in Art. 25, par. 3, item 3, the assessment method of offers, submitted for a part of nomenclatures under separate items, shall be determined by the methodology in compliance with the technical specifications.
3. (new – SG 94/08, in force from 01.01.2009) The contracting authority shall apply the methodology as per para 1, item 7, to all offers admitted to assessment, without changing it.
4. (suppl. – SG 37/06, in force from 01.07.2006; prev. text of para 3, amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) Recommended samples of offers and of the attachments thereto shall be determined by the regulations for the application of the act.
5. (new – SG 33/12) The Contracting authority may indicate in the documentation the bodies, from which the applicants or the participants may obtain relevant information about the obligations related to taxes and insurances, environmental protection, protection of employment and labor conditions, applicable in the country of in the state, where the construction works are to take place or the services are to be provided, and which are applicable to construction works or to the provided services.
6. (amend. - SG 37/06, in force from 01.07.2006; prev. text of para 4, amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012; prev. par. 5, amend. – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) The documentation for participation shall be published in the buyer’s profile on the first business day following the day of publication of the notice.
7. (new – SG 93/11, in force from 26.02.2012; prev. par. 6 – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) The contracting authority shall not have the right to set a requirement for the application documentation to be obtained at sight and shall be obliged to provide the documentation to every person requesting so, including by sending it at their expense. In these cases the contracting
authorities may request from the persons to pay for the documentation, whereby the price shall be indicated in the notice and it may not exceed the actual cost of its printing and copying.


(9) (new – SG 93/11, in force from 26.02.2012; prev. par. 8 – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) In cases referred to in Art. 27a, par. 1 the contracting authority shall provide free of charge the amended documents to the persons having purchased the documentation prior to issuance of the decision for amendment.

Art. 28a. (new – SG 40/14, in force from 01.07.2014) (1) Where the assessment criterion in economically most favorable offer:

1. the selected parameters and their relative weight in the complex assessment should guarantee the selection of the offer quoting the best quality-price ratio;
2. the assessment parameters shall assess individually the parameters of the subject of the public procurement in terms of quality, price, technical advantages, aesthetic and functional characteristics, characteristics related to environmental protection, current expenses, profitability, servicing and technical assistance, date of delivery and period of delivery or execution time, etc.; in case of awarding of public procurements under Art. 3, par. 2, also parameters like expenses during the life time of the product, delivery safety, operating compatibility, working parameters, etc. can be included;
3. for public procurement of construction works, the assessment parameters can be used for the assessment of characteristics, related to:
   a) the quality or technical parameters of used construction products, to construction and installation works or of the construction project, or
   b) the quality of the suggested technologies and/or organization of construction project implementation, or of individual construction and installation works.

(2) Relative weights of assessment parameters may be determined:
1. by a specific value within the general evaluation, or
2. by descending prioritization – where for objective reasons it is not possible to apply the provision of item 1.

(3) The instructions for determination of the evaluation by every parameter must:
1. provide opportunity to evaluate the level of execution, offered in every bid, according to the subject of the public procurement and technical specifications;
2. provide opportunity to compare and to assess objectively technical proposals in the bids;
3. provide to the applicants and to the participants sufficient information about the rules to be applied for the determination of the evaluation by each individual parameter, whereas:
   a) for the quantitatively determinable parameters the parameters values are determined in figures or in percentages and the method of their calculation is described;
   b) for the qualitative parameters, which are not determinable quantitatively, the method of their assessment by the commission is described with specific value through an expert assessment.

(4) Inclusion of assessment parameters which are not connected directly with the public procurement subject shall not be allowed, neither of parameters considering the time of making of the payments in contractor’s favour (deferred or payment in installments).

(5) In case of public procurement with a subject engineering and implementation of construction works, the assessment parameters shall include characteristics referred to in par. 1, item 2 both regarding the engineering and the construction works.

Art. 29. (amend. – SG 40/14, in force from 01.10.2014) (1) The persons may request in writing
from the contracting authority clarifications on the documentation for participation within 10 days, and for public procurements under Art. 14, par. 3 – within 7 days prior to expiration of the deadline for the receipt of the bids or application.

(2) The explanations under par. 1 shall be published on the buyer’s profile within 4 days after the receipt of the request, if the persons have provided an email address, the explanations will be sent to it as well on the day of their publication on buyer’s side. The explanations should not provide information about the persons having requested them.

(3) Where from publishing of the explanations by the contracting authority to the deadline for receiving of bids or applications less than 6 days are remaining, and in cases referred to in Art. 14, par. 3 – less than three days, the contracting authority shall be obliged to extend the term for receiving of bids or of applications.

(4) In cases referred to in par. 3 the decision for amendment shall be published on the buyer’s profile on the day of its forwarding for publication in the Public procurement registry. From the day of publication on the buyer’s profile to the deadline for submission of bids there must not be less than 6 days, and in cases referred to in Art. 14, par. 3 – less than three days.

Section IV.
Technical Specifications

Art. 30. (amend. - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 33/12) In the documentation for participation in public procurement procedure the contracting authority shall determine the technical specifications by:

1. indicating in the following order of:
   a) Bulgarian standards introducing European standards;
   b) European technical approvals;
   c) Generally accepted technical specifications;
   d) Bulgarian standards, introducing international standards;
   e) other international standards;
   f) other technical references, issued by European standardization bodies, or in case such are missing – other national standards, national technical approvals or national technical specifications, related to engineering, calculation method and execution of construction works, and also to use of goods;
   g) technical specifications, produced and widely adopted by the industry;
   h) national standards in the field of defense and similar specifications of equipment and supplies in the field of defense;

2. indication of operating parameters of functional requirements, allowing precise determination of the subject of order; functional requirements may include requirements for environmental protection;

3. determination of operating characteristics or functional requirements by referring to technical specifications under item 1, reference to which shall be accepted as achievement of compliance;

4. indication of specifications under item 1 for a part of the parameters, and for others – by reference to operating parameters or functional requirements under item 2.

(2) (new – SG 33/12) Each reference to a particular standard, specification, technical approval or other technical reference under par. 1, item 1 shall have to be supplemented by adding the words "or equivalent".

(3) (prev. par. 2, amend. - SG 33/12) In the cases under par. 1, item 2, when the contracting authority has provided requirements for protection of the environment, he/she may use specifications or parts of European or national schemes of ecomarking of other ecomarkings, meeting simultaneously the
following requirements:
1. (amend. – SG 33/12) the specifications are suitable for determining the characteristics of the goods and the services;
2. (amend. – SG 33/12) the requirements to ecomarking are prepared on the basis of scientific information;
3. (amend. – SG 33/12) the ecomarkings are accepted following a procedure, in which all interested parties may take part – state bodies, consumers, producers, distributors and organizations for protection of the environment;
4. they are accessible to all interested parties.

(4) (prev. par. 3, amend. – SG 33/12) The contracting authority may point out that the goods and the services having ecomarking are considered to correspond to the technical specifications, provided in the documentation for participation in a procedure for assigning public procurement.

(5) (amend. – SG 93/11, in force from 26.02.2012; prev. par. 4, amend. – SG 33/12) In the cases under par. 3 the contracting authority shall accept also any other facility, proving conformity, such as manufacturer’s technical file or a test report, or a certificate, issued by a recognized body.

Art. 31. (amend. - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 33/12; amend. – SG 40/14, in force from 01.10.2014) Classified information should not be included into technical specifications. The existence of classified information with information about where it can be obtained, shall be provided in the application documentation. Persons can obtain the information subject to compliance with and following the provisions of the Classified information protection act.

(2) (suppl. – SG 33/12) The applicants or the participants, including their subcontractors shall not have right to disclose the information under par. 1.

Art. 32. (1) (suppl. – SG 37/06, in force from 01.07.2006) The technical specifications shall provide equal access of the candidates or the participants for participation in the procedure and shall not create obstacles to the competition without a ground.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) The technical specifications shall not be determined by indicating a specific model, source, process, trade mark, patent, type, origin or production, which would lead to the provision of privilege or the elimination of certain persons or products. In exclusive cases, where it is impossible for the subject of the procurement to be described precisely and clearly by the order of art. 30, par. 1 and Art. 33 such indication is admissible, provided that the words "or an equivalent" are obligatorily added.

Art. 33. (1) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In the cases of art. 30, para 1, item 1 the contracting authority may not reject an offer on the grounds that the offered goods or services do not correspond to the technical specifications he indicated where the participant proves in his offer by any relevant means, which satisfy the contracting authority that the solution offered by him solution meets equivalently the requirements determined by these technical specifications.

(2) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In the cases of art. 30, para 1 where technical specifications are determined through operating parameters or functional requirements, the contracting authority may not reject an offer corresponding to a Bulgarian standard introducing an European standard, to European technical approval; to generally accepted technical specification; to international standard or technical reference,
established by European standardization bodies, where the participant proves in his offer by relevant means that these standardization documents are related to the requirements determined by the contracting authority.

(3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In the cases of para 1 and 2 as relevant means for proving of achieved equivalency subject to satisfying of requirements, indicated in technical specifications, shall also be deemed manufacturer’s technical file or test reports or certificates, issued by a recognized body.

(4) (amend. - SG 37/06, in force from 01.07.2006) When submitting the offer the participant may point out which part of it is of confidential nature and require from the contracting authority not to disclose it.

(5) (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) The contracting authority shall not have right to disclose information, provided to him/her by candidates and participants, indicated by them as confidential with regards to technical or commercial secrets, except for the cases under art. 44.

Art. 33a. (new – SG 33/12; prev. Art. 33a – SG 40/14, in force from 01.07.2014) Contracting authorities shall acknowledge certificates issued by recognized bodies.

(2) (new – SG 40/14, in force from 01.07.2014) The contracting authority shall not have the right to require an authorization letter for the particular public procurement where an authorization letter from the manufacturer has been provided, certifying the rights of representation and trading within the territory of the whole country.

Section V.
Consideration, Assessment and Rating of the Offers

Art. 34. (1) The contracting authority shall appoint a commission for holding a public procurement procedure, determining its members and reserve members.

(2) (amend. – SG 94/08, in force from 01.01.2009; amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend. – SG 40/14, in force from 01.10.2014) The commission shall include obligatorily one lawyer, and minimum half of the remaining members shall be persons with professional competency related to the subject of the procurement. The commission shall consist of an odd number of members – minimum five persons, and in cases referred to in Art. 14, par. 3 – minimum three persons.

(3) (amend. – SG 94/08, in force from 01.01.2009; suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.10.2014) A contracting authority not having appointed employees meeting the requirements for professional competency under par. 2, shall outsource experts from the list under Art. 19, par. 2, item 8 or others through assignment subject to compliance with this act. In case of assignment of construction works amounting to minimum BGN9.779.000, the contracting authorities shall include as a member of the commission minimum one outsourced expert listed on the list under Art. 19, par. 2, item 8. In cases referred to in sentence two, the selection of an outsourced expert shall be done by a draw, where all experts with professional competency related to the subject of the procurement are included. The draw shall be arranged by the Agency following a procedure, determined by the regulation for the application of the act.

(4) (new – SG 94/08, in force from 01.01.2009; revoked. – SG 93/11, in force from 26.02.2012; new – SG 33/12 ) In case of assignment of public procurement orders containing or requiring classified information, commission members can be only individuals, holding a permit for access to classified information in compliance with the requirements of the Protection of Classified
Information Act.

(5) (amend. - SG 37/06, in force from 01.07.2006; prev. text of para 4 – SG 94/08, in force from 01.01.2009) In case of open procedure the commission shall be appointed by the contracting authority upon expiration of the term for accepting the offers, and in case of limited procedure, competitive dialogue or procedure of negotiation - upon expiration of the term for accepting the applications for participation.

(6) (amend. - SG 37/06, in force from 01.07.2006; prev. text of para 5, amend. – SG 94/08, in force from 01.01.2009) The contracting authority shall set a term for conclusion of the work of the commission which must be in accordance with the specific nature of the public procurement. The said term may not be longer than the term of validity of the offers.

(7) (prev. text of para 6 – SG 94/08, in force from 01.01.2009; amend. – SG 82/12; suppl. – SG 40/14, in force from 01.10.2014) All expenses related to the commission activity shall be paid by contracting authority. Commission members shall receive remuneration for their work, determined by the order of appointment, unless the law provides otherwise, and also business trip expenses – travel expenses, daily allowance and accommodation money.

Art. 35. (1) (amend. - SG 37/06, in force from 01.07.2006) Members of the commission or consultants may be persons who declare that:

1. they have no material interest in the assignment of the public procurement to a definite candidate or participant;

2. (amend. - SG 52/10; amend. - SG 97/10, in force from 10.12.2010; amend. – SG 93/11, in force from 26.02.2012) they are not "affiliated persons" with an applicant or a participant in the procedure or with subcontractors appointed by him/her, or with members of their management or control bodies;

3. (new – SG 94/08, in force from 01.01.2009; amend. - SG 97/10, in force from 10.12.2010) have no private interest within the meaning of the Act on Prevention and Findings of Conflict of Interests as regards to assigning the public procurement;

4. (new – SG 40/14, in force from 01.07.2014) they have not been involved as outsourced experts in the preparation of technical specifications part of the bid assessment methodology.

(2) The members of the commission and the consultants shall be obliged to keep secret the circumstances they have learned in connection with their work in the commission.

(3) (amend. – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force 01.07.2014) The members of the commission and the consultants shall present to the contracting authority a declaration for compliance of the circumstances under para 1 and for observance of the requirements under para 2 after receiving the list of candidates or participants and at each stage of the procedure where a change of the declared circumstances occurs or has been identified.

Art. 36. (1) The decisions of the commission shall be taken by a majority of its members. When a member of the commission is against the decision taken he/she shall sign the records with reservation and shall present his/her motives in writing.

(2) Where, due to objective reasons, a member of the commission cannot fulfil his/her duties and he/she cannot be substituted by a reserve member, the contracting authority shall issue an order for appointing a new member.

(3) (new - SG 37/06, in force from 01.07.2006; revoked – SG 94/08, in force from 01.01.2009)

Art. 36a. (new – SG 93/11, in force from 26.02.2012) (1) The contracting authority or an
authorized person referred to in Art. 8, par. 2 shall have the right to monitor the work of the commission in charge of conducting of the procedure prior to issuance of relevant decisions.

(2) In the course of monitoring referred to in par. 1 the contracting authority shall review only the content of the records produced by the commission on the conformity with the legal provisions and preliminary announced terms and conditions of the public procurement.

(3) (suppl. – SG 40/14, in force from 01.07.2014) Provided that in the course of monitoring referred to in par. 1 violations in the commission work are identified, which may be corrected, without having to suspend the procedure, the contracting authority shall issue written instructions for their correction within 5 days after the submission of the respective protocol.

(4) The contracting authority instructions referred to in par. 3 shall be binding for the commission. The undertaken actions and the adopted decisions for fulfillment of instructions shall be recorded in a protocol, whereas in case of any disagreement, a dissenting opinion shall be attached thereto.

Art. 37. (1) (prev. text of art. 37, amend. - SG 37/06, in force from 01.07.2006) The contracting authority shall determine the contractor of the public procurement on the grounds of an assessment of the offers by one of the following criteria, indicated in the notice:

1. the lowest price;
2. economically most favourable offer.

(2) (new - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014) In case of implemented procurements under Art. 3, par. 1, with a subject engineering and carrying out of construction works, and also in case of design competitions the lowest price criteria cannot be applied.

(3) (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012) The criteria under para 1 shall apply for evaluation of offers, which:

1. meet the requirements announced in advance by the contracting authority, and
2. (amend. – SG 40/14, in force from 01.07.2014) have been filed by participants with regards to whom there are no circumstances under Art. 47, para 1 and 5 as well as the ones indicated in the notice as per Art. 47, para 2, and who meet the selection criteria, determined by the contracting authority.

(4) (new - SG 37/06, in force from 01.07.2006) If the chosen criterion is economically the most favourable offer and the contracting authority has indicated in the notice that he/she admits presentation of options, subject to assessment shall be all options proposed, which meet the announced requirements under art. 28, par. 1, item 5.

(5) (new - SG 37/06, in force from 01.07.2006) In the cases under par. 4 the participant shall take part in the rating only with the option, which has acquired the highest assessment

Art. 38. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10) All procedures under this Act shall wind up by a decision for:

1. designating a contractor under a public procurement contract, as well as under a contract concluded by implementation of frame agreement, a dynamic delivery system or a system for preliminary selection;
2. concluding a frame agreement;
4. classifying the participants and/or awarding a prize and/or other payments in a project competition;
5. termination of the procedure.

Art. 39. (1) (amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall terminate the procedure by a justified decision when:

1. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; amend. and suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) not a single offer, application or a competitive design have been submitted, there is no applicant or participant who meets the requirements set out in Art. 47 through 53a or not a single participant has appeared for negotiating a contract;

2. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; suppl. – SG 93/11, in force from 26.02.2012) all offers or projects do not meet the requirements announced by the contracting authority in advance;

3. all offers meeting the requirements announced in advance by the contracting authority exceed the financial resource he can provide;

4. (amend. - SG 37/06, in force from 01.07.2006; amend. And suppl. – SG 93/11, in force from 26.02.2012) the first and the second rated participants refuse to conclude a contract;

5. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) there is no more a necessity of holding the procedure as a result of substantial change of the circumstances or in case of impossibility of providing financing for fulfilment of the procurement for reasons which the contracting authority could not have foreseen;

6. (amend. - SG 37/06, in force from 01.07.2006) violations in its opening and holding are established, which cannot be removed without changing the terms under which the procedure has been announced;

7. (new - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009) due to presence of some of the grounds under art. 42, para 1, public procurement contract is not concluded.

   (2) (new – SG 94/08, in force from 01.01.2009) Contracting authorities may terminate the proceedings by a reasoned decision, in case:

1. (amend. – SG 93/11, in force from 26.02.2012) only one offer, application for participation or project have been submitted;

2. (amend. and suppl. – SG 52/10; suppl. – SG 93/11, in force from 26.02.2012) there is only one candidate or participant who meets the requirements set out in Art. 47 through 53a or only one offer or project meets the prerequisites announced in advance by the contracting authority;

3. (new – SG 93/11, in force from 26.02.2012) the applicant, having been ranked first:

   a) refuses to sign a contract, or

   b) fails to meet any of the requirements referred to in Art. 42, par. 1, or

   c) does not meet the requirements of Art. 47, par. 1 and 5 or the requirements of Art. 47, par. 2, where these are mentioned in the notice;

4. (new – SG 33/12) where the grounds referred to in Art. 79, par. 9, item 2, Art. 83d, par. 8, item 2 and Art. 88, par. 8, item 2 are existing,

   (3) (amend. and suppl. - SG 37/06, in force from 01.07.2006; prev. text of para 2, suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014) Within 3 days from taking of the decision under para 1 or 2 the contracting authority shall on the same day forward the decision to all applicants or participants, shall publish it on the buyer’s profile and shall forward a copy of the decision to the executive director of the agency.

   (4) (prev. text of para 3 – SG 94/08, in force from 01.01.2009) In the cases of para 1, item 3 the contracting authority shall obligatorily include in the decision the lowest offered price and he may not conclude a contract for the same object at a price equal or higher than the one indicated by the decision, on holding another procedure within the same year.
(5) (suppl. – SG 37/06, in force from 01.07.2006; prev. text of para 4, suppl. – SG 94/08, in force from 01.01.2009) On termination of the public procurement procedure under para 1, item 3, 5 and 6 or para 2 the contracting authority shall reimburse to the candidates or the participants the expenses incurred by them for buying the documentation for participation in the procedure within 14 days from the decision under para 1 or para 2.

(6) (new – SG 93/11, in force from 26.02.2012) Where the initially announced procedure has been terminated, the contracting authority may open a new procedure for assignment of a public procurement order with the same subject only if the decisions for termination has been enforced.

Art. 40. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) The contracting authority may revoke the decision for selection of a contractor upon its enforcement, but prior to conclusion of the contract, and to issue a decisions for termination of the procedure, where the circumstances referred to in Art. 39, par. 1, item 4, 5 and 7 and par. 2, item 3 have occurred.

Section VI.
Public Procurement Contract

Art. 41. (amend. - SG 37/06, in force from 01.07.2006) (1) (suppl. – SG 40/14, in force from 01.07.2014) The contracting authority shall conclude a written public procurement contract with the participant, chosen for contractor as a result of conducted procedure. The regulation for the application of the act shall specify the obligatory minimum content of the contracts and the recommendable samples of contracts and of the appendixes thereto.

(2) (amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall be obliged to conclude a contract, conforming with the project attached to the documentation, supplemented with all proposals of the offer of the participant, on the ground of which he/she has been selected as a contractor.

(3) (amend. – SG 52/10) The contracting authority shall not be entitled to conclude the contract prior to expiry of the 14-days term from the notification of the interested candidates and/or interested participants of the decision for designation of a contractor.

(4) (amend. – SG 52/10) The contracting authority shall conclude the contract within one month from entry into force of the decision for designating a contractor or of the order with which has been admitted pre-execution or this decision, however not prior to the expiry of the term fixed in para 3.

(5) (new – SG 52/10; suppl. – SG 93/11, in force from 26.02.2012) The contracting authority shall not be entitled to conclude a contract with the designated contractor before all decisions related to the procedure enter into force, unless preliminary execution has been admitted.

(6) (prev. text of para 5 – DG 52/10) Shall not be admitted conclusion of termless public procurement contracts.

Art. 41a. (new – SG 52/10) The contracting authority may conclude a public procurement contract prior to the expiry of the term fixed in Art. 41, para 3, where:

1. the contractor is designated as a result of a negotiation procedure without an notice where only one participant has been invited;
2. the designated contractor is the only interested participant and there are no interested candidates;
3. the contract is concluded on the grounds of a frame agreement with one participant.
Art. 41b. (new – SG 52/10) (1) (amend. – SG 33/12) As regards to the persons under Art. 122i, para 1, null and void shall be considered contracts or frame agreements, concluded:
1. (new – SG 93/11, in force from 26.02.2012) without public procurement assignment procedure, regardless the grounds for its conduction;
2. (prev. item 1, amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) in case of unlawful implementation of the grounds under Art.4, Art. 12, para 1, Art. 13, para 1, Art. 90, para 1, Art. 103, para 2 or Art. 119c, par. 3;
3. (prev. item 2 – SG 93/11, in force from 26.02.2012) prior to entry into force of any of the decisions of the contracting authority issued in relation to the procedure, and an infringement is established which has affected the ability of:
   a) an interested person to submit an application for participation or an offer;
   b) an interested candidate to submit an offer;
   c) an interested candidate or participant to take part in the process of designating a contractor.
(2) (suppl. – SG 33/12) The contract or the frame agreement shall retain its effect in those cases where a decision as per Art. 122d, para 4 has entered into force.

Art. 41c. (new – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) (1) (amend. – SG 33/12) The contracting authority may publish a voluntary transparency notice, where Art. 4, item 2, 4 and 5, Art. 12, par. 1, items 2 – 9, 11 - 15, Art. 13, par. 1, Art. 90, par. 1, Art. 103, par. 2 or Art. 119c, par. 3 are applied.
   (2) The voluntary transparency notice is an individual administrative act, containing minimum:
      1. name and information about the contracting authority;
      2. description of the subject of the contract, which the contracting authority is planning to conclude;
      3. justification for application of the grounds referred to in par. 1;
      4. name and information about the selected contractor.
   (4) (amend. – SG 40/14, in force from 01.07.2014) In those cases where the contracting authority uses a voluntary transparency notice, they shall forward it to the Public Procurement Register for publication, and where the procurement value is equal to or exceeding those fixed in Art. 45c, para 2 – the notice shall also be sent to the Official Journal of the European Union.
   (5) In cases referred to in Art. 41b, par. 1, item 2 the contract shall remain valid, if concluded after entering of voluntary transparency notice into force and the contracting authority has met the provisions of par. 1 – 4.

Art. 42. (amend. - SG 37/06, in force from 01.07.2006) (1) (prev. text of Art. 42 – SG 94/08, in force from 01.01.2009) The public procurement contract shall not be concluded with a participant chosen for contractor who, on signing the contract:
1. does not present a document for registration in compliance with the requirement of art. 25, para 3, item 2;
2. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) does not fulfil the obligation under art. 47, para 10;
3. does not present the fixed guarantee for performance of the contract;
4. (new – SG 52/10) fails to make the respective registration, does not provide certain document or fails to fulfill some other requirement required for the performance of the public procurement set out in a statutory instrument or in an administrative act, provided that the said requirement has been set by the contracting authority upon initiation of the procedure.

   Art. 42a. (new – SG 40/14, in force from 13.05.2014) Cash receivables under public procurement contracts and under subcontracts shall be transferrable, may be mortgaged and compulsory execution can be done thereon.

   Art. 43. (1) (amend. - SG 37/06, in force from 01.07.2006) The parties to the public procurement contract may not amend it.
   (2) (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; suppl. – SG 40/14, in force from 01.07.2014) Amendment of a public procurement contract shall be done by a supplementary agreement to the contract and shall be admitted by way of an exception:
   1. (suppl. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) in case as a result of unforeseeable circumstances the following required:
      a) amendment of contractual terms, or
      b) partial replacement of works subject to a construction or service order, where this is in contracting authority interest and does not lead to an increase of contractual price, or
      c) (new – SG 40/14, in force from 01.07.2014) full or partial replacement of goods included in the subject of a supply procurement contract, including of their elements, components or parts, where this is in contracting authority interest, it does not cause an increase of the contractual price and the replacing goods meet the requirements of technical specifications, they have got technical advantages and/or better functional characteristics compared to the replaced goods, or;
      d) previous item "c"– SG 40/14, in force from 01.07.2014) reduction of the total cost of the contract in contracting authority interest due to reduction of contractual prices or agreed quantities or cancelling of works, or
   2. (amend. and suppl. – SG 94/08, in force from 01.01.2009; revoked – SG 93/11, in force from 26.02.2012);
   3. (new – SG 94/08, in force from 01.01.2009; suppl. – SG 93/11, in force from 26.02.2012) in case of change of prices regulated by the state, where main subject of the public procurement contract is activity whose price is regulated by the state and its term for implementation exceeds 12 months, or
   4. (new – SG 93/11, in force from 26.02.2012) where an increase of the price is required due to an adopted regulating act – up to the amount, arising as a direct and immediate result thereof, or
   5. (new – SG 93/11, in force from 26.02.2012) in case of extension of the validity of a delivery or service provision contract with recurring or continuous implementation, provided that the following conditions are met concurrently:
      a) not later than 6 months prior to expiration of the validity of the contract the contracting authority has opened a procedure with the same subject for a subsequent period, which has not been finalized with a selection of a contractor;
      b) the validity of the contract is extended until a contractor is selected, however for not more than 6 months;
      c) any termination of the delivery or of the service would result in major difficulties for the contracting authority;
6. (new – SG 33/12) in contracts referred to in Art. 3, par. 2 for a value exceeding 50 million BG levs in case of occurrence of circumstances, which could not be foreseen as of the time of conclusion of the contract and as a result of which the contract affects the legal interests of any of the parties thereto.

(3) (new – SG 94/08, in force from 01.01.2009) A change of prices on the ground of para 2, item 3 may be up to the amount of the actual costs increase of the contractor occurred as a result of alteration of prices regulated by the state.

(4) (prev. text of par. 2- SG 37/06, in force from 01.07.2006; prev. text of para 3 – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014) The contracting authority may terminate the public procurement contract if, as a result of force majeur, he/she is not in a position to fulfill his obligations. In these cases the contracting authority shall owe to the contractor indemnification for suffered damages due to the termination of the contract subject to its provisions thereof.

(5) (new – SG 40/14, in force from 01.07.2014) The contracting authority and the contractor may terminate the public procurement contract subject to compliance with terms and provisions and following a procedure, set out in the contract.

(6) (new – SG 33/12; prev. par. 5 – SG 40/14, in force from 01.07.2014) The contracting authority shall be obliged to terminate a contract concluded based on a frame agreement, which has been announced invalid on any of the grounds referred to in Art. 41b, par. 1.

(7) (new – SG 40/14, in force from 01.07.2014) In case of transformation of the contractor subject to compliance with the regulations applicable in the state where they are based, the contracting authority shall conclude a contract for extension of the public procurement contract with a successor. A contract for extension of the public procurement contract shall be concluded only with a successor, concerning whom the circumstances under Art. 47, par. 1 and 5, the circumstances referred to in Art. 47, par. 2 specified by the contracting authority, and the requirements concerning the selection criteria are not existing. Amendments in the public procurement may not be made by the contract with the successor. Where in case of transformation, the company of the initial contractor is not being terminated, it shall be held liable jointly with the new contractor being a successor.

(8) (new – SG 40/14, in force from 01.07.2014) In case of transformation of the contractor, if the successor does not meet the requirements of par. 7, sentence two, the public procurement contract shall be terminated justifiably where the contractor, respectively the successor, shall be liable to pay an indemnification following the general claiming procedure.

Art. 44. (1) (suppl. – SG 37/06, in force from 01.07.2006; amend – SG 40/14, in force from 01.10.2014) The contracting authority shall be obliged to send an information for every concluded public procurement contract or for concluded frame agreement to the Agency for entry in the Public Procurement Register not later than 30 days from the conclusion of the contract or of the frame agreement.

(2) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 40/14, in force from 01.10.2014) The information under para 1 shall be worked out in the form under art. 19, par. 7. The information shall contain data specified by the regulations for the application of the act, including about the persons having submitted buds, and where associations have participated in the procedure – also about the members of the association.

(3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) Information under par. 1, whose notice contradicts the law or public interest, including in the field of defense and security, shall not be entered in the Public Procurement Register. In this case the contracting authority shall provide reasons before the Agency.

(4) (new - SG 37/06, in force from 01.07.2006) Information, which, according to the form under art. 19, par. 7, is not designated for publishing, shall be used for statistical objectives.
(5) (new – SG 37/06, in force from 01.07.2006; amend – SG 40/14, in force from 01.10.2014) The information about concluded contracts on the basis of dynamic purchasing system may be sent once in a quarter. In this case the contracting authority must send the information within 30 days after the end of each quarter.

(6) (new – SG 37/06, in force from 01.07.2006; amend – SG 40/14, in force from 01.10.2014) The contracting authority shall be obliged to send to the Agency information about every contract, concluded on the grounds of a frame agreement, within 30 days after its conclusion.

(7) (new – SG 37/06, in force from 01.07.2006; amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) The contracting authorities may publish information about the concluded contract subject to application of:

1. Art. 4, items 2, 4 and 5, Art. 12, para 1, items 2 through 9, 11 through 15 and where the prices of the contracts exceed the minimum thresholds referred to in Art. 14, par. 4;
2. Art. 13, par. 1, if the contracts are for the values referred to in Art. 14, par. 2.

(8) (new – SG 37/06, in force from 01.07.2006; amend. – SG 52/10; suppl. – SG 93/11, in force from 26.02.2012) The information specified in para 7 shall be prepared according to the respective form under Art. 19, para 7 and shall be sent to be entered in the Public Procurement Register within 7 days from the concluding of the contract. The contracting authority must obligatorily indicate in the information its justifications for the application of the respective grounds.

(9) (new – SG 93/11, in force from 26.02.2012) The contracting authority shall send to the Agency information within one month after the accomplishment of public procurement contract or after its premature termination.

(10) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend – SG 40/14, in force from 01.10.2014) Not later than 31 March every year, following the reference year, the contracting authority shall send summarized information in a form approved by the Agency Managing Director regarding all spent funds for public procurement orders under:

1. (new – SG 40/14, in force from 01.10.2014) Art. 3, par. 1, where they are of an amount referred to in Art. 14, par. 4 and 5;
2. (new – SG 40/14, in force from 01.10.2014) Art. 3, par. 2, where they are of an amount referred to in Art. 14, par. 2.

Art. 45. For all unsettled issues in connection with the conclusion, fulfilment and termination of the public procurement contracts shall apply the provisions of the Commerce Act and of the Obligations and Contracts Act.

Section VII.
Subcontract (New – SG 40/14, in force from 01.07.2014)

Art. 45a. (new – 40/14, in force from 01.07.2014) (1) Contractors shall conclude subcontracts with the subcontractors mentioned in the bid. Conclusion of subcontracts shall not release the contracting authority from their responsibility for the fulfillment of the public procurement contract.

(2) Contractors shall not have the right to:

1. conclude a subcontract with a person, regarding which there is a circumstance referred to in Art. 47, par. 1 or 5;
2. assign the implementation of one or more of the activities included in the scope of the public procurement to persons which are not subcontractors;
3. replace a subcontractor nominated in the bid, except for where:
   a) regarding the proposed subcontractor there is or occurs a circumstance referred to in Art. 47,
par. 1 or 5;
  b) the proposed subcontractor ceases to comply with the legislative requirement for the implementation of one or more of the activities, included in the subject of the subcontract;
  c) the subcontract has been terminated due to subcontractor’s fault, including in the cases referred to in par. 6.

(3) Within three days after the conclusion of a subcontract or of a supplementary agreement thereto, or of a contract replacing a subcontract specified in the bid, the contractor shall send an original copy of the contract or of the supplementary agreement to the contractor together with evidences that the prohibition provided in par. 2 is not violated.

(4) The subcontractors shall not have the right to re-assign one or more activities, included in the subject of the subcontract.

(5) It shall not be regarded as a violation of the prohibition under par. 2, item 2 and under par. 4 the supply of goods, materials or equipment, required for the implementation of the public procurement, where such supply does not include installation, and also conclusion of contracts for services which are not part of the public procurement contract, respectively – of the subcontract.

(6) The contractor shall be obliged to terminate a subcontract, if in the course of its implementation a circumstance under Art. 47, par. 1 or 5 occurs, and also in case of violation of the prohibition under par. 4 within 14 days after getting aware thereof. In these cases the contractor shall conclude a new subcontract subject to compliance with the terms and conditions and the provisions of par. 1 – 5.

Art. 45b. (new – SG 40/14, in force from 01.07.2014) (1) The contracting authority shall accept the execution of works under the public procurement order for which the contractor has concluded a subcontract in the presence of both the contractor and the subcontractor.

(2) At the time of acceptance of works the contractor may submit to the contracting authority evidences that the subcontract has been terminated, or the works or a part thereof has not been carried out by the subcontractor.

(3) The contracting authority shall make the final payment under a public procurement order, for which there are concluded subcontracts, after having received from the contractor evidences that they have paid to the subcontractor for all works accepted according to the procedure of par. 1.

(4) Paragraph 3 shall not apply in the cases referred to in par. 2.

Section VIII.
Sending information to the European commission (new - SG 37/06, in force from 01.01.2007; prev. Section VII, amend. – SG 40/14, in force from 01.07.2014)

Art. 45c. (new - SG 37/06, in force from 01.01.2007) (1) (amend. – SG 93/11, in force from 26.02.2012; prev. Art. 45a, amend. – SG 40/14, in force from 01.07.2014) Contracting authorities shall be obliged to send for promulgation, in addition to the Register of Public Procurement Order, also to the Official Journal of the European Union the following documents:
  1. (suppl. – SG 52/10) the advance notices or messages for publication of advance notices in the buyer’s profile – in the cases of public procurement for construction;
  2. advance notices - invitations;
  3. notices for initiation of proceedings;
  4. (new – SG 93/11, in force from 26.02.2012) information on amendment of the notice and/or the documents;
  5. (prev. item 4 – SG 93/11, in force from 26.02.2012) information concerning concluded...
contracts or frame agreements;

6. (prev. item 5 – SG 93/11, in force from 26.02.2012) information concerning project competitions which have been held;

7. (prev. item 6 – SG 93/11, in force from 26.02.2012) simplified public procurement notices within the frames of dynamic purchasing.

(2) (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) The documents referred to in para 1 shall be sent, where:

1. (amend. – SG 40/14, in force from 01.07.2014) contracting authorities under Art. 7, par. 1, which are central government bodies, their associations, and also contracting authorities under Art. 7, item 2 and 4 assign public procurement orders under Art. 3, par. 1 for amounts, VAT exclusive equal or higher than:

a) BGN9 779 000 – for construction;

b) BGN254 254 – for supplies, services under Attachment No. 2 and a project competition;

c) BGN391 160 – for services under Attachment No. 2, category 8, telecommunication services of category 5, equivalent to reference numbers as per CPV 7524, 7525 and 7526, services under Attachment No. 3, and also a project competition, related to these services;

2. (amend. – SG 40/14, in force from 01.07.2014) contracting authorities referred to in Art. 7, item 1, which are territorial governmental bodies, their associations and also contracting authorities under Art. 7, item 3 which assign public procurement orders under Art. 3, par. 1 amounting to, VAT exclusive, or higher than:

a) BGN9 779 000 – for construction;

b) BGN254 254 – for supplies, services under Attachment No. 2 and project competition;

c) BGN391 160 – for services under Attachment No. 2, category 8, telecommunication services of category 5, equivalent to reference numbers as per CPV 7524, 7525 and 7526, services under Attachment No. 3, and a project competition, related to these services;

3. (amend. – SG 40/14, in force from 01.07.2014) contracting authorities, carrying out activities in the field of defense and which are territorial governmental bodies, shall assign public procurement orders under Art. 3, par. 1 amounting to, VAT exclusive, or higher than:

a) BGN9 779 000 – for construction;

b) BGN391 160 – for supplies, services and a project competition;

4. (amend. – SG 40/14, in force from 26.02.2012) contracting authorities, carrying out activities in the field of defense and which are territorial governmental bodies, shall assign public procurement orders under Art. 3, par. 1 for services and a project competition amounting to, VAT exclusive, or higher than BGN391 160;

5. (amend. – SG 40/14, in force from 26.02.2012) contracting authorities, carrying out activities in the field of defense and which are territorial governmental bodies, shall assign public procurement orders under Art. 3, par. 1 for services and a project competition amounting to, VAT exclusive, or higher than BGN391 160;

6. (prev. item 6 – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In cases referred to in Art. 14a, par. 3 the documents under par. 1 shall be sent, where the total estimated cost of construction works order, VAT exclusive, is equal to or higher than BGN 9 779 000.

(4) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In cases referred to in Art.
14a, par. 4 the documents under par. 1 shall be sent, where the total estimated cost of a service order, VAT exclusive, is equal to or higher than BGN391 160.

(5) (new – SG 52/10; prev. par. 3 – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) Contracting authority shall also send the advance notices according to para 1 or the messages for publication of advance notices in the buyer’s profile in those cases where the public procurement under Art. 3, par. 1 by category of deliveries and services according to Appendix No 2 to Art. 5, para 1, item 1 has an equivalent in BGN equal to or exceeding EUR 750 000 as per the official exchange rate of BG lev to EUR, and for orders under Art. 3, par. 2 – amounting to or exceeding those referred to in par. 2, item 7. Contracting authorities shall be obliged to send notifications in advance only when they intend to use the shorter terms referred to in Art. 64, par. 2, Art. 81, par. 2 and Art. 104, par. 1.

(6) (prev. text of para 3 – SG 52/10; prev. par. 4 – SG 93/11, in force from 26.02.2012) The contracting authority shall be obliged to send the notices for establishing systems of preliminary selection pursuant to para 1.

(7) (prev. text of para 4, amend. – SG 52/10; prev. par. 5, amend. – SG 93/11, in force from 26.02.2012) The contracting authority may send the documents referred to in para 1, 5 and 6 and to the Official Journal of the European Union by post, fax or by electronic means, and in the cases of Art. 76, para 3 and Art. 86, para 3 – by fax or by electronic means. The message under para 1, item 1 shall be sent by electronic means.

(8) (prev. text of para 5 – SG 52/10; prev. par. 6, amend. – SG 93/11, in force from 26.02.2012) The contracting authority may not publish advance notices in the buyer profile prior to the date of sending the notice as per para 1, item 1 for publication in the Official Journal of the European Union.

(9) (prev. text of para 7 – SG 52/10; prev. par. 8 – SG 93/11, in force from 26.02.2012) The documents referred to in para. 1, 5 and 6 shall be sent for promulgation in the Official Journal of the European Union in Bulgarian language, in compliance with forms, approved by Implementing Regulation (EU) No. 842/2011. The version in Bulgarian language shall be the only authentic text.

(10) (prev. text of para 8, amend. – SG 52/10; prev. par. 9, amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall be obliged to send the documents under para 1, 5 and 6 for publication in the Official Journal of the European Union not later than their sending for publication in the Public Procurement Register. The documents sent for publication in the state shall also indicate the date of their sending to Official Journal.

(11) (prev. text of para 9 – SG 52/10; prev. par. 10 – SG 93/11, in force from 26.02.2012) The contracting authority shall be obliged to

1. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) publish the same data in the documents which are to be sent to the Official Journal of the European Union and the ones sent to the Public Procurement Register;

2. to present upon request proofs of the dates, on which the documents are sent, and the confirmation of the date of their publication, provided by the Official Journal of the European Union.

(12) (prev. text of para 10 – SG 52/10; prev. par. 11, amend. – SG 93/11, in force from 26.02.2012) Where there are any discrepancies between the information published in the Public Procurement Register and in the Official Journal of the European Union, the information promulgated in the Official Journal shall be considered genuine.

(13) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) The contracting authorities may send to the Official Journal of the European Union an notice of an assigned public procurement order also in cases, where the provision of Art. 4, item 2, 4 and 5, Art. 12, par. 1, items 2 through 9, 11 through 15 and Art. 13, par. 1 apply, where the cost of the contract is equal or higher than the ones, referred to in par. 2. The contracting authority must indicate in the notice justifications for applying the respective exception.
Chapter four.
GENERAL RULES FOR PARTICIPATION IN A PUBLIC PROCUREMENT PROCEDURE

Section I.
Requirements to the Candidates and the Participants (Title amend. - SG 37/06, in force from 01.07.2006)

Art. 46. (suppl. – SG 37/06, in force from 01.07.2006) Participant in a public procurement procedure may be every candidate or participant who meets the requirements announced in advance.

Art. 47. (amend. - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 40/14, in force from 01.07.2014) The contracting authority shall remove from participation in a public procurement procedure a candidate or participant who:

1. (suppl. – SG 40/14, in force from 01.07.2014) has been convicted by an enacted sentence, unless rehabilitated, for:
   a) a crime against the financial, tax or insurance system, including money laundering under Art. 253 - 260 of the Penal Code;
   b) bribe under art. 301 – 307 of the Penal code;
   c) participation in a criminal organisation under art. 321 – 321a from the Penal code;
   d) a crime against the property under art. 194 – 217 from the Penal code;
   e) offence against the economy under art. 219 – 252 from the Penal code;
   f) (new – SG 33/12) an offence under Art. 108a of the Penal Code – in case of awarding public contracts under Art. 3, par. 2.

2. (suppl. – SG 40/14, in force from 01.07.2014) has been declared bankrupt;

3. (suppl. – SG 40/14, in force from 01.07.2014) is in liquidation proceedings or in a similar procedure according to the national laws and by-laws;

4. (new – SG 40/14, in force from 01.07.2014) has got obligations within the meaning of Art. 162, par. 2, item 1 of the Code of Tax Insurance Procedure to the state and to a municipality, established by an enforced act issued by a competent body, unless a deferred payment or payment in installments of the liabilities has been allowed, or they have liabilities for taxes or social insurance contributions according to the legislation of the state where the applicant or the participant is based.

(2) (amend. – SG 33/12) The contracting authority may remove from participation in the public procurement procedure a candidate or a participant:

1. (suppl. – SG 33/12) who is in initiated bankruptcy proceedings or has concluded out-of-court settlement with his/her creditors within the meaning of art. 740 of the Commerce Act, in case the candidate or the participant is a foreign person - is in a similar procedure according to the national laws and by-laws, including when his/her activity is under court injunction, or the candidate or participant has discontinued his/her activity;

2. (amend. – SG 33/12) who is divested of the right to practice a definite profession or activity according to the legislation of the country, where the violence is committed, including for violations related to export of products in the field of defence and security;

2a. (new – SG 33/12) who is liable for non-fulfilment of obligations under a public procurement contract, including regarding information safety and supplies safety in orders under Art. 3, par. 2 evidenced by the contracting authority by an enforced court decision;

3. (amend. – SG 93/11, in force from 26.02.2012; suppl. – SG 33/12; revoked – SG 40/14, in force from 01.07.2014);

4. (new - SG 43/11, in force from 15.06.2011; suppl. – SG 33/12; amend. – SG 40/14, in force
from 01.07.2014) who has been sentenced by an enforced adjudication unless he/she has been rehabilitated for an offence under Art. 136 of the Penal Code, related to the occupational health and safety, or under Art. 172 of the Penal Code against employees’ occupational rights;

5. (new – SG 33/12) who has been convicted with an enforced sentence for an offense under Art. 313 of the Penal code regarding conducting of procedures for assignment of public procurement;

6. (new – SG 33/12) for whom it has been found out by the security services in the meaning of the Protection of Classified Information Act, based on whatever evidences, including intelligence means, that he/she is not adequately reliable, which excludes threat for the national security, when assigning orders under Art. 3, par. 2.

(3) (amend. – SG 93/11, in force from 26.02.2012) Where the contracting authority is planning to remove an applicant or a participant subject to existence of any of the circumstances referred to in para 2, the contracting authority is obliged to indicate these circumstances in the public procurement notice, and in case of contracting procedures without prior notification – in the invitation for participation.

(4) (amend. – SG 94/08, in force from 01.01.2009; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) The provisions of par. 1, item 1 and of par. 2, item 2, 4 and 5, where indicated by the contracting authority in the notice, shall be applied, as follows:

1. as regards to general partnerships - to the persons referred to in Art. 84, para 1 and Art. 89, para 1 of the Commerce Act;

2. as regards to limited partnerships - to the persons referred to in Art. 105 of the Commerce Act, without the limited liable partners;

3. as regards to limited liability companies - to the persons referred to in Art. 141, para 2 of the Commerce Act, and in case of single person limited liability company - to the persons referred to in Art. 147, para 1 of the Commerce Act;

4. as regards to joint-stock companies - to the persons authorized under Art. 235, para 2 of the Commerce Act, and where there is no authorization - to the persons under Art. 235, para 1 of the Commerce Act;

5. as regards to partnerships limited by shares - to the persons referred to in Art. 244, para 4 of the Commerce Act;

6. (new – SG 93/11, in force from 26.02.2012) as regards to sole proprietors – for the natural person who is a merchant;

7. (suppl. – SG 52/10; prev. item 6 - SG 93/11, in force from 26.02.2012) in all other cases, including for foreign persons - to the persons representing the candidate or participant.

8. (new – SG 52/10; prev. item 7, amend. - SG 93/11, in force from 26.02.2012) In the cases referred to in items 1 through 7 also regarding the procurators, where applicable; in those cases where a foreign person has more than one authorized representative, the declaration shall be submitted only by the person whose representative powers cover the territory of the Republic of Bulgaria, respectively the territory of the state in which is conducted the procedure with a contracting authority as per Art. 7, item 2.

(5) (amend. – SG 94/08, in force from 01.01.2009) Shall not participate in a procedure for award of a public contract applicants or participants:

1. (amend. – SG 52/10; amend. - SG 97/10, in force from 10.12.2010; amend. - SG 93/11, in force from 26.02.2012) where the persons under para 4 are affiliated persons with the contracting authority or with employees, holding managerial position at their organization;

2. (amend. - SG 97/10, in force from 10.12.2010) who have concluded contracts with a person under Art. 21 or 22 of the Act on Prevention and Findings of Conflict of Interests.

(7) (prev. par. 6 - SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In the cases under art. 90, par. 1, item 12, art. 103, par. 2, item 11 and art. 119c, par. 3, item 10 the requirements under par. 1, items 2 and 3 and par. 2, item 1 shall not apply.

(8) (prev. par. 7 - SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) The requirements under par. 1 and 5 shall only apply to the subcontractors.

(9) (prev. par. 8 - SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend. and suppl.-SG 40/14, in force from 01.07.2014) Upon submission of the offer or application for participation the applicant or the participant shall certify by a declaration the absence of the circumstances under para 1 and 5 and the requirements, stated in the notice under par. 2, item 1 – 5 by a single declaration, signed by the persons representing the applicant or the participant. The declaration shall contain also information about the public registers where the stated particulars are registers, or about the competent authority which, according to the legislation of the state, where the applicant or the participant is based, is obliged to provide information about these particulars ex-officio to the contracting authority.

(10) (amend. – SG 94/08, in force from 01.01.2009; prev. par. 9 - SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) Upon signing the public procurement contract the participant chosen for a contractor shall be obliged to present documents by the respective competent bodies in order to certify the absence of the circumstances under para 1, item 1- 4 and of the circumstances referred to in the notice under para 2, items 1, 2, 4 and 5, except for the cases where the legislation of the state, where they are bases, provides for the registration of any of these circumstances in a public register free of charge or their provision to the contracting authority free of charge.


Art. 48. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) A foreign natural or legal person, for whom in the state, where he/she is established, a circumstance under art. 47, par. 1 or any of the circumstances included in the notice under Art. 47, par. 2 is present, may not participate in a procedure for assigning public procurement.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) Upon submission of the bid, the applicant or the participant shall certify the absence of the circumstances under para 1 by the declaration referred to in Art. 47, par. 9.

(3) (new - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) Where the legislation of the state where the applicant or the participant is bases does not provide for stating of any of the circumstances under par. 1 in a public register free of charge or for their provision ex-officio and free of charge to the contracting authority upon signing of the public procurement contract, the participant nominated to be a contractor, shall be obliged to submit:

1. documents certifying the absence of the circumstances under para 1 and of the circumstances stated in the notice under Art. 47, par. 2, issued by a competent authority, or;
2. a transcript from a court register, or
3. an equivalent document issued by a court or administrative authority from the state, where they are bases.

(4) (new – SG 40/14, in force from 01.07.2014) Where in the state, where the applicant or the participant is based, the documents regarding the stated circumstances are not issued or where the documents do not include all circumstances, the participant shall submit an affidavit; if such is of legal importance according to the law of the country, where they are based.

(5) (new - SG 37/06, in force from 01.07.2006; prev. par. 4 - SG 40/14, in force from 01.07.2014) If the affidavit is of no legal importance according to the respective national law, the participant shall present an official application, made before judicial or administrative body, notary or
competent professional or commercial authority in the country where he/she is established.

Art. 49. (amend. - SG 37/06, in force from 01.07.2006) (1) (amend. - SG 40/14, in force from 01.07.2014) The contracting authority may require from every candidate or participant to prove their registration in a professional or commercial register in the country where they are established, or to present a declaration or a certificate for the presence of such registration issued by the competent authorities according to the respective national law, where the existence of the registration is provided by a law as a condition for the implementation of the subject of the public procurement.

(2) In the procedures for assigning public procurement for services, as far as the candidates or the participants must have a special permission or must be members of a definite organization in order to fulfil the respective service in their country, the contracting authority may require from them to prove the presence of such permission or membership.

(3) (new – SG 52/10) For the purpose of admission to a procedure the contracting authority shall not be entitled to require a certificate or another document of registration from an administrative body, if the candidates or participants established in another Member state of the European Union provide an equivalent document issued in the state where they are established.

Art. 50. (1) (suppl. – SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) Contracting authorities shall put requirements for the economic and financial status of the applicants and the participants, only if for the implementation of the public procurement financial resources are required for the provision of materials, consumables, funds for salaries and wages and the related taxes and contributions, etc. In these cases the contracting authority shall put a requirement for the amount of the financial resources available to the applicant or the participant which may not exceed 50 percent of the estimated value of the public procurement. Applicants or the participants may prove the availability of the required by the contracting authority financial resource by one or several of the following documents:

1. bank certificate;
2. annual financial report or some of its constituents when their publication is required by the legislation of the state in which the candidate or the participant is based.

(2) (suppl. – SG 37/06, in force from 01.07.2006) Where, for objective reasons, the candidate or the participant cannot produce the documents required by the contracting authority he may prove his economic and financial status by any other document accepted by the contracting authority as appropriate.

(3) (suppl. – SG 37/06, in force from 01.07.2006; revoked - SG 93/11, in force from 26.02.2012; new – SG 40/14, in force from 01.07.2014) In cases referred to in par. 1, item 2 and in par. 2 the contracting authority shall not have the right to require presentation of the annual financial report or any of its constituent parts, neither any other document, if they are published in the public register in the Republic of Bulgaria and the applicant or the participant has provided information about the authority maintaining the register.

Art. 51. (1) (prev. text of art. 51, suppl. – SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012; suppl. - SG 40/14, in force from 01.07.2014) For proving the technical capacity and/or the qualification of the applicants or the participants the contracting authority may require from them to produce one or several of the following documents in consideration of the subject of the public procurement:

1. (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 33/12; amend. - SG 40/14, in
force from 01.07.2014) a list of supplies or services, which are identical or similar to the subject of the public procurement, fulfilled within the last three years as from the date of submission of the application or of the bids, and in case of orders under Art. 3, par. 2 – fulfilled within the last 5 years, with indication of the values, the dates and the recipients, together with a proof of accomplished supply or service;

2. (new - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) a list of construction works, accomplished within the last 5 years as from the date of submission of the application or of the bid, and for construction works – which is identical or similar to the subject of the public procurement, and:

   a) reference to the public registers where there is information about the acts of commissioning of the construction projects, whereby this information contains data about the competent bodies, having issued these acts, the value, the date on which the execution has been accomplished, the place and the type of construction, or

   b) performance certificates, containing information about the cost, date on which the execution has been completed, the place, type and scope of construction works, and also whether it is performed in compliance with the regulatory requirements; the certificates contain also date and signature of the issuer and contact information, or

   c) copies of documents, certifying the accomplishment, the type and scope of the performed construction works;

3. (prev. text of item 2, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) a description of the technical equipment and the measures for providing the quality, and also of the equipment for testing and studying, and in case of orders under Art. 3, par. 2 – also of the internal rules of the participant regarding the intellectual property;

4. (prev. text of item 3 - SG 37/06, in force from 01.07.2006) a list of technical persons, including those in charge of quality control;

5. (prev. text of item 4 - SG 37/06, in force from 01.07.2006) samples, description and/or photos of the goods to be supplied, whose authenticity must be proven if the contracting authority so requires;

6. (prev. text of item 5, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) certificates issued by accredited persons for quality management, certifying the compliance of the goods with the respective specifications or standards;

7. (prev. text of item 6, amend. - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) reference to the degree of education, professional qualification and professional experience of the applicant or the participant and/or of their managing officers, including the persons in charge of the fulfilment of the service or construction works;

8. (prev. text of item 7, amend. and suppl. - SG 37/06, in force from 01.07.2006; suppl. - SG 40/14, in force from 01.07.2014) declaration for the average annual number of workers and employees and for the number of managerial employees of the candidate or the participant during the last three years, unless the applicant or the participant has mentioned in their bids that they will employ a subcontractor or third person’s resources;

9. (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) a declaration of the technical equipment, which the candidate or the participant possesses for fulfillment of public procurement for services or construction, and in all cases of assignment of orders under Art. 3, par. 2 – also for the number of workers and employees and know-how and/or the sources of supply with indication of geographical location, where it is outside the territory of the European Union, which are available to the applicant or the participant for the implementation of the order, in order to meet possible increase of contracting authority’s needs resulting from a crisis or for provisions for maintenance, upgrading or adapting the supplies, covered by the order;

10. (prev. text of item 8, suppl. - SG 37/06, in force from 01.07.2006) data for own or hired technical persons to be used by the candidate or the participant for the construction;
11. (new - SG 37/06, in force from 01.07.2006) for the public procurement for construction - a description of the measures for protection of the environment, which the candidate or the participant shall apply in fulfilment of the procurement, if the contracting authority has provided such in the notice;

12. (new – SG 33/12) a permit, a certificate or approval of access to classified information in the meaning of the Protection of Classified Information Act, including the opportunity for processing, storage and transmission of such information at the protection level, required by the contracting authority – in case of orders, containing or requiring classified information;

13. (new - SG 40/14, in force from 01.07.2014) certificates, substantiating the compliance of the applicant or the participant with quality management system standards according to the provision of Art. 53.

(2) (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) In the procedures for assigning public procurement for deliveries, which require research of the terrain or installation work, provision of services and/or fulfilment of construction, the contracting authority can lay down requirements to the candidates or the participants with regards to their skills, efficiency and experience to provide the service or to implement the mounting or the construction works.

(3) (new – SG 33/12) The contracting authority may determine in the notification an additional term, within which persons, not holding a permit, a certificate or an approval referred to in par. 1, item 12 are to provide the respective document. Within the term for receipt of applications for participation these persons shall file to the contracting authority a declaration of consent for carrying out of a study and shall attach the required documents under the Protection of Classified Information Act, which shall be sent by the contracting authority to the competent security service.

(4) (new - SG 40/14, in force from 01.07.2014) In cases referred to in par. 1, item 1 the evidence of the accomplished supply or service shall be submitted in the form of a certificate, issued by the recipient or by a competent body, or by referring to the public register, where the information about the supply or the service is published.

Art. 51a. (new - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) (1) An applicant or a participant may prove their compliance with the requirements for financial and economic status, for technical capacities and/or qualification by the capacities of one or more third persons. In such cases, in addition to the documents, specified by the contracting authority for proving of the respective capacities, the applicant or the participant shall submit proofs, that in the course of implementation of the public procurement they will have at their disposal the third persons’ resources.

(2) For the purposes of par. 1, third persons may be the nominated subcontractors, affiliated enterprises and other persons, regardless of their legal connection of the applicant or the participant with them.

Art. 52. (suppl. – SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; suppl. – SG 33/12) Where the subject of a public procurement is complex or of special purpose, and also in all cases of assignment of orders under Art. 3, par. 2, the contracting authority may inspect the technical capacity of the candidate or the participant and, where necessary, the equipment for testing and studying and the possibilities of providing the quality. The contracting authority may also require this from a competent body of the state where the candidate or the participant is established, if this body agrees to carry out inspection on behalf of the contracting authority.

Art. 53. (1) (suppl. – SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from
26.02.2012) Where the contracting authority requires presentation of certificates certifying the compliance of the candidate or the participant with standards of systems of quality management the contracting authority shall indicate the systems of quality management through the respective series of European standards.

(2) (new - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) In the cases under art. 51, par. 1, item 11 the contracting authority shall require the submission of certificates, certifying the compliance of the candidate or the participant with certain standards for protection of the environment, and shall indicate the Eco-Management and Audit Scheme of the European Union (EMAS) or the standards for protection of the environment via the respective European or international standards.

(3) (prev. text of par. 2, suppl. – SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) The certificates referred to in par. 1 and 2 must be issued by independent persons, accredited according to the respective series of European standards by Executive Agency "Bulgarian Accreditation Service" or by another national accreditation body, which is a party to the Multinational Agreement for Mutual Recognition of the European Cooperation for Accreditation, in the respective field or to meet the recognition requirements according to Art. 5a, par. 2 of the National Accreditation of Conformity Assessment Bodies Act.

(4) (prev. text of par. 3, amended. – SG 37/06, in force from 01.07.2006) The contracting authority shall accept equivalent certificates, issued by authorities, established in other Member States, as well as other proof of equivalent measures for ensuring the quality or for protection of the environment.

Art. 53a. (new - SG 37/06, in force from 01.07.2006) (1) Candidate or participant may present a certificate for registration in official list of approved economic entities of a Member state of the European Union.

(2) (amend. - SG 40/14, in force from 01.07.2014) In the cases under par. 1 the contracting authority may not remove a candidate or a participant from procedure for assigning public procurement or to refuse to conclude a contract with him/her on the ground that he/she has not presented some of the documents under art. 47, par. 10, art. 50, par. 1 and 2, art. 51 and art. 53, par. 1, if the fact is proved by the presented certification.

Art. 53b (new – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) The contracting authority may not remove an applicant or a participant from the public procurement procedure or to refuse to conclude a contract with them for the reason of non-presentation of a documents referred to in Art. 51 or Art. 53, par. 1, where they:

1. have submitted a certificate of registration in a professional register, established by operation of law, or an equivalent document, issued by an organization based in another European Union Member State, and

2. from the certificate or the equivalent document referred to in item 1 the existence of the circumstances which would be evidenced by the respective document, required by the contracting authority can be found out.

Art. 53c. (new – SG 33/12) (1) In cases referred to in Art. 51, par. 1, item 12 contracting authorities shall recognize the permits for access to classified information issued in compliance with the laws of the European Union Member State, in which the applicant or the participant is based, subject to existence of an enforced international treaty or a bilateral agreement for protection of classified
amend. – SG 40/14, in force from 01.07.2014) presentation of the participant, including:

(2) Subject to the provisions of the Protection of Classified Information Act the contracting authority may request the national security body in the applicant’s state to verify the compliance of the premises or the systems, which would possibly be used, the production and administrative procedures, which will be followed, the information management methods and/or the condition of the personnel, which may be hired for the implementation of the public procurement.

Art. 53d. (new - SG 40/14, in force from 01.07.2014) Contracting authorities shall not have the right to require from the applicants and the participants to prove that they meet the set selection criteria through information and documents which are not referred to in this Section.

Section II.
Offer

Art. 54. (amend. - SG 37/06, in force from 01.07.2006) (1) In working out the offer every participant shall comply exactly with the requirements announced by the contracting authority.

(2) Until the expiration of the term for filing the offers every participant in the procedure may amend, supplement or withdraw his offer.

Art. 55. (1) (amend. - SG 37/06, in force from 01.07.2006) Every participant in the public procurement procedure shall have the right to present only one offer.

(2) (amend. - SG 37/06, in force from 01.07.2006) When the criterion for assessment of the offers is the economically most favourable offer and the contracting authority has admitted presentation of options, the participant may propose several options in his/her offer.

(3) (new – SG 93/11, in force from 26.02.2012) Where the prices of goods or of services subject to public procurement are subject to regulation, the participants may submit budget offers with prices lower than the regulated.

(4) (new - SG 37/06, in force from 01.07.2006; prev. par. 3 – SG 93/11, in force from 26.02.2012; suppl. - SG 40/14, in force from 01.07.2014) Admitted for consideration shall be only the options, meeting the minimum requirements, set by the contracting authority. In the cases referred to in Art. 25, par. 3, item 3 for consideration shall be accepted only bids meeting the minimum requirements referred to in Art. 28, par. 1, item 5.

(5) (prev. text of par. 3, amend. - SG 37/06, in force from 01.07.2006; prev. par. 4, suppl. – SG 93/11, in force from 26.02.2012) A person participating in an association or having given consent and is in the offer as a subcontractor of another participant may not present an independent offer.

(6) (new – SG 93/11, in force from 26.02.2012) In a public procurement assignment procedure a natural person or a legal entity may participate in one association only.

(7) (new - SG 40/14, in force from 01.07.2014) Affiliated persons or affiliated enterprises may not be individual applicants or participants in the same procedure.

Art. 56. (1) Every offer shall contain:

1. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014) presentation of the participant, including:
a) indication of the unified identification code according to Art. 23 of the Trade Register Act, BULSTAT and/or another identification information subject to compliance with the legislation of the country, where the applicant or the participant is based, and also an address, including email address, for communications during the procedure;

b) declaration under Art. 47, par. 9 and

c) supporting documents of the practicing of professional activity under Art. 49, par. 1 and 2, if such are required by the contracting authority;

2. (new – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) where participants are associations – a copy of the association agreement, and where the person representing the members of the association is not specified – also a document, undersigned by the members in the association, where the representing person shall be indicated;

3. (prev. item 2 – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) original copy of the document of deposited guarantee in the form of cash;

4. (prev. item 3 – SG 93/11, in force from 26.02.2012) proof of the economic and financial status under art. 50, indicated by the contracting authority in the notice for public procurement;

5. (prev. item 4 – SG 93/11, in force from 26.02.2012) proof of the technical capacity and/or qualification under art. 51 indicated by the contracting authority in the notice for public procurement;

6. (suppl. – SG 37/06, in force from 01.07.2006; prev. item 5 – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) declaration of no affiliation with any other participant or applicant according to Art. 55, par. 7, and also for the absence of the circumstance under art. 8, para 8, item 2;

7. (new – SG 93/11, in force from 26.02.2012; suppl. – SG 40/14, in force from 01.07.2014) technical proposal for the fulfillment of the public procurement including time of execution, whereto, if applicable, a declaration under Art. 33, par. 4 shall be attached;

8. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; prev. item 7 – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) the types of work subject to the procurement which shall be offered to subcontractors and the share there corresponding to these works as a percentage of the cost of the public procurement and the prospective subcontractors;

9. (prev. item 8 – SG 93/11, in force from 26.02.2012; revoked – SG 40/14, in force from 01.07.2014);


11. (prev. item 10, amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) declaration stating that the requirements for protection of employment, including minimal labour price and labour conditions has been complied with – in the cases referred to in Art. 28, par. 5;

12. (new – SG 93/11, in force from 26.02.2012) declaration of agreement to the terms and conditions laid down in the draft contract;

13. (prev. item 11 – SG 93/11, in force from 26.02.2012) other information indicated in the notice or documentation for participation;

14. (amend. - SG 37/06, in force from 01.07.2006; prev. item 12 – SG 93/11, in force from 26.02.2012; suppl. – SG 40/14, in force from 01.07.2014) list of the documents and the information contained in the offer signed by the participant.

(2) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) By their bid the participants may, without limitations, offer the employment of subcontractors.

(3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) Where a participant in the procedure is an association which is not a corporate body:

1. (amend. – SG 40/14, in force from 01.07.2014) the documents under para 1, item 1, items "a" and "b" shall be presented for each individual or corporate body included in the association;
2. (amend. – SG 40/14, in force from 01.07.2014) the documents under para 1, item 1, item "c" and items 4 and 5 shall be presented only for those participants, through which the association is evidencing its compliance with the selection criteria referred to in Art. 25, par. 2, item 6;

3. (suppl. – SG 33/12) declaration under par. 1, item 11 shall be presented only for those participants in the association, who will be carried out only construction-related activities or services.

4. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) Where the candidate in a procedure is a foreign individual or corporate body or their associations the offer shall be filed in Bulgarian language, the document under para 1, item 1 shall be presented in an official translation and the documents under para 1, item 4, 5 and 11 which are drawn in foreign language shall also be presented in translation.

5. (new – SG 52/10) In those cases where the place of performance of the public procurement is outside the territory of the state, the contracting authority may allow the application for participation and the offer to be presented in an official language of the respective state.

Art. 57. (1) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 40/14, in force from 01.07.2014) The offer shall be filed in a sealed opaque envelope by the participant or by a representative authorised by him personally or by return mail. The participant shall indicate on the envelope an address for correspondence, telephone and, where possible, fax and e-mail, and where the offer regards individually detached positions – the positions it regards. In cases referred to in Art. 25, par. 3, item 3 it shall be indicated on the envelope for which parts of the nomenclatures in the separate item the bid is submitted.

2. (amend. – SG 52/10) The envelope under para 1 shall contain three individual sealed non-transparent envelopes with addresses thereon, as follows:

1. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) envelope No 1 with a notice "Documents for selection", in which the documents and the information pursuant to Art. 56, para 1, items 1 through 5, 8, 11 through 14 shall be inserted;

2. (suppl. – SG 93/11, in force from 26.02.2012; shall be inserted) envelope No 2 with a notice "Offer for the public procurement performance", in which the technical proposal, and if applicable – the declaration under Art. 33, par. 4, shall be inserted.

3. envelope No with a notice "Offered price", containing the price offer of the participant.

3. (new – SG 93/11, in force from 26.02.2012; ; amend. – SG 40/14, in force from 01.07.2014) Where a participant is submitting an offer for more than one separate item, the envelopes No. 2 and 3 shall be presented for each item. Where documents and information contained in envelope No. 1 are identical for two or more separate items, for which the applicant is participating, they shall be inserted only in the envelope for the item with the lowest order number, whereby this circumstance shall be indicated in the list of documents, inserted in the envelopes for the remaining items.

4. (prev. par. 3 – SG 93/11, in force from 26.02.2012) On accepting the offer the envelope shall be marked by the serial number, the date and the hour of receipt and the indicated data shall be entered in an incoming register for which a document shall be issued to the bearer.

5. (amend. and suppl. - SG 37/06, in force from 01.07.2006; prev. par. 4 – SG 93/11, in force from 26.02.2012) The contracting authority shall not accept for participation in the procedure, and shall return immediately to the participants the offers filed after the expiration of the deadline for receiving or presented in unsealed or torn envelope. These circumstances shall be noted in the register under para 3.

6. (new - SG 37/06, in force from 01.07.2006; prev. par. 5 – SG 93/11, in force from 26.02.2012) The offer may also be presented by electronic means under the conditions and by the order of the Electronic Document and Electronic Signature Act. In this case the participant shall be obliged to present to the contracting authority all contracts, which are not in electronic form, following the
procedure of par. 1, prior to the expiration of the term for receiving the offers.

(7) (new - SG 37/06, in force from 01.07.2006; prev. par. 6 – SG 93/11, in force from 26.02.2012) The terms and the procedure for receiving and preserving the offers, sent by electronic means, shall be settled by the regulation of implementation of the law.

Art. 58. (1) (amend. - SG 37/06, in force from 01.07.2006) The term of validity of the offers shall be the time during which the participants are bound with the terms of the offers they have filed.

(2) (suppl. – SG 93/11, in force from 26.02.2012) The contracting authority shall determine the term under para 1 in calendar days. The term shall start elapsing from the date, fixed as a deadline for receiving of offers.

(3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 40/14, in force from 01.07.2014) The contracting authority shall call the participants to extend the validity of their bids, when it has expired. A participant who after a call and within the term set therein fails to extend the period of validity of their bid, shall be suspended from participation.

(4) (new - SG 94/08, in force from 01.01.2008) Except for the open procedure the assigner shall specify the offers’ validity term in the invitation for providing an offer.

Art. 58a. (new - SG 37/06, in force from 01.07.2006) (1) The preparation and implementation of the procedures shall be carried out by the contracting authority. The latter shall be responsible for the acceptance and the preservation of the applications for participation, the offers and the projects.

(2) (suppl. – SG 40/14, in force from 01.07.2014) The exchange of information may be implemented by post, via fax, by electronic means under the conditions and following the procedure of the Electronic Document and Electronic Signature Act or by combination of these means by choice of the contracting authority. The chosen means of communication must be accessible to all and be mentioned in the notice.

(3) The exchange and the preservation of information in the course of conducting the procedure for assigning public procurement shall be carried out in a way, ensuring the integrity, the authenticity and the confidentiality of the applications for participation and the offers.

(4) All actions of the contracting authority towards the candidates or the participants shall be in writing.

(5) (suppl. – SG 40/14, in force from 01.07.2014) The decisions of the contracting authority, about which he/she shall be obliged to inform the candidates or to participants and the documents to be attached thereto, shall be handed over personally against signature or shall be sent by registered letter with return of service, via fax or by electronic means under the conditions and following the procedure of the Electronic Document and Electronic Signature Act.

(6) (suppl. – SG 40/14, in force from 01.07.2014) The contracting authority shall be obliged to preserve the overall documentation for the implementation of every procedure for assigning public procurement for at least 4 years after the termination of the procedure or after completion of the fulfilment of a contract.

Section III.
Guarantees

Art. 59. (1) (suppl. – SG 37/06, in force from 01.07.2006) The candidate or the participant shall file a guarantee for participation in the public procurement procedure, and the chosen contractor shall file a performance guarantee on signing the contract.
(2) The contracting authority shall set the terms and the size of the guarantee for participation in an absolute sum, but no more than 1 percent of the value of the procurement.

(3) (amend. – SG 52/10; amend. – SG 40/14, in force from 01.07.2014) The contracting authority shall set the terms and the size of the performance guarantee under the contract as a percentage of the value of the public procurement, but no more than 5 percent of the value of the procurement.

(4) The contracting authority shall also require other performance guarantees in the cases determined by a law.

(5) (revoked - SG 37/06, in force from 01.07.2006; new – SG 93/11, in force from 26.02.2012) The contracting authority may not request a participation guarantee or a performance bond, where:

1. a procedure of contracting without notice is being conducted, or
2. (amend. – SG 33/12) the cost of the public procurement is as referred to in Art. 14, par 3.

(6) (new – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) In cases referred to in Art. 16d the contracting authority shall not request guarantees for participation and performance bonds from the specialized enterprises or co-operations of people with disabilities.

Art. 60. (1) The guarantees shall be presented in one of the following forms:

1. cash;
2. bank guarantee.

(2) (suppl. – SG 37/06, in force from 01.07.2006) The candidate, the participant or the chosen contractor himself shall choose the form of the participation, respectively performance guarantee.

(3) (new – SG 93/11, in force from 26.02.2012) Where the applicant, the participant or the selected contractor is an association, which is not a legal entity, each partner therein may be the bank guarantee assignor, respectively depositor of the amount for the guarantee.

Art. 61. (suppl. – SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) (1) (amend. – SG 40/14, in force from 01.07.2014) The contracting authority shall have the right before the settlement of the dispute to retain the guarantee for participation of an applicant or a participant in a public procurement procedure protesting the decision, by which the preliminary selection results are announced, or the decision nominating a contractor.

(2) The contracting authority shall have the right to use the participation guarantee, regardless its form, where an applicant or a participant:

1. withdraws his/her application after the expiration of the term for receiving applications or withdraws his/her offer after the expiration of the term for receiving the offers;
2. has been selected as a contractor but he does not fulfil his obligations to conclude a public procurement contract.

Art. 62. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) The contracting authority shall release the guarantees for participation of:

1. excluded candidates within five working days from expiration of the term for appealing the decision of the contracting authority for preliminary selection, respectively – the term for selection of a contractor;
2. participants rated first and second – after the public procurement contract is concluded, and the rest of the rated participants - within five working days from expiration of the term for appealing the decision for choosing a contractor.

(2) (revoked - SG 37/06, in force from 01.07.2006)

(3) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from
01.01.2009) On termination of the public procurement procedure the guarantees of all candidates or participants shall be released within five working days after the expiration of the term for appealing the decision for termination.

(4) (amend. - SG 37/06, in force from 01.07.2006) The contracting authority shall release the guarantees under para 1, without owing interest for the period during which the funds have legally be held by him.

Art. 62a. (new – SG 40/14, in force from 01.07.2014) Where by an enforced decision under Art. 122d, par. 1, item 2 the Competition Protection Commission revokes contracting authority decision and sends the file back for continuation of the public procurement procedure subject to compliance with the latest legitimate decision, the contracting authority shall call the participants, having been refunded the guarantee according to the provision of Art. 62, par. 1, item 2, to submit again their guarantee for participation. A participant who after the call and within the term set therein fails to re-submit the guarantee, shall be suspended from participation.

Art. 63. (1) (prev. Art. 63 – SG 93/11, in force from 26.02.2012) The terms and the conditions of keeping or releasing the performance guarantee shall be settled by the public procurement contract.

(2) (new – SG 93/11, in force from 26.02.2012; amend. and suppl. – SG 40/14, in force from 01.07.2014) Where the public procurement contract is being implemented by stages, the contracting authority shall include in the draft contract a clause of partial exemption from the guarantee referred to in par. 1, respectively of the already fulfilled part of the subject of the public procurement. Where the guarantee for participation covers also the after sales maintenance of the subject of the public procurement, partial exemption shall be allowed only if the performance bond is higher than the one for after sale maintenance.

Chapter five.
OPEN PROCEDURE

Section I.
Preparation of the Open Procedure

Art. 64. (1) (suppl. SG 31/05, in force from May 1, 2005, amend. - SG 37/06, in force from 01.07.2006; amend. and suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In holding an open procedure the contracting authority shall send the notice for the public procurement to the Registry Agency in the Public Procurement Register not later than 52 days before the deadline for receiving of the offers, and in cases referred to in Art. 14, par. 3 – minimum 40 days before the deadline.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) The terms under para 1 may be reduced to 36 days where the advance notice has been sent for publication from 52 days to 12 months before the date of sending the notice under para 1 and contains the information, available by the date of its sending.

(3) (new - SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) The terms under para 1 and 2 may be reduced by 7 days, if the notice has been sent by electronic means, and by 5 more days, if from the date of publication of the notice in electronic form the contracting authority provides full access via electronic means to the documentation for participation in the procedure and in case an Internet address has been indicated in the notice, where the documentation can be found.


Art. 66. (revoked - SG 37/06, in force from 01.07.2006)

Art. 67. (revoked - SG 37/06, in force from 01.07.2006)

Section II.
Considering, Assessment and Rating of the Offers

Art. 68. (1) (amend. - SG 37/06, in force from 01.07.2006) The commission appointed by the contracting authority for consideration, assessment and rating of the offers shall start its work upon receipt of the list of participants and the filed offers.

(2) (amend. - SG 37/06, in force from 01.07.2006) For change of the data and hour of opening the offers, the participants shall be notified in writing.

(3) (amend. – SG 52/10; amend. – SG 40/14, in force from 01.07.2014) The opening of the envelopes is public and all participants in the procedure or their authorized representatives may be present, as well as representatives of the mass media and other persons subject to compliance with the established procedures for access to the building where the opening is to take place.

(4) (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.07.2009; amend. – SG 52/10) The commission shall open the envelopes following the order of their filing and shall ascertain the presence of three separate sealed envelopes, and after that at least three of its members shall sign envelope No. 3. The commission shall propose one representative of all the present participants, who shall sign the other participants’ envelopes No. 3.

(5) (prev. text of par. 4, amend. and suppl. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 52/10; amend. - SG 93/11, in force from 26.02.2012; suppl. – SG 40/14, in force from 01.07.2014) At the presence of the persons referred to in para 3 the commission shall open envelope No. 2 and at least three of its members shall sign all the documents and the information, included therein. The commission shall propose a representative of each of the present participants who shall sign the documents of other participants’ in envelope No. 2. Afterwards the commission shall open envelope No. 1, shall declare the documents included therein and shall verify the compliance with the list referred to in Art. 56, par. 1, item 14.

(6) (prev. text of par. 5 - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 52/10) After carrying out the actions under paragraphs 4 and 5 the public part of the commission’s session shall be considered concluded.

(7) (prev. text of par. 6, amend. and suppl. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; amend. - SG 93/11, in force from 26.02.2012; suppl. – SG 40/14, in force from 01.07.2014) The commission shall review the documents and the information contained in envelope No. 1 for compliance with the selection criteria, set by the contracting authority, and shall issue a protocol thereof.

(8) (new – SG 94/08, in force from 01.01.2009; amend. – SG 52/10; amend. - SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) Where missing documents and/or non-conformity with the selection criteria and/or any other irregularity, including factual mistake, the Commission shall take a record of them in the protocol referred to in par. 7 and shall forward the
protocol to all participants on the day of its publishing on the buyer’s profile.

(9) (new – SG 52/10; amend. – SG 40/14, in force from 01.07.2014) Participants shall submit to the commission relevant documents within 5 work days after the receipt of the protocol referred to in par. 7. Where missing documents and/or non-conformity with the selection criteria are identified, the participant may, subject to compliance with the contracting authority requirements specified in the notice, replace the already submitted documents or to provide new ones, by which they believe they will meet the selection criteria set out by the contracting authority.

(10) (new – SG 52/10; amend. - SG 93/11, in force from 26.02.2012; amend. - SG 93/11, in force from 26.02.2012) After the term under para 9 expires the Commission shall proceed with revision of additionally submitted documents regarding the conformity of participants with the selection criteria, set by the contracting authority. The Commission shall not consider the documents of the participants in envelope No 2 which do not comply with the selection criteria.

(11) (new – SG 52/10; amend. - SG 93/11, in force from 26.02.2012) Where necessary, the Commission may at any time:

1. verify the information stated by the participants, including by requesting information from other bodies and persons;
2. require from the participants:
   a) explanations on the stated by them information;
   b) additional proof of the information in the documents, contained in envelopes No 2 and 3, whereas this opportunity may not be used for modifications of the technical and price offer of the participants.

Art. 68a (new - SG 93/11, in force from 26.02.2012) (1) The commission shall notify the contracting authority, where in the course of its work justified doubts have occurred of agreements, decisions of coordinated practices between participants within the meaning of Art. 15 of the Protection of Competition Act.

(2) In cases referred to in par. 1 the contracting authority shall notify the Commission for protection of competition. Notification shall not suspend the conduction and finalization of the procedure.

Art. 69. (1) (amend. - SG 37/06, in force from 01.07.2006) The commission shall propose for removal from the procedure a participant:

1. (suppl. – SG 37/06, in force from 01.07.2006; suppl. – SG 40/14, in force from 01.07.2014) who has not presented some of the necessary documents or information under art. 56;
2. (amend. - SG 37/06, in force from 01.07.2006) for whom present are circumstances under art. 47, para 1 and 5 and the ones, indicated in the notice under art. 47, para 2;
3. (amend. and suppl. - SG 37/06, in force from 01.07.2006) who has filed an offer which does not meet the terms of the contracting authority announced in advance;
4. (suppl. – SG 37/06, in force from 01.07.2006) who has filed an offer which does not meet the requirements of art. 57, para 2;
5. (new - SG 93/11, in force from 26.02.2012) about whom following the provision of Art. 68, par. 11 it has been identified, that he/she has provided incorrect information for proving of his/her compliance with the selection criteria announced by the contracting authority.

(2) (amend. - SG 37/06, in force from 01.07.2006; revoked – SG 33/12)
(3) (amend. and suppl. - SG 37/06, in force from 01.07.2006) The participants shall be obliged, in the process of holding the procedure, to inform the contracting authority for all occurring changes in circumstances under art. 47, par. 1 and 5 and the ones, indicated in the notice under art. 47, par. 2,
within 7 days from their occurrence.

Art. 69a. (new – SG 94/08, in force from 01.01.2009) (1) The envelope containing the price proposed by a participant whose offer does not meet the contracting authority’s requirements, shall not be opened.

(2) (amend. – SG 93/11, in force from 26.02.2012) Where the criterion is economically the most favourable offer, the commission shall open the envelope containing the proposed price, after having carried out the following:
1. has considered the offers in the envelope No. 2 for verification of their compliance with contracting authority requirements;
2. has verified the existence of the grounds referred to in Art. 70, par. 1 for the offers contained in envelope No. 2;
3. has assessed the offers against all other parameters, except for the price.
(3) (amend. – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) Within two work days prior to the date of opening of the price quotations, the Commission shall announce minimum by a notice on the buyer’s profile the date, time and place where the opening shall take place. Where the criteria is economically most favorable offer, the notice shall contain also the bids assessment results in terms of other assessment parameters. The opening of the price quotations shall be done publicly under the provisions of Art. 68, par. 3. At the time of opening of the price quotations, the commission shall announce the quoted priced and shall suggest one representative of attending participants to sign the price quotations.
(4) Where the criterion is economically the most favourable offer, the commission shall announce the assessment results regarding the offers by the other indices to the persons present under para 3.

Art. 70. (1) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) Where the offer of a participant contains a price quotation subject to assessment, and it is by more than 20 per cent more favourable than the average cost of the proposals submitted by other participants in terms of the same assessment criteria, the commission shall require from him/her a detailed written substantiation of the offered price. The commission shall set a reasonable term for producing the substantiation, which may not be shorter than three working days from the receipt of the request for that.
(2) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) The commission may accept the written substantiation under para 1 and not to propose elimination of the offer if objective circumstances are pointed out related to:
1. an original solution of fulfilment of the public procurement;
2. the offered technical resolution;
3. (amend. - SG 37/06, in force from 01.07.2006) the presence of exceptionally favourable conditions for the participant;
4. frugal fulfilment of the public procurement;
5. (new - SG 37/06, in force from 01.07.2006) providing government support.
(3) (amend. - SG 37/06, in force from 01.07.2006) Where the participant does not present the written substantiation in time or the commission deems that the pointed circumstances are not objective, the commission shall propose the participant for removal from the procedure.
(4) (new - SG 37/06, in force from 01.07.2006) If the commission establishes that the offer of a participant is with unusually low price because of government support provided, the legal ground of which is not possible to be proved within the fixed term, it may propose the offer to be rejected and the
Art. 71. (1) The commission shall consider the admitted offers and shall assess them in compliance with the terms announced in advance.

(2) (amend. - SG 37/06, in force from 01.07.2006) Where the contracting authority has admitted presenting options in the offer, the commission may not reject an option only on the grounds that the choice of this option would lead to a conclusion of a contract for services instead of a contract for delivery and vice versa.

(3) (amend. - SG 37/06, in force from 01.07.2006) The commission shall rate the participants by the degree of compliance of the offers with the terms announced by the contracting authority in advance.

(4) (new – SG 52/10) If the complex assessments of two or more offers are identical, where the selected criterion is the one under Art. 37, para 1, item 2, as economically the most favourable offer shall be considered the one with the lowest price. In those cases where the offered prices are also equal, the assessments shall be compared on the basis of the index with the highest relative value and shall be selected the offer with the most favourable value of the said index.

(5) (new – SG 52/10) The Commission shall conduct a public lot in order to designate a contractor among the first rated offers, provided that the public procurement is being assigned:
   1. with the "the lowest price" criterion and this price is offered in two or more offers, or
   2. with the "the most favourable offer economically" criterion, however this offer may not be assessed pursuant to para 4.

Art. 72. (1) The commission shall draw up written records for the consideration, assessment and rating of the offers, containing:
   1. members of the commission and a list of the consultants;
   2. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) a list of the participants, proposed for removal from the procedure and the motives for their removal;
   3. statements by the consultants;
   4. (amend. - SG 37/06, in force from 01.07.2006) the results from the consideration and the assessment of the admitted offers, including a brief description of the offers of the participants and the assessment by each index where the criterion of assessment is economically the most favourable offer;
   5. (amend. - SG 37/06, in force from 01.07.2006) the rating of the participants whose offers have been admitted to consideration and assessment;
   6. date of drawing the written records;
   7. (new – SG 52/10) dissenting opinions, where there are such, along with the respective grounds thereof by the commission members.

(2) The written records of the commission shall be signed by all members and shall be submitted to the contracting authority along with the whole documentation.

(3) (amend. – SG 93/11, in force from 26.02.2012) The commission shall complete its work by acceptance of contracting authority report.

Section III.
Choosing Contractor of the Public Procurement

Art. 73. (1) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 24/09; amend. – SG
93/11, in force from 26.02.2012) Within 5 working days after the conclusion of the work of the commission, the contracting authority shall issue a motivated decision, announcing the rating of the participants and the participant, chosen as a contractor.

(2) (amend. - SG 37/06, in force from 01.07.2006) Pointed in the decision under para 1 shall be the participants and offers removed from participation in the procedure and the motives for their removal.

(3) (amend. and suppl. - SG 37/06, in force from 01.07.2006 and from 01.01.2007 regarding second sentence) The contracting authority shall send the decision under para 1 to the participants within three days from its issuance. The contracting authority shall notify the European commission in the cases under art. 70, par. 4.

(4) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.10.2014) The contracting authority shall publish in the buyer’s profile the decision referred to in par. 1 together with the protocol of the commission subject to compliance with the provisions of Art. 22b, par. 3 and shall forward the decision of the participants on the same day.


Art. 74. (amend. - SG 37/06, in force from 01.07.2006) (1) The contracting authority shall conclude a public procurement contract with the participant, rated first by the commission and chosen for contractor.

(2) (amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) The contracting authority may by a decision nominate a contractor and conclude a contract with the second rated participant in those cases where the participant who was been rated first:

1. refuses to conclude a contract;
2. fails to fulfill any of the requirements set out in Art. 42, para 1;
3. (new – SG 93/11, in force from 26.02.2012) does not meet the requirements referred to in Art. 47, par. 1 and 5 or the requirements referred to in the notification of Art. 47, par. 2.

Chapter six.
LIMITED PROCEDURE

Art. 75. (1) (prev. text of art. 75, amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 33/12) In the notice for public procurement assigned by way of a limited procedure, the contracting authority may limit the number of candidates he/she intends to invite to present offers, provided that this number may not be less than 5, and in cases referred to in Art. 3, par. 2 – less than 3. The contracting authority may also point out the maximum number of candidates. The number of the invited candidates must be sufficient in order to guarantee free and loyal competition.

(2) (new - SG 37/06, in force from 01.07.2006) The contracting authority shall point out in the notice for public procurement objective and non-discriminatory criteria or rules, which shall be applied in the selection of the candidates under par. 1.

Art. 76. (1) (suppl. SG 31/05, in force from May 1, 2005; amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall send the notice for public procurement to the Registry Agency in the Public Procurement Register at least 37 days before the deadline for receiving the applications for participation in the preliminary selection of candidates.

(2) (new - SG 37/06, in force from 01.07.2006) The term under par. 1 may be reduced by 7
days, if the notice is sent by electronic means also.

(3) (prev. text of par. 2, amend. - SG 37/06, in force from 01.07.2006) Upon occurrence of circumstances of exceptional urgency, as a result of which it is impossible to meet the deadline under para 1, the contracting authority under art. 7, items 1 - 4 may determine a term for receiving the applications for participation in the preliminary selection, not shorter than 15 days from the date of sending the notice – or not shorter than 10 days, if the notice is also sent by electronic means.

(4) (prev. text of par. 2, amend. - SG 37/06, in force from 01.07.2006) In the cases of para 3 the contracting authority shall be obliged to indicate in the notice for public procurement the concrete circumstances of exceptional urgency.

(4) (revoked - SG 37/06, in force from 01.07.2006)

Art. 77. (1) The contracting authority shall carry out a preliminary selection for the purpose of determining the candidates having the necessary financial and technical resources to fulfil the public procurement.

(2) Every candidate may file an application for participation in the preliminary selection.


(4) (amend. - SG 37/06, in force from 01.07.2006; suppl. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) To the application shall be attached also the requirements of Art. 56, par. 2 - 5


Art. 78. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) The application shall be produced by the order of art. 57, para 1, 4, 6, by fax or announce on the phone.

(2) (new - SG 37/06, in force from 01.07.2006) When the application for participation is announced on the phone, the candidate must confirm it in writing before the expiry of term for receiving applications.

(3) (new - SG 37/06, in force from 01.07.2006) When the application for participation is sent via fax, the contracting authority may oblige the candidate to confirm it by a letter, sent with return of service or by electronic means. This requirement, as well as the term for receiving the written confirmation, must be pointed out in the notice for public procurement.

(4) (new - SG 37/06, in force from 01.07.2006) The conditions and the procedure for receiving and preserving the applications, sent by electronic means or via fax, shall be settled by the Rules for implementation of the Act.

(5) (prev. text of par. 2 - SG 37/06, in force from 01.07.2006) During the preliminary selection the contracting authority shall not have the right to require, and the candidate shall not have the right to present an offer.

Art. 79. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) The contracting authority shall appoint a commission for the conducting of the procedure according to the provisions of art. 34 - 36.
(2) (suppl. – SG 37/06, in force from 01.07.2006; amend. SG 94/08, in force from 01.01.2009; suppl. – SG 52/10; amend. - SG 40/14, in force from 01.07.2014) The commission shall consider the filed applications by the procedure set out in Art. 68, paras 7 through 11 and shall make a selection of the candidates on the grounds of the documents, presented according to the notice, certifying their economic and financial status, their technical capacity and/or qualification for fulfilment of the public procurement. Opening of applications shall be done publicly subject to compliance with the provision of Art. 68, par. 3.

(3) (new – SG 33/12) The contracting authority shall determine the terms and conditions for participation of other persons beyond the commission members for orders under Art. 3, par. 2, containing or requiring classified information.

(4) (new – SG 33/12) Where the number of applicants meeting the requirements, indicated in the notice for the procedure, exceeds the announced maximum number of persons, to be invited to submit offers, the commission shall make a selection based on the objective and non-discriminatory criteria indicated in the notice.

(5) (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) The commission shall issue a protocol for the result of the selection, containing:
   1. commission members and list of consultants;
   2. list of applicants, not meeting the requirements announced by the contracting authority, and also the reasons thereof, including in cases of a subject under Art. 3, par. 2, where the requirements regarding protection of classified information and supplies safety have not been complied with;
   3. list of applicants, meeting the requirements announced by the contracting authority, respectively selected applicants based on the objective and non-discriminatory criteria indicated in the notice – where their number exceeds the limitation, indicated in the notice;
   4. date of drawing up of the protocol;

(6) (new – SG 37/06, in force from 01.07.2006, prev. par. 3 – SG 33/12) In case the contracting authority has not included in the notice a restriction of the number of candidates, who shall be invited to submit offers, he/she shall be obliged to invite all candidates, who meet the criteria for selection and the minimum requirements of technical resources.

(7) (new - SG 37/06, in force from 01.07.2006; prev. par. 4 – SG 33/12; prev. par. 4 – SG 33/12) In case the contracting authority has included in the notice a restriction of the number of candidates, who shall be invited to submit offers, he/she shall be obliged to invite a number of candidates, at least equal to the minimum, determined in advance.

(8) (amend. - SG 37/06, in force from 01.07.2006; prev. par. 6, amend. – SG 33/12) In case the number of the candidates, meeting the criteria for selection and the minimum requirements, is below the minimum, indicated in the notice, the contracting authority may continue the procedure by inviting all candidates, who possess the required resources.

(9) (prev. text of par. 3, amend. - SG 37/06, in force from 01.07.2006; prev. par. 7, amend. – SG 33/12) In case of assignment of public procurement under Art. 3, par. 2, where after the initial selection the contracting authority finds out, that the number of applicants meeting the selection criteria and the minimum requirements, is too low to guarantee real competition, the contracting authority may:
   1. publish again the initial notice and to repeat the stage of selection of the newly submitted applications, or
   2. terminate the procedure.

(10) (new – SG 33/12) In cases under par. 9, item 1 the contracting authority shall invite the applicants shortlisted after the first and second notice, to submit offers.

(11) (new – SG 33/12) The contracting authority may not invite to submit offers persons, who have not filed an application for participation, or applicants who do not have the required capacities.

(12) (prev. text of par. 4, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) Within 5 working days from the date of the adoption of the written records, containing the final results
of the selection, the contracting authority shall announce by a decision the applicants to be invited to present offers. The decision shall also include the candidates who do not meet the requirements announced by the contracting authority and the motives thereof.

(13) (prev. text of par. 6, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; prev. par. 9, amend. – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) Within three days from taking the decision under par. 12 the contracting authority shall send it on the same day to all applicants. The call for submission of bids in the limited procedure shall be sent to the selected applicants within 7 days after:

1. the expiration of the term for appealing – where the decision is not appealed, and if it is appealed – no request for imposition of a transitory measure is made;
2. the enforcement of the decree by which the request for a transitory measure is rejected;
3. the enforcement of the decision where a transitory measure has been imposed.

(14) (new – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) On the day of forwarding of the decision under par. 12 to the applicants, the contracting authority shall publish on the buyer’s profile the decision and the protocol of the commission subject to compliance with the provisions of Art. 22b, par. 3.

Art. 80, (amend. - SG 37/06, in force from 01.07.2006) The invitation for presenting offers for participation in the limited procedure shall contain:

1. term and place of filing the offers;
2. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) date of publication of the notice for public procurement;
3. (new - SG 37/06, in force from 01.07.2006) a copy of the specifications and all additional documents, if they are not included in the documentation for participation, or electronic address for access to the specifications and additional documents, in case they are provided by electronic means;
4. (new - SG 37/06, in force from 01.07.2006; amend. SG 94/08, in force from 01.01.2009) the assessment methodology by each of the indices and the complex assessment methodology regarding the offer, where the criterion is economically the most favourable offer.

Art. 81. (amend. - SG 37/06, in force from 01.07.2006) (1) The contracting authority shall set, in the invitation under art. 80, a term for receiving of the offers which may not be shorter than 40 days from the date of the sending.

(2) The term under para 1 may be reduced up to 22 days when the advance notice has been sent for publication from 52 days to 12 months prior to the date of sending the notice under art. 76, para 1 and shall contain the information, available by the date of its sending.

(3) (amend. – SG 93/11, in force from 26.02.2012) The term under par. 1 may be reduced by 5 days, if from the date of publication of the notice the contracting authority provides full access to the documentation for participation in the procedure by electronic means, provided that he/she shall point out an Internet address, where it could be found.

(4) In the cases under art. 76, para 3 the contracting authority may set a term for receiving the offers not shorter than 10 days from the date of sending the invitation under art. 80.

(5) (amend. – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) In the cases under art. 76, para 3 up to 7 days before the expiration of the term for receiving the offers, every candidate may request in writing from the contracting authority elucidation on the documentation for participation. The contracting authority shall be obliged to answer within three days from receiving the request and to notify the other candidates by the order of art. 29, para 2.

(7) (amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall be obliged to prolong the term for receiving the offers:
1. where it has been found out that the initially set term is not sufficient for the preparation of the offers, including where it is necessary to consider additional documents ad hoc;
2. (amend. - SG 40/14, in force from 01.07.2014) in the cases referred to in Art. 29, par. 3;
3. where this is required as a result of an opened appealing procedure.

Art. 82. (amend. – SG 33/12) (1) The offer shall be submitted in a sealed non-transparent envelope according to the procedure referred to in Art. 57, par. 1, 4 – 6.
(2) The envelope referred to in par. 2 shall contain two separate sealed non-transparent and inscribed envelopes, as follows:
1. (amend. - SG 40/14, in force from 01.07.2014) envelope No. 1 with an inscription "Proposal for implementation of public procurement", in which the documents referred to in Art. 56, par. 1, item 7;
2. envelope No. 2 with an inscription "Bid price", containing applicant's price quotation.
(3) (amend. - SG 40/14, in force from 01.07.2014) The commission referred to in Art. 79, par. 1 shall start working for consideration, evaluation and ranking of offers, shall start working upon receipt of the list of submitted offers.
(4) In case of a change of the date and time of opening of offers the applicants shall be notified thereof in writing.
(5) (amend. - SG 40/14, in force from 01.07.2014) Opening of offers shall be done publicly according to the provision of Art. 68, par. 3.
(6) The contracting authority shall determine the terms and conditions for participation of other persons beyond the commission members in case of public procurements under Art. 3, par. 2, containing or requiring classified information.
(7) The commission shall open the offers following the order of their receipt and shall check for the existence of two separate sealed envelopes, and after that minimum three of its members shall undersign the envelope No. 2. The commission shall propose one representative of the attending participants to undersign envelope No. 2 of the remaining participants.
(8) In the presence of the persons referred to in par. 5 the commissions shall open envelope No. 1, shall announce the documents, contained therein, and minimum three of its members shall undersign them. The commission shall propose one representative of the attending participants to undersign the documents in envelope No. 1 of the remaining participants.
(9) Upon accomplishment of the activities referred to in par. 7 and 8 the public part of the commission sessions shall be over.
(10) The commission shall consider, evaluate and rank the offers following the procedure of Art. 69a, 70 propose one representative of the attending participants to undersign envelope No. 2 of the remaining participants and 71, whereby in the course of its work it can check the information from the offers subject to compliance with the provisions of Art. 68, par. 11.

Art. 83. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) (1) Upon accomplishment of its work the commission shall issue a protocol, containing:
1. commission members and list of consultants;
2. the results of consideration and evaluation of shortlisted offers, including brief description of applicants’ proposals and scores by each individual parameter, where the evaluation criteria is economically the most favorable offer;
3. list of participants, whose offers have been suggested to be withdrawn, and the justification thereof;
4. ranking of participants, whose offers have been shortlisted for consideration and evaluation;
5. date of drawing up of protocol;
6. as the case may be – dissenting opinions with respective justifications of the members of the commission.

(2) The commission protocol shall be undersigned by all members and shall be submitted to the contracting authority together with all the documentation.

(3) The commission shall complete its work upon adoption of the protocol by the contracting authority.

(4) The contracting authority shall nominate a contractor by a justified decision within the term referred in Art. 73, par. 1. The decision shall indicate participants’ ranking, the disqualified participants and the reasons for their disqualification.

(5) The contracting authority shall conclude a contract with the participant nominated as a contractor. The contract may be concluded with the participant ranked the second subject to compliance with the provisions of Art. 72, par. 2.

(6) (amend. - SG 40/14, in force from 01.07.2014) The contracting authority on the same day shall forward the decision under par. 4 to all participants and shall publish on the buyer’s profile the decision and the protocol of the commission subject to compliance with the provisions of Art. 22b, par. 3.

Chapter six.
"A" COMPETITIVE DIALOGUE (NEW - SG 37/06, IN FORCE FROM 01.07.2006)

Art. 83a. (new - SG 37/06, in force from 01.07.2006) (1) The contracting authority may assign public procurement by way of competitive dialogue, in case the procurement is extremely complex, due to which its assignment by way of open or limited procedure is impossible.

(2) The public procurement is extremely complex, in case the contracting authority cannot determine for objective reasons:
   1. the technical specifications under art. 30, and/or
   2. the financial or the legal framework of the procurement.

(3) In the decision for assigning public procurement by way of competitive dialogue the contracting authority shall give reasons for the choice of this procedure and shall approve the notice and a descriptive document.

(4) (new – SG 94/08, in force from 01.01.2009; amend. - SG 40/14, in force from 01.07.2014) The decision under para 3 shall be justified by the persons, to whom the contracting authority has assigned the production of technical specifications and of bids assessment methodology.

(5) (prev. text of para 4 – SG 94/08, in force from 01.01.2009) The contracting authority shall define his/her necessities and the requirements in the notice for public procurement and/or in the descriptive document, which substitutes the technical specifications.

(6) (prev. text of para 5 – SG 94/08, in force from 01.01.2009) Upon assignment of public procurement by way of competitive dialogue the contracting authority shall assess the offers only according the criterion economically the most favourable offer.

Art. 83b. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall send the notice for public procurement to the agency for entry into the Public Procurement Register at least 37 days prior to the deadline for receiving the applications for participation in the competitive dialogue.

(2) The deadline under par. 1 may be reduced by 7 days, if the notice has been sent also by
Art. 83c. (new - SG 37/06, in force from 01.07.2006) (1) The contracting authority may point out in the notice the minimum and maximum number of candidates, who he/she intends to invite to take part in a competitive dialogue, provided that the minimum number may not be less than three. The number of the invited candidates has to be sufficient in order free and loyal competition to be guaranteed.

(2) The contracting authority may consider the competitive dialogue to be implemented at consecutive stages in order to reduce the number of the proposals which are to be discussed during the dialogue, by applying the criteria, indicated in the notice or in the descriptive document.

Art. 83d. (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) (1) For conducting the procedure the contracting authority shall appoint a commission following the provisions of Art. 34 – 36.

(2) (amend. - SG 40/14, in force from 01.07.2014) The commission referred to in par. 1 shall consider the filed applications subject to compliance with the provisions of Art. 68, par. 7 – 11 and shall shortlist the applicants based on the documents the submitted according to the notice, which evidence their economic and financial situation, their technical ability and/or qualification for the fulfillment of the public procurement. The opening of applications shall be done publicly according to the provisions of Art. 68, par. 3, except for the cases referred to in Art.79, par. 3.

(3) Where the number of applicants meeting the requirements specified in the notice for the procedure, exceeds the announced maximum number of the persons to be invited in a dialogue, the commission shall shortlist them based on objective and non-discriminatory criteria indicated in the notice.

(4) The commission shall draw up a protocol for the results of the selection, which shall contain:

1. board of the commission and a list of the consultants;
2. a list of applicants, not meeting the requirements, announced by the contracting authority, as well as the justification thereof, including in cases of a subject under Art. 3, par. 2, where the requirements concerning classified information protection and supplies safety are not met;
3. a list of applicants, meeting the requirements announced by the contracting authority, respectively the shortlisted applicants based on objective and non-discriminatory criteria indicated in the notice – where their number exceeds the limit indicated in the notice;
4. date of drawing up of the protocol.

(5) In case the contracting authority has not included in the notice a limit for the number of applicants to be invited to participate in a dialogue, the contracting authority shall be obliged to invite all applicants meeting the selection criteria and the minimum requirements for technical capacities.

(6) In case the contracting authority has included in the notice a limit for the number of applicants to be invited to participate in a dialogue, the contracting authority shall be obliged to invite such a number of applicants, which as a minimum should be equal to the minimum specified in advance.

(7) Where the number of applicants meeting the selection criteria and the minimum requirements, is less than the minimum number indicated in the notice, the contracting authority may continue the procedure by inviting all applicants, having the required capacities.

(8) In case of assignment of orders under Art. 3, par. 2, where after carrying out of initial shortlisting the contracting authority finds out that the number of applicants meeting the selection criteria and the minimum requirements is too low to guarantee real competition, the contracting
authority may:
   1. publish again the initial notice and to repeat the stage of shortlisting of newly filed applications, or
   2. terminate the procedure.
    (9) In cases referred to in par. 8, item 1 the contracting authority shall invite the applicants, shortlisted after the first and the second publications to participate in a dialogue.
    (10) The contracting authority may not invite for participation in a dialogue persons, who have not filed application forms, or applicants not having relevant capacities.
    (11) Within 5 working days from the date of receipt of the protocol, containing the final results of the selection, the contracting authority shall announce by a decision the applicants, who shall be invited to participate in a dialogue. In the decision shall also be included the candidates, who do not meet the requirements, announced by the contracting authority, as well as the justification thereof.
    (12) (amend. - SG 40/14, in force from 01.10.2014) Within three days after taking of the decision under par. 11, the contracting authority on the same day shall forward the decision and the protocol of the commission according to the provision of Art. 22b, par. 3. The call for participation in the dialogue shall be sent to the selected applicants within 7-day term, determined according to the provision of Art. 79, par. 13.
    (13) During the preliminary selection the contracting authority shall not be entitled to require offers and the candidate shall not have the right to present an offer.

Art. 83e. (new - SG 37/06, in force from 01.07.2006) The invitation for participation shall contain at least:
   1. (amend. – SG 93/11, in force from 26.02.2012) the date of publication of the notice for public procurement;
   2. a copy of the descriptive document and all additional documents or an electronic address for access to them, if they are provided by electronic means.
   3. date and place of conducting the dialogue;
   4. (amend. – SG 94/08, in force from 01.01.2009; amend. - SG 40/14, in force from 01.07.2014) the assessment methodology regarding each of the indices and the methodology for complex assessment of the offer.

Art. 83f. (new - SG 37/06, in force from 01.07.2006) (1) The commission, which has implemented the preliminary selection, shall conduct a dialogue with each of the approved candidates with the purpose of determining the parameters of the procurement, which meet to a greater extent the demands of the contracting authority.
    (2) (amend. – SG 33/12) During the dialogue all parameters of the procurement may be discussed.
    (3) To all candidates, participating in the dialogue, equality shall be guaranteed, by providing them with the same information.
    (4) The commission shall not be entitled to provide the offers or other confidential information, obtained from a candidate, participating in the dialogue, to the other candidates, without his/her permission.
    (5) The offers made and the agreements reached with each candidate shall be depicted in an individual written report, which shall be signed by the members of the commission and by the candidate.
    (6) (suppl. – SG 93/11, in force from 26.02.2012) After concluding the dialogue with all candidates, the commission shall compile a written report to the contracting authority, in which the result of the dialogue is indicated and shall be proposed the candidates, which will be invited to present
Art. 83g. (new - SG 37/06, in force from 01.07.2006) (1) Within 5 working days from presenting the written report of the commission the contracting authority shall announce by a decision that the dialogue is concluded and shall determine the candidates, who shall be invited to present offers.  
(2) (amend. - SG 40/14, in force from 01.10.2014) Within three days from taking of the decision under par. 1 the contracting authority in the same day shall send the decision to all applicants and shall publish it on the buyer’s profile together with the report of the commission subject to compliance with the provision of Art. 22b, par. 3. The call for submission of bids shall be forwarded to the selected applicants within 7-day term, determined according to the provision of Art. 79, par. 13.

(3) In the invitation under par. 2 the contracting authority shall point out deadline for receiving the offers and the address, where they must be sent.

(4) The offer must meet the requirements of the contracting authority and contain all proposals for fulfilment of the offer, made in the course of the dialogue.

(5) Upon request by the commission the offers can be amended, supplemented and clarified. These amendments, supplements and clarifications may not amend the basic characteristics of the offer or of the invitation for presenting an offer, if this would lead to restriction of the competition or to discrimination of the candidates.

(6) The commission shall assess the received offers according to the indices, defined in the notice or in the descriptive document, and shall choose economically the most favourable offer.

(7) The commission may require from the participant, who has presented the most favourable offer economically, to clarify some of the characteristics of the offer or to confirm his/her obligations concerning it, on the condition that this will not lead to amendment in the basic characteristics of the offer or of the invitation for presenting an offer, as well as to restriction of the competition or to discrimination of the candidates.

Art. 83h. (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) The contracting authority shall determine the contractor of the public procurement and shall conclude a contract with him/her by the order of art. 83, par. 4 – 6.

Chapter seven.  
PROCEDURES OF NEGOTIATION  
Section I.  
Procedure of Negotiation with Notice

Art. 84. The contracting authorities may assign public procurement by way of procedure of negotiation with notice only where:

1. (amend. and suppl. - SG 37/06, in force from 01.07.2006) the open or limited procedure or the competitive dialogue have been terminated according to art. 39, para 1, item 2 and the initially announced terms have not been substantially changed;

2. (suppl. – SG 37/06, in force from 01.07.2006) as an exception the nature of the service, delivery or of the construction, or the risks related to them, do not allow pre-determining of the value;

3. the nature of the service does not allow sufficiently exact determining of the technical specifications in order to assign the procurement by the order of the open or limited procedure;

4. the procurement regards services under art. 5, para 1, item 2;
5. carried out in the sphere of construction is research, experimental or development non-profit activity or does not aim at reimbursement of the expenses thereof.

Art. 85. In the decision under art. 25, para 1 the contracting authority shall be obliged to motivate the choice of the procedure of negotiation with notice.

Art. 86. (1) (suppl. SG 31/05, in force from May 1, 2005; amend. – SG 93/11, in force from 26.02.2012) The notice for public procurement shall be sent to the Registry Agency in the Public Procurement Register not later than 37 days before the deadline for receiving the applications for participation in the procedure.

(2) (new - SG 37/06, in force from 01.07.2006) The term under par. 1 may be reduced by 7 days, if the notice has also been sent by electronic means.

(3) (prev. text of par. 2, amend. - SG 37/06, in force from 01.07.2006) Upon occurrence of circumstances of exceptional urgency, as a result of which the compliance with the term under para 1 is impossible, a contracting authority under art. 7, items 1 - 4 may set a term for receiving applications for participation in the procedure of negotiation not shorter than 15 days from the date of sending the notice or not shorter than 10 days, in case the notice has been sent by electronic means.

(4) (prev. text of par. 3, amend. - SG 37/06, in force from 01.07.2006) In the cases of para 2 the contracting authority shall be obliged to indicate in the notice for public procurement the concrete circumstances of exceptional urgency.

(5) (new - SG 37/06, in force from 01.07.2006) In the notice for public procurement the contracting authority may restrict the number of the candidates, who he/she intends to invite to take part in the negotiations, provided that this number may not be less than three. The contracting authority may also point out the maximum number of candidates. The number of the candidates must be sufficient in order to guarantee free and loyal competition.

(6) (new - SG 37/06, in force from 01.07.2006) The contracting authority shall point out in the notice for public procurement objective and non-discriminatory criteria or rules, which shall be applied in the selection of the candidates under par. 5.

(7) (new - SG 37/06, in force from 01.07.2006) In the notice for public procurement the contracting authority may provide the negotiations to be held at several consecutive stages, provided that at each following stage the number of the offers considered shall be reduced with the purpose of achieving possibly the most complete correspondence of the offers with the announced requirements.


(9) (new - SG 37/06, in force from 01.07.2006; revoked – SG 93/11, in force from 26.02.2012)

Art. 87. (1) (amend. - SG 40/14, in force from 01.07.2014) The application for participation in a procedure of negotiation with notice has to meet the requirements of art. 77, para 3 and 4.

(2) (amend. – SG 93/11, in force from 26.02.2012) The application shall be presented by the order of art. 57, para 1, 4 and 6 by fax or it shall be announced by phone.

(3) (new - SG 37/06, in force from 01.07.2006) Where the application for participation is announced by phone, the candidate shall confirm it in writing before the expiry of the term for receiving applications.

(4) (new - SG 37/06, in force from 01.07.2006) Where the application for participation is sent via fax, the contracting authority may oblige the candidate to confirm it by a letter, sent with return of service or by electronic means. These requirements, as well as the term for receiving the written confirmation, have to be indicated in the notice for public procurement.
(5) (new – SG 94/08, in force from 01.01.2009) During the preliminary selection the contracting authority shall not be entitled to require offers and the candidate shall not have the right to present an offer. 

Art. 88. (1) (amend. - SG 37/06, in force from 01.07.2006) For holding the procedure the contracting authority shall appoint a commission by the order of art. 34 - 36.

(2) (suppl. – SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; suppl. – SG 52/10; suppl. – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) The commission shall consider the received applications pursuant to the procedure set out in Art. 68, para 7 through 11 and shall carry out a selection of the candidates on the grounds of the filed according to the notice documents for their economic and financial status, technical capacity and/or qualification for fulfillment of the public procurement. Opening of the applications shall be done publicly according to the provisions of Art. 68, par. 3, except for the cases referred to in Art. 79, par. 3.

(3) (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) In case the number of applicants meeting the requirements indicated in the notice for the procedure exceeds the announced maximum number of persons to be invited to participate in negotiations, the commission shall make a selection based on the objective and non-discriminative criteria indicated in the notice.

(4) (new – SG 33/12) The commission shall draw up a protocol for the results of the selection, containing:

1. members of the commission and list of consultants;
2. list of applicants, not meeting the requirements announced by the contracting authority, and also justification thereof, including in cases of a subject under Art. 3, par. 2, where the requirements regarding protection of classified information and supplies safety are not complied with;
3. list of applicants meeting the requirements announced by the contracting authority, respectively of the listed applicants based on the objective and non-discriminative criteria indicated in the notice – where their number exceeds the limit indicated in the notice;
4. date of drawing up of the protocol.

(5) (new - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) In case the contracting authority has not included in the notice a restriction of the number of the candidates, who shall be invited to take part in the negotiation, he/she shall be obliged to invite all applicants, meeting the selection criteria and the minimum requirements for technical capacities.

(6) (new – SG 37/06, in force from 01.07.2006, prev. par. 4 – SG 33/12) In case the contracting authority has included in the notice a restriction of the number of applicants to be invited to participate in the negotiations, he/she shall be obliged to invite such a number of applicants, which is at least equal to the minimum specified in advance.

(7) (new - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; prev. par. 6 – SG 33/12) In case the number of the candidates, meeting the selection criteria and the minimum requirements, is below the minimum indicated in the notice, the contracting authority may continue the procedure, by inviting all candidates, who possess the necessary resources. In this case the contracting authority may not invite for participation in the negotiations other persons, who have not submitted applications for participation, or candidates, who do not possess the necessary resources.

(8) (prev. text of par. 3, amend. - SG 37/06, in force from 01.07.2006; prev. par. 7, amend. – SG 33/12) When assigning public procurements under Art. 3, par. 2, where after preliminary selection the contracting authority finds out that the number of applicants meeting the selection criteria and to the minimum requirements is too low to guarantee real competition, the contracting authority may:

1. publish again the initial notice and to repeat the stage of selection of the newly submitted applications, or
2. terminate the procedure.
(9) (new – SG 33/12) In cases referred to in par. 8, item 1 the contracting authority shall invite the applicants, shortlisted after the first and the second publishing, to participate in negotiations.

(10) (new – SG 33/12) The contracting authority may not invite to participate in negotiations persons, who have not filed application for participation, or applicants who have not the required capacities.

(11) (prev. par. 4, amend. – SG 37/06, in force from 01.07.2006, prev. par. 8, amend. – SG 33/12) Within 5 work days after the date of adoption of the protocol, containing final selection results, the contracting authority shall nominate by a decision the applicants to be invited for participation in the contracting. The decision shall include also applicants, not meeting the requirements announced by the contracting authorities and the justifications thereof.

(12) (prev. text of par. 6, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012; prev. par. 9, amend. – SG 33/12; amend. - SG 40/14, in force from 01.10.2014) Within three days term from taking the decision under par. 11 the contracting authority on the same day shall send the decision to all applicants, and shall publish it on the buyer’s profile together with the protocol subject to compliance with Art. 22b, par. 3. The call for participation shall be sent to the selected applicants within 7-day term, determined according to the provision of Art. 79, par. 13.

Art. 89. (1) The invitation for participation in the negotiating shall contain:
1. date and place of holding the negotiating;
2. requirement for extra evidence for the declared circumstances, where necessary;
3. (amend. – SG 37/06, in force from 01.07.2006) deadline for receiving of the initial offer, which may not be less than 10 days after sending of the invitation;
4. (amend. – SG 37/06, in force from 01.07.2006) the address, to which the offer should be sent;
5. (new – SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) the date of publication of the notice for public procurement.

(2) (amend. – SG 93/11, in force from 26.02.2012) The commission shall hold the negotiation with the invited applicants following the order of submission of initial offers.

(3) The proposals made and the achieved agreements with each candidate shall be indicated in individual written records to be signed by the members of the commission and by the candidate.

(4) (new – SG 93/11, in force from 26.02.2012) The commission shall apply the provision of Art. 70, where it is found out that the proposal submitted by any of the applicants, having been obtained as a result of negotiations, is by more than 20 per cent more favourable than the average cost of the proposals of the remaining applicants in terms of the same assessment criterion.

(5) (prev. par. 4, amend. – SG 93/11, in force from 26.02.2012) After holding the negotiations the commission shall work out a report to the contracting authority in which the results of the negotiations are indicated and it shall suggest:
1. rating of the applicants, or
2. termination of the procedure.

(6) (prev. par. 5, amend. – SG 93/11, in force from 26.02.2012; suppl. – SG 33/12) The contracting authority shall nominate a contractor by a justified decision within the term referred to in Art. 73, par. 1. The decision shall indicate ranking of applicants, who have been withdrawn and the justification thereof.

(7) (new – SG 93/11, in force from 26.02.2012) The contracting authority shall conclude a contract with the participant, nominated as a contractor. The contract may be concluded with the participant ranked second, subject to compliance with the provisions of Art. 74, par. 2.

(8) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) The contracting authority on the same day shall send the decision referred to in
par. 6 to all applicants, and shall publish the decision on the buyer’s profile together with the commission report subject to compliance with Art. 22b, par. 3.

Section II.
Procedural of Negotiation without Notice

Art. 90. (1) The contracting authority may assign public procurement through a procedure of negotiation without notice only where:

1. (amend. - SG 37/06, in force from 01.07.2006) the open or the limited procedure is terminated as per art. 39, par. 1, item I and the initially announced conditions are not amended essentially;

2. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) in the cases under art. 39, par. 1, item 3, they invite for participation in the procedure only the participants who have presented offers and meet the requirements, indicated in the notice for the open or limited procedure or the competitive dialogue;

3. the assigning the public procurement to another person would lead to violation of copyright or other rights of intellectual property, or of exclusive rights acquired by virtue of an Act or administrative regulation;

4. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) there is a need of undertaking of urgent measures because of occurrence of extraordinary circumstances, the consequences of which cannot be overcome subject to compliance with the deadlines for conducting of an open or limited procedure or of a procedure of negotiation with notice;

5. the goods subject to delivery are produced for the purpose of research, experimenting, scientific or development activity and are of limited quantity which does not allow the formation of a market price or reimbursement of the expenses thereof;

6. extra deliveries by the same supplier are necessary for partial replacement or for increase of the deliveries should the replacement of the supplier compel the contracting authority to acquire goods of different technical characteristics which will lead to incompatibility or to technical difficulties in the operation and maintenance;

7. (suppl. – SG 94/08, in force from 01.01.2009; suppl. – SG 93/11, in force from 26.02.2012) the service is assigned upon holding a project competition, sending invitations for participation in the negotiating to the first rated participant or to all rated participants in compliance with the terms of the competition;

8. due to unforeseen circumstances it is necessary to assign an extra service or construction to the same contractor under the following terms:

   a) the extra service or construction may not, technically or economically, be separated from the object of the main contract without considerable difficulties for the contracting authority or, although they may be separated, they are essentially necessary for the fulfilment of the procurement;

   b) (amend. – SG 93/11, in force from 26.02.2012) the total cost of orders, by which additional services or construction works are ordered, does not exceed 50 percent of the value of the basic procurement;

9. necessary is the repetition of a service or construction by the same contractor not later than three years from the assigning of the first procurement in the presence of the following terms:

   a) the first procurement has been assigned by way of open or limited procedure and the notice for it indicates a possibility of such assigning;

   b) the total value of this procurement is included in determining the value of the first procurement;

   c) the new procurement corresponds to the basic project, in fulfilment of which the first
procurement has been assigned:

10. (revoked - SG 37/06, in force from 01.07.2006);
11. (amend. – SG 93/11, in force from 26.02.2012) subject of the procurement is the delivery of goods determined in a list proposed by the State Commission for the commodity exchanges and marketplaces and approved by the Council of Ministers with the Rules for Implementation of the Act.
12. (new - SG 37/06, in force from 01.07.2006) for a short period of time arise favourable conditions for delivery of goods at prices, lower than the market ones, achieved at an auction for sale of the property of trade companies, announced in liquidation or bankruptcy proceedings;
13. (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) the procurement order is for services of category No. 21 of Attachment No. 2 to Art. 5, par. 1, item 2 for the price referred to in Art. 14, par. 3;
14. (new – SG 40/14, in force from 01.07.2014) the public procurement is for supplies or for services in the field of physical education and sports and is for a value referred to in Art. 14, par. 3, item 2.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) In the cases of para 1, items 6 the contract for additional procurement, may not be longer than three years.

Art. 91. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) The contracting authority shall motivate in the decision for assigning public procurement through a procedure of negotiation without notice the choice of this procedure.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) By the decision of par. 1 the contracting authority shall approve an invitation for participation in a procedure, containing:

1. subject of the procurement, including the quantity and/or the scope and a description of the special items, if there are any;
2. contracting authority requirements for the fulfillment of the procurement;
3. where applicable – assessment criteria for the offers, and where the criterion is the lowest evaluated tender – also the parameters for complex assessment with their relative share or ranking by importance in a descending order, where for objective reasons it is impossible to show their relative share, and also methods of complex assessment of offers;
4. place and date of negotiations;
5. other requirements at contracting authority option.

(3) (new - SG 93/11, in force from 26.02.2012) The requirements of par. 2 shall not apply in cases referred to in Art. 90, par. 1, item 11 and 12.

Art. 92. (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) The invitation for participation in a procedure of negotiation without notice shall be sent to the selected persons and to the Agency.

Art. 92a. (new - SG 93/11, in force from 26.02.2012) (1) The contracting authority shall appoint a commission following the provisions of art. 34 – 36 for holding the procedure.
(2) The commission shall hold the negotiations with the applicants for determination of the terms and conditions of the contract according to the requirements of the contracting authority indicated in the invitation for the participation. The results of negotiations shall be registered in a record, which shall be signed by the commission and by the participant.
(3) Where the contracting authority has invited more than one participant, the proposals made
and the reached agreements with each of them shall be indicated in a separate record.

(4) The commission shall apply the provision of Art. 70, where it is found out that the proposal of any of the participants, achieved as a result of negotiations, is by more than 20 per cent more favourable than the average cost of the proposals of remaining participants in terms of the same assessment criterion.

(5) After holding the negotiations the commission shall issue a report to the contracting authority containing the result of negotiations and shall suggest:
1. conclusion of contract with the sole participant, or
2. rating of the participants in cases referred to in par. 3 or
3. termination of the procedure.

(6) (suppl. – SG 40/14, in force from 01.07.2014) The contracting authority shall nominate a contractor by a justified decision within the term, referred to in Art. 73, par. 1. Within three days after taking of the decision the contracting authority on the same day shall send the decision and the report referred to in par. 5 to all participants and shall publish them on buyer’s profile subject to compliance with the provision of Art. 22b, par. 3.

(7) The contracting authority shall conclude a contract with the participant, nominated as a contractor. The contract may be concluded with the second rated participant subject to compliance with the provisions of Art. 74, par. 2.

(8) (amend. – SG 33/12; revoked – SG 40/14, in force from 01.07.2014)

(9) (amend. – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) In the cases under art. 90, par. 1, item 11 the provisions of para 1 – 7 shall not apply and the contract shall be concluded subject to compliance with the rules of the respective commodity exchange.

(10) (suppl. – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) In the cases under art. 90, par. 1, item 12 the provisions of para 1 – 7 shall not apply and the contract shall be concluded by the order of Part three of the Commerce Act.

Art. 93. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) The contracting authority may not apply Art. 91, par. 2, Art. 92 and 92a, where contracts are being concluded on the grounds of:
1. Article 90, par. 1, item 3 with subject of procurement natural gas, thermal or electrical energy or drinking water with the companies, holding the exclusive rights;
2. Article 90, par. 1, item 4;
3. (revoked – SG 40/14, in force from 01.07.2014)

Chapter seven.

"A" FRAME AGREEMENT (NEW - SG 37/06, IN FORCE FROM 01.07.2006)

Art. 93a (New – SG 37/06, in force from 01.07.2006) (1) Frame agreement is the agreement, concluded between one or more contracting authorities and one or more potential contractors of public procurement, whose purpose shall be to determine in advance the terms of the contracts, which the parties intend to conclude for certain period of time, not longer than 4 years, including with regard to the prices, and if possible – the amounts provided. As an exception the term of the frame agreement may be longer than 4 years, provided that the contracting authority shall point out the motives for that in the notice.

(2) (amend. - SG 40/14, in force from 01.07.2014) A frame agreement may be concluded with less than three prospective public procurement contractors only on the condition that there is not a sufficient number of applicants or participants, meeting the selection criteria or a sufficient number of
bids, meeting preliminary announced conditions of the contracting authority.

(3) The contracting authority may conclude frame agreement for assignment of public procurement on the basis of each conducted procedure, excluding the procedure of negotiation without notice. At concluding a frame agreement, the criteria under art. 37 shall be applied.

(4) (new - SG 40/14, in force from 01.07.2014) The frame agreement shall set out the procedure of conclusion of public procurement contracts, including the deadlines for the receipt of bids and ranking of bids.

(5) (prev. par. 4 - SG 40/14, in force from 01.07.2014) In the cases of concluding a contract on the basis of frame agreement, the parties shall not be entitled to change essentially the conditions, specified by the frame agreement.

(6) (prev. par. 5 - SG 40/14, in force from 01.07.2014) The frame agreement may not be concluded or applied, if it prevents, restricts or violates the competition.

Art. 93b. (1) (New – SG 37/06, in force from 01.07.2006; prev. Art. 93b - SG 93/11, in force from 26.02.2012) When all conditions have been determined in the frame agreement, the contracting authority shall conclude a public procurement contract, and shall apply these conditions.

(2) (new - SG 93/11, in force from 26.02.2012) Where the frame agreement does not set out all the conditions and it is concluded with one person only, the contracting authority shall request in writing from this person to fill up her/his offer.

(3) (new - SG 93/11, in force from 26.02.2012) Where the frame agreement does not set out all the conditions and it is concluded with more than one person, for every contract which is to be concluded, the contracting authority shall:

1. address a written invitation to the persons which are parties to the frame agreement;
2. set an appropriate term for receiving of offers, taking into account the subject and the time, necessary for the offers to be sent;
3. keep the offers, submitted in sealed non-transparent envelopes until the expiration of the term for their receipt;
4. appoint a commission which shall consider and rate the offers in compliance with the criterion, specified in the frame agreement, subject to compliance with the provisions of Art. 70 – 72.

(4) (new - SG 40/14, in force from 01.07.2014) Offers shall be drawn up in accordance with the frame agreement and shall include:

1. term for the accomplishment of the public procurement if such is not fixed in the frame agreement;
2. quoted price;
3. technical proposal for the accomplishment of public procurement, where the assessment criterion agreed upon by the frame agreement is economically most favorable bid.

Art. 93c. (New – SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012). The contracting authority shall nominate a contractor by the order of art. 73 and shall conclude a contract following the procedure of art. 74.

Art. 93d. (New – SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012; amend. – SG 33/12) Contracts for public procurement based on a frame agreement concluded by a central authority for public procurements, shall be assigned by the individual contracting authorities in compliance with the provision of Art. 93b.
Chapter seven.
"B" DYNAMIC PURCHASING SYSTEMS (NEW – SG 37/06, IN FORCE FROM 01.07.2006)

Art. 93e. (New – SG 37/06, in force from 01.07.2006) (1) (amend. – SG 94/08, in force from 01.01.2009) The dynamic purchasing system is entirely electronic process for performing customary deliveries, whose market characteristics respond to the contracting authority’s requirements. The system acts for a period not longer than 4 years and during the term of its effect is open for including every candidate, who meets the criteria for selection and has presented an advance offer, which corresponds to the specifications. As an exception the term of action of the system may exceed 4 years, provided that the contracting authority states the reasons for that in the notice.

(2) The dynamic purchasing system shall be created by way of open procedure.
(3) In the system shall be included every candidate, who:
   1. meets the requirements of the contracting authority, pointed out in the notice;
   2. has presented an advance offer, that corresponds to the specifications, defined by the contracting authority;
   3. has presented all documents, pointed out by the contracting authority in the notice
(4) The advance offers under par. 3, item 2 may be amended at any time during the term of action of the system in such manner, as to correspond to the specifications.
(5) At generating a system under par. 1 and assigning public procurement using the said system the contracting authority shall use electronic means only.

Art. 93f. (New – SG 37/06, in force from 01.07.2006) (1) At creating dynamic purchasing system the contracting authority shall:
   1. publish notice for public procurement, in which shall be explicitly pointed out the creation of the system;
   2. define the technical specifications under the procedure of art. 30-33, the type of the deliveries, as well as the whole necessary information regarding the system, the kind and the technical characteristics of the used electronic means.

(2) From the publishing of the notice for creation to the expiry of the term of action of the system the contracting authority shall provide via electronic means full, direct and unlimited access to the technical specifications, as well as to all additional documents, provided that in the notice obligatory shall be indicated the internet address, where they shall be accessible.

Art. 93g. (New – SG 37/06, in force from 01.07.2006) (1) The advance offer for participation in the dynamic purchasing system may be submitted at any time during the term of action of the system.
   (2) For considering the offers under par. 1 the contracting authority shall appoint a commission by the procedure of art. 34-36.
   (3) The commission shall consider any advance offer submitted and on the basis of the announced criteria and rules, shall propose to the contracting authority to include or to refuse inclusion of the candidate in the dynamic purchasing system.
   (4) The contracting authority shall be obliged to take a decision in 15 days period of time, considered from the submitting the advance offer and to notify the candidate of his/her including in the dynamic purchasing system or of the refusal to be included in three days term from the date of the decision.
Art. 93h. (New – SG 37/06, in force from 01.07.2006) (1) Before assignment of each public procurement contract for delivery the contracting authority shall publish simplified notice, with which shall invite all interested persons to present advance offers in compliance with art. 93f, par. 1, item 2 and shall fix a term for submitting the advance offers, which shall not be shorter than 15 days from the sending of the notice.

(2) The advance offers shall be assessed and the candidates shall be included in the system by the procedure of art. 93g, par. 2-4.

Art. 93i. (New – SG 37/06, in force from 01.07.2006) (1) After taking the decisions under art. 93g, par. 4 the contracting authority shall send to everybody included in the dynamic purchasing system an invitation to present offers for each individual public procurement contract for delivery within the frames of the system.

(2) In the invitation under par. 1 the contracting authority shall fix term for presenting the offers and may make additional clarifications in connection with the criteria for assigning the public procurement contract.

Art. 93j. (New – SG 37/06, in force from 01.07.2006) (1) The commission under art. 93g, par. 2 shall consider and classify rate the offers and shall propose to the contracting authority to conclude a public procurement contract for delivery with the participant, whose offer has received the highest assessment on the basis of the criteria, specified in the notice or in the invitation under art. 93i.

(2) The contracting authority shall choose a contractor by the procedure of art. 74.

Art. 93k. (New – SG 37/06, in force from 01.07.2006) (1) The dynamic purchasing system may not be applied if it prevents, restricts or violates the competition.

(2) The access to the dynamic purchasing system and the participation in it shall be liberated and free of charge for all interested persons.

Chapter eight.
PROJECT COMPETITION

Section I.
Preparation of a Project Competition

Art. 94. (1) (new - SG 37/06, in force from 01.07.2006) The provisions of this chapter shall apply at conducting project competition:

1. organized as a part of procedure for assigning public procurement for service;
2. with awarding prizes and/or payments for the participants in the competition.

(2) (prev. text of art. 94 - SG 37/06, in force from 01.07.2006) Project competition shall be held for acquiring:

1. (amend. - SG 40/14, in force from 01.07.2014) spatial development scheme or a development plan;
2. initial project for working out projects, including landscape, architectural, constructive, technological, installation, as well as projects for works of art and for restoration and rehabilitation of cultural monuments;
3. project in the sphere of data processing;
4. other projects.

(3) (new - SG 37/06, in force from 01.07.2006; amend. SG 79/06) The terms and the procedure for conducting competitions in the spatial planning and investment designing, shall be determined by an ordinance of the Council of Ministers.

Art. 95. (1) The project competition may be open or limited.
(2) (amend. - SG 37/06, in force from 01.07.2006) In an open competition all interested persons may present projects;
(3) In a limited competition projects may be presented only by candidates who, on the grounds of a preliminary selection, have been invited by the contracting authority.

Art. 96. (1) The contracting authority shall take a decision for holding a project competition by which he shall approve the notice for participation and the competition programme.
(2) The competition programme shall contain:
1. the project task and instructions for its fulfilment;
2. all technical data necessary for the fulfilment of the project;
3. the criteria for assessment of the project, their relative weight and the method of determining the complex assessment of the project.
(3) The price of the competition programme may not be higher than the actual cost of its working.

Art. 97. (1) (suppl. SG 31/05, in force from May 1, 2005; amend. - SG 93/11, in force from 26.02.2012) The contracting authority shall send an notice for holding a project competition to the Registry Agency in the Public Procurement Register at least:
1. fifty two days before the deadline for receiving the projects in an open competition;
2. thirty seven days before the deadline for receiving applications for participation in a limited competition.
(2) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) The notice for a project competition shall be worked out according to the form under art. 19, para 7.
(3) (revoked - SG 37/06, in force from 01.07.2006)
(4) In a limited competition the contracting authority may restrict by the notice the number of the participants to be invited to present projects, but their number may not be less than 5.
(5) (new - SG 37/06, in force from 01.07.2006) In the notice for a limited competition the contracting authority shall point out objective and non-discriminatory criteria or rules, which shall be applied in the selection of the candidates.

Section II.
Holding a Project Competition

Art. 98. (1) (new - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) The applications for participation in a limited project competition may be submitted in writing by the order of art. 57, par. 1 and 3 - 6, by fax or by telephone. If the application has been submitted by telephone, it must be confirmed in writing before the deadline for receiving the applications.
(2) (new - SG 37/06, in force from 01.07.2006) In the applications for a limited project
competition the contracting authority may include a requirement that the applications for participation, sent by fax, must be confirmed by post or by electronic means.

(3) (prev. text of art. 98, amend. - SG 37/06, in force from 01.07.2006) The contracting authority shall implement a preliminary selection and shall send invitations to the approved candidates to present projects by the order of art. 79, 80 and art. 81, par. 1.

Art. 99. (1) (amend. - SG 40/14, in force from 01.07.2014) For considering and rating the projects the contracting authority shall appoint a jury consisting of at least five members.

(2) The members of the jury shall meet the requirements of art. 35.

(3) (amend. - SG 40/14, in force from 01.07.2014) When the participants in the competition are required to have a certain professional qualification or legal capacity at least two third of the members of the jury shall have the same or equivalent qualification or legal capacity.

(4) (new - SG 37/06, in force from 01.07.2006) At taking decisions and expressing opinion on the projects the jury shall be independent.

Art. 100. (1) (suppl. – SG 37/06, in force from 01.07.2006; amend. - SG 93/11, in force from 26.02.2012) The contracting authority shall appoint an official who will accept the competition projects, which shall be presented by the order of art. 57, par. 1 or 6.

(2) The person under para 1 shall be obliged to keep secret the circumstances having become known to him in connection with the competition projects, for which he shall present a written declaration.

(3) (amend. - SG 37/06, in force from 01.07.2006) The presented competition projects shall be numbered by the order of their receiving and a list of the numbers and their corresponding names of the participants shall be made. The list shall be put in an envelope which shall be sealed and should not be opened until the date of announcing the results from the competition.

(4) In an open competition the participants shall present data and proof of their professional qualification and legal capacity in a separate opaque envelope which shall be opened after rating the projects.

Art. 101. (amend. - SG 37/06, in force from 01.07.2006) (1) (amend. - SG 40/14, in force from 01.07.2014) The jury shall consider the projects and shall rate them. The rating of the projects shall be carried out in compliance with the complex assessment parameters, indicated in the notice for opening of the procedure. For investment projects one of the parameters shall be estimated construction cost.

(2) (suppl. - SG 40/14, in force from 01.10.2014) The jury shall compile a written statement on the rating of the projects, signed by all members. The contracting authority on the same day shall send the statement to all participants in the procedure and shall publish it on buyer’s profile.

(3) In the written statement shall also be indicated the remarks of the commission and the issues, which must be additionally elucidated or clarified, if necessary.

(4) In the cases under par. 3 the jury shall inform the participants and shall give them a chance to answer the questions, after which it shall amend or supplement the written statement, if necessary.

(5) Upon open competition the jury shall propose for removal from the rating of the participants in the competition, who do not meet the requirements under par. 1.

(6) The contracting authority shall announce by decision the rating of the participants in the competition, according to the written statement of the jury, as well as the prizes and/or the other payments.

(7) (amend. - SG 40/14, in force from 01.07.2014) Within 7 days after taking of the decision
under par. 6 the contracting authority on the same day shall:

1. send to the agency for registration in the Public procurement register the information about the conducted competition;
2. send to the participants in the competition the decision under par. 6, and in cases referred to in par. 4 – also the supplemented statement;
3. publish on the buyer’s profile the documents under item 2.

(8) The information under par. 7 shall be prepared according to the form under art. 19, par. 7.

(9) The information under par. 7, the notice of which contradicts an Act, shall not be entered in the Public Procurement Register. In this case the contracting authority shall provide reasons for that before the Agency.

Chapter eight.
"a" ASSIGNING OF PUBLIC PROCUREMENT THROUGH A PUBLIC INVITATION (NEW – SG 93/11, IN FORCE FROM 26.02.2012)

Art. 101a. (new – SG 93/11, in force from 26.02.2012) (1) (amend. – SG 33/12) The terms and conditions and the procedure under this Chapter shall be applied for assignment of public procurements referred to in Art. 14, par. 4.

(2) (amend. – SG 33/12) For assigning of procurements referred to in Art. 14, par. 4, the contracting authority shall collect offers by publishing an invitation.

Art. 101b. (new – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.10.2014) (1) Requirements to financial and economic status cannot be set out by the invitation. Technical specification and draft contract shall be attached to the invitation. The invitation shall be issued in a standard form, approved by the Executive Director of the Agency, and shall contain:

1. name and address of the contracting authority;
2. subject of the public procurement, estimated cost and source of financing;
3. brief description of the subject of the procurement, and where applicable – also quantities or scope;
4. assigning criteria, and where the selection is based on the criterion of "economically most favourable offer" and assessment methodology of the offer according to Art. 28a;
5. deadline and place for receiving of offers;
6. date, time and place of opening of offers.

(2) The contracting authority on the same day shall publish the invitation on the public procurements portal and on buyer’s profile. Together with the invitation the attachments thereto shall also be published on buyer’s profile.

(3) On the day of publishing the contracting authority shall send a notice about the invitation to the mass media and also may send it to selected by them persons, without changing the conditions of par. 1, items 2 – 6. The notice may not contain more information than the one contained in the invitation, published on the portal.

(4) The term referred to in par. 1, item 5 may not be shorter than 7 work days and shall start elapsing from the day following the day of publication of the invitation on buyer’s profile.

(5) The contracting authority shall be obliged to apply again the procedure or collection of offers under par. 1 – 3, where the invitation has been withdrawn due to required change of initially announced terms and conditions.

(6) Upon written request, made within three days prior to expiration of the deadline for receiving of bids, the contracting authority shall be obliged on the next day at the latest to publish on
buyer’s profile written explanations on the public procurement terms and conditions.

Art. 101c. (new – SG 93/11, in force from 26.02.2012) (1) The offer referred to in Art. 101a, par. 2 must contain minimum the following:
1. information about the person, making the offer;
2. (amend. - SG 40/14, in force from 01.07.2014) technical proposal;
3. budget proposal;
4. (amend. - SG 40/14, in force from 01.07.2014) validity term of the bid.
(2) The content of the offer shall be presented in a sealed non-transparent envelope.

Art. 101d. (new – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) (1) The receipt, consideration and assessment of offers shall be carried out following a procedure, determined by contacting authority internal rules by a commission, appointed thereby. The commission shall include minimum one person having professional competency related to the subject of the public procurement.
(2) Upon receipt of offers, the members of the commission shall submit declarations about the particulars referred to in Art. 35, par. 1, items 2 - 4.
(3) Opening of bids shall be done according to the provisions of Art. 68, par. 3. Upon opening of the bids the commission shall announce the price quotations and shall offer that one representative of the attending participants to sign the technical and the price proposals.
(4) The commission shall draw up a record of the receipt, consideration and assessment of bids and of the rating of participants. The record shall be presented to the contracting authority for approval and thereafter on the same day it shall be sent to the participants and shall be published in buyer’s profile according to the provisions of Art. 22b, par. 3.

Art. 101e. (1) (new – SG 93/11, in force from 26.02.2012; prev. Art. 101e, suppl. - SG 40/14, in force from 01.07.2014) The contracting authority may assign the implementation of the procurement also in cases, where only one offer has been submitted, if it is compliant with the technical specifications.
(2) (new - SG 40/14, in force from 01.07.2014) Where no bid has been submitted, the contracting authority may assign the fulfillment of public procurement after holding negotiations with a selected by them contractor. In these cases the contracting authority shall be bound by an estimated value, referred to in the invitation under Art. 101b, par. 1 and by the technical specifications and the draft agreement, attached to the invitation.

Art. 101f. (new – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) (1) The contracting authority shall conclude a written contract, which includes all proposals from the offer of the participant rated first. Upon conclusion of a contract the participant ranked first shall submit:
1. documents, issued by a competent authority, certifying the absence of the circumstances referred to in Art. 47, par. 1, item 1, except for where the legislation of the state, where they are established, provides for the inclusion of any of these circumstances into a public register or their provision ex-officio to the contracting authority;
2. declaration of missing circumstances referred to in Art. 47, par. 5, except for the cases, where the procurement is being assigned by a contracting authority referred to in Art. 7, item 2.
(3) The contracting authority may propose consequently conclusion of a contract under the provisions of par. 1 and 2 with the participant rated second and the next, where the participant entitled to conclusion of a contract:
   1. refuses to conclude a contract;
   2. fails to submit any of the documents referred to in par. 2;
   3. does not meet the requirements of Art. 47, par. 1, item 1 or par. 5.
   (4) The contracting authority shall publish on the buyer’s profile subject to compliance with the provision of Art. 22b, par. 3 the contract and the supplementary agreements thereto.

Art. 101g. (new – SG 93/11, in force from 26.02.2012) The contracting authority shall be obliged to keep all documents, related to the assignment of procurements subject to this Chapter, for a period of three years after the finalization of the fulfillment of the contract.

Part three.
ASSIGNING PUBLIC PROCUREMENT BY CONTRACTING AUTHORITYS CARRYING OUT ACTIVITIES OF WATER SUPPLY, POWER SUPPLY, TRANSPORT AND POSTAL SERVICES

Chapter nine.
GENERAL RULES FOR ASSIGNING PUBLIC PROCUREMENT

Section I.
General Provisions

Art. 102. (amend. - SG 37/06, in force from 01.07.2006) (1) The provisions of Part Three shall be applied by:
   1. a contracting authority under art. 7, items 5 and 6;
   2. a contracting authority under art. 7, items 1, 3 and 4 at carrying out some of the activities under art. 7a – 7e.
   (2) Public procurement, the object of which comprises activities under art. 7a – 7e and other activities according to the law, shall be subject to the rules, applicable to the activity, which is the main object of the procurement.
   (3) (amend. – SG 93/11, in force from 26.02.2012) In case with respect to one of the activities – subject of public procurement, are applicable the special regulations of this Chapter, and with regards to the other activity – the general provisions of the Act, and if it is impossible objectively to define which one of the activities is the main subject of the public procurement, it shall be assigned by the order of the general provisions of the Act.
   (4) (amend. – SG 93/11, in force from 26.02.2012) In case with respect to one of the activities – subject of public procurement, are applicable the special regulations of this Chapter, and the other activity is neither subject to the general, nor the special provisions of the Act, and if it is impossible objectively to define which one of the activities is the main subject of the public procurement, it shall be assigned by the order of this Chapter.

Art. 103. (amend. - SG 37/06, in force from 01.07.2006) (1) The contracting authority shall take a decision for assigning public procurement by way of open procedure, limited procedure and procedure of negotiation with notice in all cases when the prerequisites for conducting procedure of negotiation without notice are not present.
(2) The contracting authority shall take a decision for assigning public procurement by way of procedure of negotiation without notice only in case:

1. the open procedure, the limited procedure or the procedure of negotiation with notice has been terminated since no offer or application for participation has been filed or no candidates or participants have been admitted and the initially announced terms have not been changed substantially;

2. the assigning of the public procurement to another person would lead to violation of copyright or other rights of intellectual property or of exclusive rights acquired by virtue of an act or administrative regulation;

3. (amend. – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) there is a need of undertaking of urgent measures, caused by the occurrence of extraordinary circumstances, the consequences of which could not be overcome if the terms for holding of an open or limited procedure or of a procedure of negotiation with notice are met;

4. the subject of the contract aims research, experimenting, scientific or development activity and does not aim profit or reimbursement of the expenses for this activity and as far as the assigning of such contract does not harm the competitive assignment of subsequent contracts, which are especially aimed at the achievement of these goals;

5. necessary are extra deliveries by the same supplier designated for a partial replacement or for increase of the deliveries, whereas the change of the supplier will compel the contracting authority to acquire goods with different technical characteristics, which will lead to incompatibility or to technical difficulties in the operation and maintenance;

6. (suppl. – SG 94/08, in force from 01.01.2009; suppl. – SG 93/11, in force from 26.02.2012) the service is assigned by way of a project competition, sending invitations for participation in the negotiations to the first rated participant or to all rated participants in compliance with the terms of the competition;

7. due to unforeseen circumstances it is necessary to assign an extra service or construction to the same contractor under the following terms:
   a) the extra service or the construction cannot, technically or economically, be separated from the object of the basic contract without considerable difficulties for the contracting authority or, although they can be separated, they are essentially necessary for the fulfilment of the procurement;
   b) (amend. – SG 93/11, in force from 26.02.2012) the total value of the orders by which additional services or construction are being assigned, does not exceed 50 percent of the cost of the basic procurement;

8. necessary is a repetition of construction by the same contractor in the presence of the following terms:
   a) the first procurement has been assigned by an open procedure, limited procedure and procedure of negotiation with notice and the notice for it indicated the possibility of such assignment;
   b) the total value of this procurement is included in determining the value of the first procurement;
   c) the new procurement corresponds to the basic project in fulfilment of which the first procurement was assigned;

9. (amend. – SG 93/11, in force from 26.02.2012) subject of the procurement is the delivery of goods determined by a list, proposed by the State Commission for the commodity exchanges and marketplaces and approved by the Council of Ministers with the Rules for Implementation of the Act;

10. the procurement shall be assigned on the basis of a frame agreement concluded pursuant to the law;

11. for a brief period occur favourable conditions for delivery of goods at prices lower than the market prices, including at sale of property of trade companies announced in liquidation or in bankruptcy;

12. (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) the order is for services of
category No. 21 of Attachment No. 3 to Art. 5, par. 1, item 2 for a cost referred to in Art. 14, par. 3.

(3) In the cases of para 2, item 5 and 8 the contract for additional procurement may not be longer than three years.

(4) In the cases under par. 2, item 9 the contract shall be concluded by the order of the Commodity Exchanges and Wholesale Markets Act.

(5) (suppl. – SG 33/12) In the cases under par. 2, item 11 the contract shall be concluded by the order of Part three of the Commerce Act.

Art. 104. (amend. - SG 37/06, in force from 01.07.2006) (1) In open procedure, when the contracting authorities have sent an advance notice, the term for receiving offers may be reduced to 22 days from the date, on which the notice for opening the procedure has been sent.

(2) In case the notice for opening the procedure has also been sent by electronic means, the term under par. 1 may be reduced by 7 days.

Art. 104a. (new - SG 37/06, in force from 01.07.2006) The term for receiving applications for participation in limited procedures and procedures of negotiation with notice may not be shorter than 37 days from the date, on which the notice has been sent.

(2) The term under par. 1 may be reduced by 7 days, if the notice has also been sent by electronic means.

(3) The term for receiving offers in limited procedure and procedure of negotiation with notice may be fixed by an agreement between the contracting authority and the candidates, determined at the preliminary selection. An agreement shall be admitted only on the condition that all candidates are given the same term for preparation and submission of offers.

(4) In case an agreement under par. 3 has not been reached, the term shall be determined by the contracting authority and may not be shorter than 24 days from the date of sending the invitation for presenting offers or for participation in the negotiations.

(5) In the cases under par. 4, when the contracting authority provides full access to the documentation for participation by electronic means and if in the notice has been pointed out an electronic address, where it can be found, the term may be reduced by 5 days.

Section II.

System of Preliminary Selection of Contractors

Art. 105. (1) The contracting authorities may create and use systems of preliminary selection of contractors of public procurement.

(2) (new - SG 37/06, in force from 01.07.2006) The systems of preliminary selection may include different stages of selection.

(3) (prev. text of par. 2, amend. - SG 37/06, in force from 01.07.2006) The systems of preliminary selection shall be based on objective criteria and rules, which shall be determined by the contracting authority and can be amended by him/her if necessary.

(4) (prev. text of par. 3, amend. - SG 37/06, in force from 01.07.2006) The criteria and the rules for selection shall include requirements for economic and financial status under art. 50, para 1, and/or technical capacity and/or qualification under art. 51, par. 1 and may also include the requirements of art. 47, par. 1 and 2.

(5) (new - SG 37/06, in force from 01.07.2006) Where the criteria and the selection rules include technical specifications, the provisions of art. 30 – 32 shall be applied.
(6) (new - SG 37/06, in force from 01.07.2006) In case the selection criteria of the candidates contain requirements for economic and financial status and technical capacities, and/or qualification, the candidate may refer to the resources of third persons, regardless of the legal relations between him/her and the third persons. In these cases the candidate must provide the contracting authority with evidence that the resources are available within the whole term of validity of the system of preliminary selection. In case the candidate is an association of natural and/or legal persons, he/she may refer to the resources of a person, included in the association, or to third persons under the same conditions.

(7) (new - SG 37/06, in force from 01.07.2006) The criteria and the rules for selection under par. 3 shall be provided upon request by the candidates. The actualization of these criteria and rules shall be announced to the persons, included in the system of preliminary selection.

(8) (prev. text of par. 4, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) The contracting authorities shall send an notice for the systems of preliminary selection, created by them, to contractors to the Agency for entering in the Public Procurement Register. Where the system has a term of more than three years, the notice shall be published every year.

(9) (prev. text of par. 5, amend. - SG 37/06, in force from 01.07.2006; revoked – SG 33/12)

(10) (prev. text of par. 6 - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) Where the description of the subject of the system of preliminary selection and/or of the criteria and rules for selection is of a big volume the contracting authority shall include in the notice a brief description, and the detailed requirements shall be included in the documentation.

(11) (prev. text of par. 7 - SG 37/06, in force from 01.07.2006) When the contracting authority uses a system of preliminary selection he/she shall choose the candidates for participation in limited procedures and procedures of negotiation in compliance with the requirements of this system.

(12) (prev. text of par. 8, amend. - SG 37/06, in force from 01.07.2006) When a contracting authority considers that the system of preliminary selection of another person meets his requirements, he shall notify the interested persons that he will use it.

Art. 106. (1) Application for participation in the system of preliminary selection may be filed at any time within the term of validity of the system.

(2) (amend. - SG 37/06, in force from 01.07.2006) For considering the applications for participation in the system of preliminary selection the contracting authority shall appoint a commission by the order of art. 34 - 36.

(3) (suppl. – SG 37/06, in force from 01.07.2006) The commission shall consider every filed application and, on the grounds of the announced objective criteria and rules, shall propose to the contracting authority to include or refuse the inclusion of the candidate in the system of preliminary selection.

(4) The contracting authority shall be obliged to take a decision within 6 months from filing the application for inclusion in the system of preliminary selection.

(5) Where the decision under para 4 requires more than 4 months the contracting authority shall notify the candidate within two months from filing the application for the reasons and for the date by which the decision will be taken.

(6) Within 15 days from the date of the decision under para 4 the contracting authority shall notify the candidate about his inclusion in the system of preliminary selection or his refusal to do so. The refusal shall be motivated.

(7) (amend. - SG 37/06, in force from 01.07.2006) In taking a decision under para 4 or when the criteria and rules are changed the contracting authority may not:

1. impose on the candidates requirements of administrative, technical or financial nature which do not regard the other candidates;

2. require inspections or proof repeating already presented by the candidate evidence.
(8) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) The contracting authority shall maintain lists of the candidates included in the systems of preliminary selection of contractors of public procurement who may be divided into categories depending on the subject of the procurement which the system concerns. In the cases of art. 105, para 12 the contracting authority shall be obliged to submit information for the system and the lists to other contracting authorities.

(9) The contracting authority may terminate the participation in the system of preliminary selection of a candidate who has ceased to meet the announce criteria. He shall be obliged to inform him about that at least 15 days before the date of termination motivating it.

Section III.
Frame Agreement (revoked - SG 37/06, in force from 01.07.2006)

Art. 107. (revoked - SG 37/06, in force from 01.07.2006)

Art. 108. (revoked - SG 37/06, in force from 01.07.2006)

Chapter ten.
SPECIAL RULES

Art. 109. (1) (suppl. SG 31/05, in force from May 1, 2005, prev. text of art. 109, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) Under the terms of art. 23 the contracting authorities as per art. 7, items 5 and 6 may send to the Registry Agency in the Public Procurement Register a preliminary notice or preliminary notice-invitation for the planned public procurement or frame agreements for the next 12 months. The type of the notice shall be chosen by the contracting authority.

(2) (new - SG 37/06, in force from 01.07.2006; amend. - SG 40/14, in force from 01.07.2014) The contracting authority shall publish on the buyer’s profile the preliminary notice for the planned procurement or frame agreements for the following 12 months under the terms of art. 23, par. 2.

Art. 110. (amend. - SG 37/06, in force from 01.07.2006) When the contracting authority publishes a preliminary notice for large projects, which have been included in previous advance notice, they may not repeat this information by indicating the notice containing it.

Art. 111. (suppl. – SG 37/06, in force from 01.07.2006; amend. – SG 33/12) The contracting authority may open a limited procedure or a procedure of negotiation with notice and by:
1. (revoked - SG 37/06, in force from 01.07.2006);
2. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) preliminary notice-invitation published by the order of art. 23;
3. (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 33/12) notice of the system of preliminary selection under art. 105, para 8.

Art. 112. (1) (amend. - SG 37/06, in force from 01.07.2006) The preliminary notice-invitation shall serve as an invitation for declaring interest in participation in the procedure by the potential
candidates.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 93/11, in force from 26.02.2012) The preliminary notice-invitation shall be prepared according to the form under art. 19, par. 7.

(3) The preliminary notice-invitation shall also contain the following information, if available by the date of its ending:
   1. possibility of concluding frame agreements;
   2. possibility of assigning an extra procurement;
   3. initial or final date of fulfilment of the procurement;
   4. term of the contract;
   5. requirements for the economic and financial status of the candidate, as well as for his technical capacity and/or qualification;
   6. terms and size of the guarantee for participation and of the performance guarantee for fulfilment of the contract;
   7. (new - SG 37/06, in force from 01.07.2006) criteria for selection of a contractor and the relative weight of the indices in the complex assessment of the offer;
   8. (prev. text of item 8 – SG 37/06, in force from 01.07.2006) place and term of obtaining, price and way of payment of the documentation for participation in the procedure;

Art. 113. (amend. - SG 37/06, in force from 01.07.2006) (1) The contracting authority shall provide upon request by the interested persons the technical specifications, which he/she uses frequently in the contracts for delivery, construction or the technical specifications, which he/she intends to apply at assignment of public procurement, provided for in the preliminary notices.

(2) In case the technical specifications are based on documents, which the interested persons have at their disposal, the indication of these documents shall be enough.

Art. 114. (amend. - SG 37/06, in force from 01.07.2006) (1) Where the procedure of negotiation with notice or the limited procedure has been announced by a preliminary notice-invitation the contracting authority shall send an invitation for participation in the procedure to all candidates having declared interest within the term, indicated in the advance notice-invitation.

(2) The invitation for participation in the procedure shall be sent simultaneously to all candidates not later than 12 months from the date of sending the preliminary notice-invitation. The invitation shall be sent at least 37 days before the deadline for receiving applications for participation, and if it is sent by electronic means, the term for receiving applications may be reduced by 7 days.

(3) Where the preliminary notice-invitation does not contain the information under art. 112, para 3 the contracting authority shall submit this information to the candidates by the invitation under para 1, also indicating:
   1. address and date of submission of an application for participation;
   2. documents, which shall be attached to the application for participation.

(4) Where from the date of publishing the preliminary notice-invitation, the contracting authority has provided direct and unlimited access to the information under art. 112, par. 3 by electronic means, in the invitation for participation in the procedure shall be indicated the Internet address where this information is provided.

(5) The contracting authority shall hold the preliminary selection by the order of art. 77 - 79.
(6) During the selection of the candidates in a limited procedure or a procedure of negotiation with notice the contracting authority may not:
   1. impose to a candidate terms of administrative, technical or financial nature, which do apply to the other candidates;
   2. require checks or proof, which reiterate evidence, already presented by the candidate.

Art. 115. Where the procedure of negotiation or the limited procedure has been announced through an notice for a system of preliminary selection the contracting authority shall make a preliminary selection of the candidates for participation according to the requirements of this system.

Art. 116. (revoked - SG 37/06, in force from 01.07.2006)

Art. 117. (1) (amend. - SG 37/06, in force from 01.07.2006) The consideration, assessment and rating of the offers and the choosing of a contractor of the procurement in a limited procedure shall be carried out by the order of art. 68 - 74.
   (2) (amend. - SG 37/06, in force from 01.07.2006) The consideration, assessment and rating of the offers and the choosing of a contractor of the procurement in a procedure of negotiation shall be carried out by the order of art. 88 - 89.

Art. 118. (1) (amend. - SG 37/06, in force from 01.07.2006) The contracting authority may remove an offer for delivery where the share of the goods with origin from third countries outside exceeds 50 percent of the total value of the goods included in it.
   (2) (new - SG 37/06, in force from 01.07.2006) The provision of par. 1 shall not apply, if there is a contract concluded between the European Union or the Republic of Bulgaria and a third country, which provides for Bulgarian persons comparable and efficient access to participate in public procurement in this country.
   (3) (prev. text of par. 2 - SG 37/06, in force from 01.07.2006) The origin of the goods shall be determined in compliance with the current customs legislation.
   (4) (prev. text of par. 3 - SG 37/06, in force from 01.07.2006) Where two or more offers are equivalent regarding the criterion for assessment of the offers rated with priority shall be the offers which cannot be removed according to para 1. The prices of the offers shall be considered equivalent if the difference between them does not exceed three percent.
   (5) (prev. text of par. 4, amend. - SG 37/06, in force from 01.07.2006) One offer may not be preferred to another according to para 4 when its acceptance would oblige the contracting authority to buy goods with technical characteristics which differ from those of the existing ones, which would lead to incompatibility or to technical difficulties of operation and maintenance.

Art. 118a. (new - SG 37/06, in force from 01.07.2006) (1) Where a public procurement is assigned, whose object is research and development activity, by way of open, limited procedure or procedure of negotiation with notice, the contracting authorities may not point out object and quantity in the information of a concluded contract, in case their publishing would violate the trade secret. In such cases the information shall contain all data from the notice.
   (2) Where a public procurement is assigned, whose object is research and development activity, by way of procedure of negotiation without notice under art. 103, par. 2, item 4; the contracting
authority may not point out object and quantity in the information of a concluded contract.

(3) In case of concluded contract by means of system of preliminary selection, the information for concluded contract shall contain at least the data for the contractor, included in the list under art. 106, par. 8.

Art. 118b. (new - SG 37/06, in force from 01.07.2006) (1) In case an activity under art. 7a – 7e is subject to competition, the supervising authority in the respective sphere may notify the Agency by sending a statement, along with proof for excluding this activity of the application field of the Act.

(2) Within one month term the Agency shall send the documents under par. 1 to the European commission for taking a decision.

Art. 119. For all unsettled issues in Part Three shall apply the provisions of Part Two respectively.

Part three.
"a" ASSIGNMENT OF PUBLIC PROCUREMENTS IN THE FIELD OF DEFENSE AND/OR SAFETY (NEW – SG 33/12; TITLE AMEND. – SG 40/14, IN FORCE FROM 01.07.2014)

Chapter eleven.
"a" GENERAL RULES (NEW – SG 33/12)

Section I.
General provisions (New – SG 33/12)

Art. 119a. (new – SG 33/12) (1) The provisions of this section shall apply for assignment of public procurements under Art. 3, par. 2 for amounts referred to in Art. 14, par. 2.

(2) In case regarding one of the activities – subject to public procurement, the provisions of this section are applicable, and regarding the other activity – the provisions of section two or of section three are applicable, it shall be assigned subject to compliance with the provisions of this section, provided that due to objective reasons assignment of a joint procurement is justified.

(3) In case regarding one of the activities – subject to public procurement, the provisions of this section are applicable, and another activity within the subject is beyond the application field of the Act and for objective reasons assignment of a joint procurement is justified, the Act shall not apply to this procurement.

(4) No taking of a decision shall be allowed for assignment of public procurement for the purposes of application of this section or excluding of the procurement from the application field of the Act.

Art. 119b. (new – SG 33/12) (1) The Contracting Authorities may receive supplies or services from or through a central public procurements body, being:

1. a contracting authority in the meaning of Art. 8a, par. 2, established by an act of the Council of Ministers, or

2. an European public body, which is not a contracting authority.

(2) Where contracting authorities receive supplies or services subject to compliance with par. 1, it shall be deemed that they have complied with the provisions of the law, as long as:

1. the body referred to in par. 1, item 1 has complied with the provisions of this section, too;
2. the applied by the body under par. 1, item 2 regulations meet the provisions of this section and of the appealing regulations.

(3) The central body and the contracting authority shall be responsible for the lawfulness of the respective procedure, being conducted by them.

Section II.
Procedures (New – SG 33/12)

Art. 119c. (new – SG 33/12) (1) Public procurements under this section shall be assigned through a limited procedure and a contracting procedure with prior notification, unless there are conditions for conducting a procedure of competitive dialogue and contracting without notice.

(2) Contracting authority may assign public procurement through competitive dialogue, where the provisions of Art. 83a, par. 1 and 2 are met.

(3) Contracting authorities shall take a decision for assignment of public procurements through contracting without notice, where:

1. the limited procedure, the competitive dialogue or the contracting procedure with prior notification has been terminated, because no application forms have been filed or there are no shortlisted applicants, or no offer has been submitted and the initially announced terms and conditions have not been amended significantly;

2. the limited procedure, the competitive dialogue or the contracting procedure with prior notification has been terminated, because the submitted offers do not comply with the initially announced terms and conditions, only applicants having submitted offers fin the terminated procedure, and the initially announced terms and conditions have not been amended significantly;

3. (SG 40/14, in force from 01.07.2014) where a need has occurred to undertake immediate actions due to occurrence of extraordinary circumstances, the consequences of which could not be overcome if the terms for the conducting of the procedures referred to in par. 1 are met;

4. (revoked - SG 40/14, in force from 01.07.2014);

5. for technical reasons or for reasons related to protection of exclusive rights public procurement may be assigned only to a particular contractor;

6. the subject of the public procurement is research or development, except for the cases referred to in Art. 4, item 4 and Art. 13, par. 1, item 4;

7. the goods – subject of delivery, are produced for study, experimenting, research or development purposes and are in a limited amount, which does not allow calculation of a market price or refunding of expenses for this activity;

8. additional supplies by the same supplier are needed, meant for partial replacement or for increasing of supplies, whereby changing of supplier will make the contracting authority acquire goods with different technical parameters and this will result in incompatibility or in significant technical difficulties during the operation and maintenance;

9. public procurement subject is supply of goods, marketed on the stock exchange;

10. for a short period of time unfavorable condition occur for supply of goods at prices, which are lower than the market prices, including in case of sale of assets of business companies in a procedure of winding up or in announced insolvency;

11. due to unforeseen circumstances, assignment of additional service or construction works to the same contractor is necessary, subject to the following terms and conditions:

a) the additional service or construction works may not technically or economically be separated from the subject of the main contract without significant difficulties for the contracting authority, or, even they can be separated, they are critically necessary for the implementation of the order;
b) the total cost of orders, by which additional services or construction works are assigned, does not exceed 50 per cent of the cost of the main order;

12. repetition of the service or of construction works is required by the same contractor subject to existence of the following terms and conditions:
   a) the first order has been assigned under a limited procedure or a contracting procedure with prior notification, or a competitive dialogue and the notice thereof indicates opportunity for such assignment;
   b) the total cost of the new order is included for calculation of the cost of first order;
   c) the new order corresponds to the basic project, in fulfillment of which the first order has been assigned;

13. the subject of the order is related to provision of air and sea transport services to armed forces or to security forces of the country, located or to be located outside its territory, where the contracting authority must provide these services by contractors guaranteeing the validity of their offers only for such short terms, that the term for conducting of a limited procedure or of a contracting procedure with prior notification, including the shorter terms referred to in Art. 76, par. 3 and Art. 86, par. 3 may not be met.

   (4) In cases referred to in par. 3, item 8 the contract for additional public procurement may not be for more than 5 years, except for in case of exceptional circumstances, which shall be determined by taking into account the life cycle of the supplied products, facilities or systems and technical difficulties, which the change of the supplier may cause.

   (5) In cases referred to in par. 3, item 12 the procedure may be opened not later than within 5 years after the assignment of the first public procurement, except for in cases of exceptional circumstances, which require the procedure to be conducted within this term.

   (6) In cases referred to in par. 3, item 9 the contract shall be concluded subject to the rules of the respective stock exchange.

   (7) In cases referred to in par. 3, item 10 the contract shall be concluded subject to the provisions of section Three of the Commerce Act.

Art. 119d. (new – SG 33/12) (1) Contracting authorities may conclude a frame agreement for assignment of public procurements based on a limited procedure, public procurement with prior notification or a competitive dialogue.

   (2) Frame agreements shall be concluded for a period not exceeding 7 years. As an exception, the term of the frame agreement may be longer, where in consideration of the estimated life cycle of the supplier goods, facilities or systems, the change of the contractor may cause technical difficulties. The contracting authority shall indicate the justification thereof in the notice.

   (3) The all matters not covered by the frame agreement the provisions of Art. 93a – 93d shall apply.

Chapter ten.
"b" SPECIAL RULES (NEW – SG 33/12)

Section I.
Terms and conditions for implementation of public procurement (New – SG 33/12)

Art. 119e. (new – SG 33/12) (1) Where according to Art. 26, par. 2 the notice indicates that the public procurement contains or requires classified information, in the documentation, submitted together with the call for proposals, the contracting authority shall specify for the participants and their
sub-contractors requirements for protection of classified information.

(2) In cases referred to in par. 1, in addition to the documents referred to in Art. 51, par. 1, item 12 the contracting authority may:

1. request presentation of a permit, a certificate or an approval for access to classified information in the meaning of the Protection of Classified Information Act for the selected sub-contractors;

2. include in the draft contract clauses, obliging the contractor:
   a) to present the document referred in item 1 also for the sub-contractors, selected in the course of implementation of public procurement;
   b) to protect the classified information, made available to him/her in the course of the procedure, during and after the accomplishment of public procurement;
   c) in contracts with sub-contractors, selected before and during the implementation of the public procurement, to include clauses under item "b" for protection of classified information.

(3) In cases referred to in Art. 51, par. 1, item 12 the contracting authority shall recognize the permits for access to classified information, issued in compliance with the laws of the European Union Member State, where the applicant or the participant is based, in case of an existing and enforced international treaty or a bilateral agreement for protection of classified information, to which the Republic of Bulgaria is a party. This does not exclude the opportunity the contracting authority, subject to the terms and conditions and following the procedure of the Protection of Classified Information Act, to request carrying out of additional research in the respective European Union Member State.

Art. 119f. (new – SG 33/12) (1) Where in compliance with the provision of Art. 26, par. 2 the contracting authority has included in the notice requirements for safety of supplies, it may:

1. request the offer to contain also:
   a) licenses or other appropriate documents, issued in the respective European Union Member State, evidencing that the participant will be in a position to fulfill the obligations regarding the export, transfer and transit of goods, related to the public procurement;
   b) indication of all restrictions, related to disclosure, transfer or use of goods and services or the results thereof, arising out of control over the export or out of agreements in the field of defense;
   c) evidences, that the organization and the location of the supply chain of the participant allow compliance with these requirements, and also a declaration, that possible changes in the supply chain in the course of implementation of order will not have an adverse effect;
   d) each accompanying documentation, received in the national bodies of the participant regarding implementation of additional needs, required by the contracting authority, having occurred as a result of a crisis;

2. include in the draft contract clauses, obliging the contractor:
   a) to set up and/or maintain the capacity, required for meeting additional needs, required by the contracting authority as a result of a crisis, subject to compliance with the agreed terms and conditions and the procedure;
   b) to carry out maintenance, upgrading or adaptation of supplies, covered by the public procurement;
   c) to notify the contracting authority without delay of any change, having occurred in his/her organization, the supply chain or industrial strategy, which may affect the implementation of the order;
   d) in case of termination of production, to provide to the contracting authority all special equipment required for production of spare parts, components, fixing components and special testing equipment, including technical drawings, licenses and operation instructions, subject to terms and conditions and following a procedure agreed upon prior to occurrence of the respective circumstance.

(2) The contracting authority may not put requirements to the participant, which may cause
contravention to the license criteria for export, transfer or transit of the respective European Union Member State.

Art. 119g. (new – SG 33/12) (1) (new – SG 40/14, in force from 01.07.2014) For public procurements under Art. 3, par. 2 by the notice the contracting authority may specify a share of the public procurement to be fulfilled by subcontractors by specifying the minimum and the maximum percentage of the value of the public procurement, but not more than 30 per cent.

(2) (new – SG 40/14, in force from 01.07.2014) By their bid the participants may propose a share of the total value of the public procurement not exceeding the maximum amount referred to in par. 1.

(3) (new – SG 40/14, in force from 01.07.2014) By their bid the participants shall specify types of works within the subject of the procurement to be assigned to subcontractors and corresponding to these works share of the public order which may not be less than the minimum percentage specified by the contracting authority, and also the already nominated subcontractors.

(4) (prev. par. 1, amend. – SG 40/14, in force from 01.07.2014) Where a participant has nominated by their bid one or more of the subcontractors, with whom they are going to conclude subcontracts, they shall be obliged to:

1. indicate in the offer the proposed subcontractors, the type of works to be carried out and the share of their participation;
2. present documents, evidencing compliance of selection criteria of each individual one in consideration of the type and share of their participation;
3. notify the contracting authority of every change of subcontractors, having occurred in the course of implementation of the public procurement contract.

(5) (prev. par. 2 – SG 40/14, in force from 01.07.2014) The contracting authority shall eliminate a participant if the proposed by him/her subcontractors do not meet the selection criteria.

Art. 119h. (new – SG 33/12) (1) The contracting authority may oblige the participant, nominated for a contractor, to select the subcontractors for all or for some of the works proposed for subcontracting subject to compliance with the provisions of Art. 119i – 119k. This opportunity shall be indicated in the notice.

(2) The contracting authority shall indicate in the decision for nomination of a contractor for which works, proposed for subcontracting the subcontractors must be selected subject to compliance with the provisions of Art. 119i – 119k.

(3) The contracting authority shall not have the right to put restrictions, based on subcontractors’ national identity.

Section II.
Selection of subcontractors (new – SG 33/12)

Art. 119i. (new – SG 33/12) Where the participant, nominated for a contractor, is an employer under Art. 7, he/she shall conclude subcontracts for the amount specified in Art. 14, par. 2 through a procedure referred to in Art. 119c, par. 1.

Art. 119j. (new – SG 33/12) (1) (amend. – SG 40/14, in force from 01.07.2014) Where the participant nominated as a contractor is not an employer under Art. 7 and has to meet a requirement
under Art. 119h, par. 1, he/she shall issue a notice in compliance with the form, approved by the regulation of Art. 45c, par. 9 or following the provision of Art. 19, par. 7 – for subcontracts for an amount specified in Art. 45a, par. 2, item 7 and in the European Union Official Journal subject to compliance with the provisions of Art. 45a, par. 7, 10 and 11.

(2) (amend. – SG 40/14, in force from 01.07.2014) The notice referred to in par. 1 shall be published in the Public Procurement Register, and for subcontracts with a value specified in Art. 45c, par. 2, item 7 – in the Official Journal of the European Union subject to compliance with the provision of Art. 45c, par. 7, 10 and 11.

(3) In cases referred to in par. 1 the subcontractors shall be selected subject to compliance with the principles of transparency and competition.

Art. 119k. (new – SG 33/12) (1) For selection of a subcontractor under Art. 119i and 119j the selection criteria, indicated by the contracting authority for the public procurement, shall apply. The participant, nominated as a contractor, may set out also other criteria, which correspond to these indicated by the contracting authority.

(2) The selection criteria under par. 1 should be objective, non-discriminatory, to me related to the subject of the subcontract and to be proportional to its scope.

Art. 119l. (new – SG 33/12) (1) The contracting authority shall have the right to reject subcontractors, selected by the participant, nominated as a contractor only in case they do not meet the selection criteria, applicable to the participants and indicated in the notice and in the documentation. In this case the participant nominated as a contractor shall be obliged again to apply the procedure referred to in Art. 119i – 119k.

(2) In cases referred to in par. 1 the contracting authority shall issue a justified decision, which it shall send to the participant nominated as a contractor within three days after its issuance.

Art. 119m. (new – SG 33/12) The decisions of the participant nominated as a contractor, related to selection of s´ subcontractor, shall not be subject to appeal in cases, where the participant, nominated as a contractor is not an employer under Art. 7.

Art. 119n. (new – SG 33/12) The responsibility for the fulfillment of a public procurement contract shall be borne by the contractor even in cases where he/she has concluded subcontracts.

Part four.
APPEAL AND CONTROL (TITLE AMEND. - SG 37/06, IN FORCE FROM 01.07.2006)

Chapter eleven.
APPEAL (TITLE AMEND. - SG 37/06, IN FORCE FROM 01.07.2006)

Art. 120. (Amend. - SG 37/06, in force from 01.07.2006; amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) (1) Following the procedure under this Chapter every decision of the contracting authorities shall be subject to appeal regarding:

1. assigning public procurement, including by implementing a frame agreement, dynamic purchasing system or preliminary selection system;
2. concluding a frame agreement;
3. establishing dynamic purchasing system or preliminary selection system;
4. a project competition.

(2) The decisions under paragraph 1 shall be subject to appeal before the Commission for Protection of the Competition regarding their legal compatibility, including the presence of discriminatory economic, financial, technical or qualification requirements in the notice, the documentation or in any other document, relating to the procedure.

(3) (new – SG 33/12) Subject to appeal following the provisions of this Chapter shall also be the decisions under Art. 1191, par. 2.

(4) (new – SG 93/11, in force from 26.02.2012; prev. par. 3 – SG 33/12) Contracting authority’s acts or omissions shall be subject to appeal following the provisions of this Chapter, by which the access to or participation of persons in the procedure is hindered. Contracting authority’s acts for issuing of decisions under par. 1 shall not be subject to individual appeal.

(5) (prev. par. 3 – SG 93/11, in force from 26.02.2012; prev. par. 4 – SG 33/12) The appeal could be lodged in 10-days term, considered from:

1. (amend. – SG 93/11, in force from 26.02.2012) after expiration of the term under Art. 27a, par. 3 – against the decision for opening of the procedure and/or the decision for a change;
2. (new – SG 93/11, in force from 26.02.2012) publication of the decision for opening of a procedure under Art. 76, par. 3 of Art. 86, par. 3 or of contracting without notice;
3. (prev. item 2, amend. and suppl. – SG 93/11, in force from 26.02.2012; amend. and suppl. – SG 33/12) the receipt of the decision under Art. 79, paragraph 12, Art. 83d, para 11, Art. 83g, para 1, Art. 88, paragraph 11, Art. 93g, par. 4, Art. 106, par. 4 and Art. 119m, par. 2;
4. (prev. item 3– SG 93/11, in force from 26.02.2012) the receipt of the decision for choosing a contractor or for concluding the procedure;
5. (prev. item 4 – SG 93/11, in force from 26.02.2012) publishing the voluntary transparency notice in the public procurement register or in Official journal of the European union – against the decision for choosing a contractor.
(6) (new. – SG 93/11, in force from 26.02.2012; prev. par. 5, amend. – SG 33/12; revoked – SG 40/14, in force from 01.10.2014)

(7) (new – SG 93/11, in force from 26.02.2012; prev. par. 6, amend. – SG 33/12) The appeal under par. 4 shall be filed within 10 days after the notification of the respective action, and if the person has not been notified – from the date, on which the term for accomplishment of the respective action has expired.

(8) (prev. par. 4, amend. – SG 93/11, in force from 26.02.2012; prev. par. 7 – SG 33/12) The appeal may be submitted by:

1. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) every interested person – in the cases under par. 5, items 1, 2 and 4, par. 6 and 7;
2. (amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) every interested candidate in the procedure – in the cases under par. 5, item 3 and par. 7;
3. (amend. – SG 93/11, in force from 26.02.2012) every interested candidate or participant – in the cases under par. 4, item 4 and par. 6.
(9) (new – SG 93/11, in force from 26.02.2012; prev. par. 8, amend. – SG 33/12) Within the term of par. 5, item 1 an appeal against the decision for opening of the procedure and/or the decision for a change may submit also professional associations and organizations in the respective branch for protection of interests of their members.

(10) (prev. par. 5, amend. – SG 93/11, in force from 26.02.2012; prev. par. 9, amend. – SG 33/12) In the cases referred to in para 5, items 1 and 5, where the publishing dates in the Public procurement register and in the Official Journal of the European Union differ from each other, the term for appeal starts from the later date.
Art. 120a. (new – SG 37/06, in force from 01.07.2006; amend. – SG 52/10) (1) (suppl. – SG 33/12) The appeal against a decision, act or omission of the contracting authority, except for this for nomination of a contractor shall not suspend the procurement assignation procedure, except in those cases where a temporary measure has been requested – "stay of the procedure".

(2) In case the temporary measure under paragraph 1 has been requested with the appeal, the public procurement assignation procedure shall be suspended until entering into force of:

1. the ruling, which discard the temporary measure request, or
2. the decision regarding the appeal, in case a temporary measure has been imposed.

Art. 120b. (new – SG 52/10) An appeal against the decision for designation of a contractor shall suspend the procedure for assigning public procurement till the dispute is completely resolved, unless a preliminary execution has been permitted.

Art. 121. (amend. - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) The appeal shall be submitted at the same time to the Commission for Protection of Competition and to the contracting authority, whose decision, act or omission is subject to the appeal.

(2) The appeal shall be written in Bulgarian language and shall contain:

1. name of the authority, before which it is lodged;
2. (suppl. – SG 40/14, in force from 01.07.2014) name, seat and address of management and information of the court registration of the appellant – legal person; the name, the address and information of the identity of the appellant, if he/she is a natural person, and also an address, including email address, for receiving communications and summons;
3. (amend. – SG 52/10) name and address of the contracting authority;
4. information of the public procurement and the decision, the action or inaction, which is appealed;
5. the complaints and the request of the appellant;
6. signature of the person, lodging the complaint, or his/her proxy.

(3) A request for a temporary measure shall be made simultaneously with the submission of the appeal.

(4) (amend. – SG 93/11, in force from 26.02.2012) To the appeal to the Commission for protection of competition shall be attached:

1. a copy of the decision subject to appeal, where it is not published in the Public procurements register;
2. (amend. – SG 33/12) evidences of meeting the term referred to in Art. 120, par. 5 and 7;
3. (amend. – SG 40/14, in force from 01.07.2014) a document of paid state fee;
4. an evidence of the appeal being sent to the contracting authority;
5. other evidences, if the appellant has any.

(5) (amend. – SG 93/11, in force from 26.02.2012) If the appeal does not meet the requirements under par. 2 and par. 4, items 1 – 3, or a document for paid state fee has not been presented, the Commission for Protection of Competition shall inform the appellant thereof and shall provide him/her with three days term for removal of the irregularities.
(6) The Commission for Protection of Competition shall not initiate proceedings, in case:
1. (amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) the appeal has been lodged after the expiry of the term under art. 120, par. 5 and 7;
2. the irregularities have not been removed within the term under par. 5;
3. a document for paid state fee has not been presented;
4. (revoked – SG 52/10; new – SG 93/11, in force from 26.02.2012) the appeal has been filed prior to expiration of the term, referred to in Art. 27a, par. 3;
5. (new – SG 94/08, in force from 01.01.2009) the appeal has been withdrawn prior to their initiation.

(7) (amend. – SG 52/10) In the cases under par. 6, the chairperson of the Commission for Protection of Competition shall return the appeal by an order, which shall be subject to appeal before a three-member board of the Supreme Administrative Court within 3 days term from its notice.

(8) The contracting authority is entitled to remedy the infringement before the Commission for Protection of Competition rules on the appeal.

Art. 121a. (new - SG 37/06, in force from 01.07.2006; amend. – SG 52/10) (1) (amend. and suppl. – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) In three days term from receiving the appeal or correcting its irregularities the chairman of the Commission for Protection of Competition shall initiate a procedure and shall appoint a member of the commission to monitor the research. The contracting authority shall be notified of the initiated procedure.

(2) (new – SG 93/11, in force from 26.02.2012) The contracting authority shall send an opinion on the appeal, supported as a request by evidences, within three days after the receipt of the notification of par. 1.

(3) (prev. par. 2 – SG 93/11, in force from 26.02.2012) In case a request for imposing a temporary measure has been made with the appeal the Commission for Protection of Competition shall give a well-grounded opinion on it in a closed session in 7-days term from the initiation of the procedure.

(4) (prev. par. 3 – SG 93/11, in force from 26.02.2012; suppl. – SG 33/12) Based on the opinion of the contracting authority and the evidence, presented by the parties, the Commission for Protection of Competition shall make a statement regarding the request following an assessment of the possible consequences from imposing the temporary measure with regard to all interests, that could be eventually harmed, including the public interest and the interests, related to the defense and security.

(5) (prev. par. 4 – SG 93/11, in force from 26.02.2012) The Commission for Protection of Competition shall not be obliged to impose a temporary measure, in case the negative consequences for all interests outweigh compared to the benefits of its imposing.

(6) (prev. par. 5 – SG 93/11, in force from 26.02.2012) Ruling on the temporary measure shall not bind the Commission for Protection of Competition regarding the decision on the merits of the case, as well as it shall not concern the other requests of the appellant.

(7) (prev. par. 6, amend. – SG 93/11, in force from 26.02.2012) The ruling for pronouncing on the temporary measure shall be subject to appeal before three members of the Supreme Administrative court in three days term following its notice to the parties. The court shall pronounce in a closed session within 14 days after the initiation of the proceedings under the private appeal. To all non-regulated matters regarding the proceedings of the appeal the provisions of Chapter Thirteen of the Code of Administrative procedure shall apply.

Art. 121b (New – SG 52/2010) (1) (amend. – SG 93/11, in force from 26.02.2012) In case the decision for selection of a contractor is a subject to appeal, the contracting authority may within the term for presentation of the opinion referred to in Art. 121a, par. 2 request from the Commission for Protection of Competition to permit preliminary execution of the decision. A request for preliminary execution, filed after this term, shall not be considered by the Commission for protection of competition.

(2) The contracting authority shall provide reasons for its request under para 1 and shall enclose evidence supporting its statements.

(3) In a closed session the Commission for Protection of Competition shall rule on the request for allowing a preliminary execution in three days term from receiving the statement.

(4) (suppl. – SG 33/12) The Commission for Protection of Competition shall allow a preliminary execution of the decision for assignation of a contractor as an exception, where necessary, in order to preserve the life or health of the citizens, to protect state or public interests of great importance, including these, related to the defense and security, or if as a result of the delay of the execution a significant damage is done or a damage difficult to repair may occur.

(5) The preliminary execution under paragraph 4 shall not be allowed in case it is justified by economic interests, related to expenses made for:
1. a delay of the contract execution;
2. opening a new procedure for procurement assignation.

(6) (new – SG 33/12) The commission for protection of competition shall allow preliminary execution of the decision for selection of a contractor in all cases where the implementation of a large-scale program in the field of defense of security, which is of a vital importance for country interests, could be seriously impaired.

(7) (prev. par. 6 – SG 33/12) The ruling shall be subject to appeal before the Supreme Administrative Court in three days term from its notice to the parties.

(8) (amend. – SG 93/11, in force from 26.02.2012; prev. par. 7 – SG 33/12) The Supreme Administrative Court shall pass judgement on the ruling in a closed session in 14-days term from starting the procedure regarding the private appeal.

Art. 122. (amend. - SG 37/06, in force from 01.07.2006; amend. SG 52/2010) (1) When there is an on-going procedure against a decision for assignation of a contractor and no preliminary execution has been allowed, the Commission for Protection of Competition shall inspect ex officio for the presence of a pending procedure against another decision of the contracting party related to the same procedure.

(2) In case that the Commission for Protection of Competition finds out that there is a pending procedure under paragraph 1, it shall suspend the proceedings, started with an appeal against the decision for assignation of a contractor.

(3) The proceedings shall be resumed ex officio or at a request by one of the parties following the invalidation of the reason for suspending.

Art. 122a. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 33/12) The research shall cover the circumstances with respect to the appeal, filed within the term set up in Art. 120, par. 5 and 7 and shall be carried out by a work team from the administration of the Commission for protection of competition, appointed by an order of the Chairman. The research shall be monitored by a member of the commission referred to in Art. 121a, par. 1, who shall issue instructions, where appropriate.

(2) (new – SG 33/12) Where public procurement contains or requires classified information, including with a subject under Art. 3, par. 2, the employees from the administration of the Commission
for protection of competition, involved in the proceedings for consideration of the file must hold a permit for access to classified information up to a certain level according to the provisions of the Protection of Classified Information Act.

(3) (prev. par. 2 - SG 33/12) In the proceedings before the Commission for Protection of Competition shall be admitted written and oral evidence, as well as expert statements.

(4) (amend. – SG 52/10; prev. par. 3 – SG 33/12) Where expert statements are used in the proceedings before the Commission for Protection of the Competition, the sums designated for consideration of the experts shall be deposited in advance by the party, who has demanded the expertise. Upon instituting an expertise at the initiative of the Commission for Protection of the Competition, the expenses for the expert consideration shall be assigned to the appellant, if the appeal has been left without consideration or the proceedings have been terminated, and to the contracting authority – in the cases under art. 122d, par. 1, item 2, 4 or 5.

(5) (prev. par. 4 – SG 33/12) The parties to the proceedings, the state bodies and the officials shall be obliged to provide support to the Commission for Protection of Competition in fulfilment of its liabilities, assigned by the law.

(6) (prev. par. 5 – SG 33/12) All evidence, collected in connection to the proceedings, may not be announced, if they represent production, trade or other secret, protected by an Act. In case they contain data, representing classified information, shall be applied the procedure, stipulated by the Protection of Classified Information Act.

(7) (prev. par. 6 – SG 33/12) After concluding the research, the parties shall be given a chance to get acquainted with the evidence collected concerning the file.

(8) (prev. par. 7 – SG 33/12) The parties shall be obliged to present all evidence not later than the day before the session for consideration of the appeal.

Art. 122b. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 33/12) Upon completion of the research, the work team shall present to the monitoring member of the commission a report containing factual and legal analysis of the case, and also a proposal for the way of conclusion of the proceedings.

(2) (new – SG 33/12) The monitoring member of the commission shall notify the chairperson of the accomplishment of the research. By a resolution, the chairperson shall schedule an open session for consideration of the file.

(3) (amend. – SG 59/07, in force from 01.03.2008; prev. par. 2 – SG 33/12; amend. – SG 40/14, in force from 01.07.2014) The parties shall be summoned by the order of the Code of Administrative procedure, where the deadline of summoning shall be minimum three days prior to the session. Parties may be served communications and summons also to their email address.

(4) (prev. par. 3 – SG 33/12) The parties may use defense counseling.

Art. 122c. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 102/08; amend. – SG 54/10; amend. - SG 73/11, in force from 21.10.2011) The sessions shall be valid, when at least four of the members of the Commission for Protection of Competition are present.

(2) (new – SG 33/12) Where public procurement contains or requires classified information, including with a subject under Art. 3, par. 2, the members of the Commission for protection of competition involved in the proceedings for consideration of the file, must hold a permit for access to classified information up to a certain level according to the provisions of the Protection of Classified Information Act.

(3) (amend. – SG 102/08; amend. – SG 54/10; amend. – SG 54/10; amend. - SG 73/11, in force from 21.10.2011; prev. par. 2 – SG 33/12) The Commission for Protection of Competition shall state
decisions and adjudications by open voting and a majority of 4 votes. In case at the session are present less than 7 members, the decision shall be enacted only if at least 4 members of the Commission have voted for it.

(4) (amend. – SG 102/08; revoked, prev. par. 3 – SG 33/12)) A member of the Commission may not participate in research proceedings under this Act, in case he/she is interested in the outcome f it or if there are reasonable doubts in his/her impartiality. The said member shall be struck off on their own initiative or upon request by the parties.

(5) (revoked – SG 102/08)

(6) (amend. – SG 33/12) The session shall start with deciding on preliminary issues regarding procedure legitimacy. The parties in the proceedings may be asked questions.

(7) When it is considered that the circumstances regarding the appeal are clarified, the chairperson shall give the parties an opportunity to express their opinion.

(8) Upon clarification of the dispute from factual and legal point of view the chairperson shall close the session.

Art. 122d. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 93/11, in force from 26.02.2012) The Commission for Protection of Competition at closed session shall pronounce a decision, with which it shall:

1. leave the appeal without consideration;

1a. (new – SG 33/12) revoke the illegitimate decision for opening of a public procurement procedure;

2. repeal the decision and shall return the file for continuation of the procedure for assigning public procurement from the last legal decision or action or for termination of the proceedings;

3. establish illegitimacy of the decision and shall impose the provided sanctions under par. 4 and 5;

4. announce the decision of the contracting authority null and void;

5. revoke the illegitimate action or establish the illegitimate omission and send the file back for continuation of the procedure of assignment of public procurement of the last legitimate decision or action or for termination of the procedure;

6. revoke the decision, where it finds out that the contract has been concluded in violation of Art. 41, par. 3 or 5 and it establishes a violation of the Act, having affected the opportunity of the appellant to participate in the procedure or to be nominated as a contractor.

(2) (amend. – SG 93/11, in force from 26.02.2012) In the cases under par. 1, items 2 and 5 the Commission for Protection of Competition may provide obligatory instructions concerning the course of the procedure for assigning public procurement.

(3) (amend. - SG 94/08, in force from 01.01.2009; amend SG 52/2010; suppl. – SG 93/11, in force from 26.02.2012) In case the contracting authority concludes a contract before or during the proceedings, he/she shall be obliged to notify the Commission for Protection of Competition immediately thereof.

(4) (Amend. - SG 52/2010; amend. – SG 93/11, in force from 26.02.2012; amend. – SG 40/14, in force from 01.07.2014) The Commission for Protection of Competition shall establish the illegitimacy of the decision and shall impose sanctions of up to 10 percent of the cost of the concluded contract, where it as admitted preliminary execution, but at the time of pronouncement of the decision it finds out violation of the law, having affected the opportunity of the appellant to participate in the procedure or to be nominated as a contractor.

(5) (New SG 52/2010; amend. – SG 93/11, in force from 26.02.2012) In case the contract has been concluded in violation of the provisions of Art. 41, paragraph 3 or a violation of the law has been identified, having affected the opportunity of the appellant to participate in the procedure or to be
nominated as a contractor, the Commission for protection of competition shall impose a sanction of three per cent of the cost of the concluded contract.

(6) (New SG 52/2010) In the cases under paragraphs 4 and 5, provided that the cost of the contracts is not pointed in them, the specific amount of the sanction shall be imposed by the Commission for Protection of Competition on the grounds of an expertise for assessment of the expected value of the concluded contract. At appointing an expert examination the expenses for remuneration of the expert shall be payable by the contracting authority.

(7) (prev. text of para 5 – SG 52/10) The decision of the Commission for Protection of Competition shall be in writing and shall contain:

1. the name of the body who has issued it;
2. the factual and the legal grounds for its issuance;
3. motives;
4. the exposition;
5. the body before which the decision can be appealed and the term thereof.

(8) (prev. text of para 6 – SG 52/10) A member of the commission, who does not agree with the decision, shall sign it with reserves, which shall be attached to it.

(9) (new – SG 93/11, in force from 26.02.2012) The Commission for protection of competition shall pronounce on the liability for the expenses under the terms and conditions and following the provision of Art. 143 of the Code of Administrative Procedure.

Art. 122e. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 52/10; amend. – SG 40/14, in force from 01.07.2014) The Commission for Protection of Competition shall pronounce on the appeal within one month from initiating the initiation of the proceedings for public procurements under Art. 45c, par. 2, and in the remaining cases – within 15 days after the initiation of the proceedings.

(2) (amend. – SG 52/10) The decision, along with the motives, shall be worked out and announced not later than 7 days from the pronouncing on the appeal.

Art. 122f. (new - SG 37/06, in force from 01.07.2006) (1) The decision of the Commission for Protection of Competition shall be subject to appeal before three-member board of the Supreme Administrative Court within 14 days term after it has been announced to the parties.

(2) (amend. – SG 52/10) The Supreme Administrative Court shall pronounce with a decision within one month from the receipt of the appeal and this decision shall be final.

(3) (new – SG 93/11, in force from 26.02.2012) To all non-regulated matters regarding the appeal proceedings the provisions of Chapter Twelve of the Code of Administrative procedure shall apply.

Art. 122g. (new - SG 37/06, in force from 01.07.2006) (1) The Commission for Protection of Competition shall terminate the proceedings by a definition:

1. upon establishing inadmissibility of the appeal;
2. if the appellant – natural person, has died, or the legal person has been terminated.;
3. upon withdrawal of the appeal.

(2) (amend. – SG 52/10; amend. – SG 93/11, in force from 26.02.2012) The definitions under par. 1 shall be subject to appeal by the order of art. 121a, par. 7.

Art. 122h. (new - SG 37/06, in force from 01.07.2006; suppl. – SG 52/10) To all unsettled
Art. 122i (new - SG 37/06, in force from 01.07.2006; suppl. – SG 94/08, in force from 01.01.2009; amend. – SG 52/10) (1) (suppl. – SG 33/12) Declaring a concluded contract or a frame agreement null and void on the grounds of art. 41b, para 1, may be claimed by:

1. (amend. – SG 93/11, in force from 26.02.2012) every interested person – in the cases under art. 41b, para 1, items 1 and 2;
2. (amend. – SG 93/11, in force from 26.02.2012) every interested person and interested candidate – in the cases under art. 41b, para 1, item 3, letters "a" and "b";
3. (amend. – SG 93/11, in force from 26.02.2012) interested candidate and/or interested participant – in the cases under art. 41b, para 1, item 3, letter "c".

(2) The claim shall be submitted following the order of the Code of civil procedure.

(3) (amend. and suppl. – SG 33/12) Invalidity of a contract or of a frame agreement under para 1 may be claimed up to two months from publishing the information about their conclusion in the Public Procurement Register, and if it has not been published – from finding out about it, but no later than a year after the conclusion.

(4) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12) Where the contracting authority has published information of a concluded contract on the grounds of Art. 4, item 2, 4 and 5, Art. 12, par. 1, items 2 – 9, 11 - 153 and Art. 13, par. 1, and has provided justification for the respective grounds, the two-month term referred to in par. 3 shall apply.

(5) (new – SG 93/11, in force from 26.02.2012; suppl. – SG 33/12) Where the contracting authority has published information of a concluded contract or a frame agreement before finalization of the appealing proceedings, the two-month term for claiming illegitimacy on the grounds of Art. 41b, par. 1, item 3 shall start elapsing after entering into force of the decision by which the appealed decision of the contracting authority has been revoked.

Art. 122k. (new - SG 37/06, in force from 01.07.2006; amend. – SG 52/10) In case the contract or the frame agreement are declared null and void, each of the parties should give back to the other one everything received in relation to the said contract. If this is impossible the relations shall be settled by giving back the money equivalent of the items, received pursuant to the contract.

Art. 122l. (new - SG 37/06, in force from 01.07.2006 amend. – SG 52/10) Following the conditions of art. 203, para 1, art. 204, para 1 and 3 and art. 205 from the Administrative Procedure Code every interested person shall be entitled to claim indemnification for damages, suffered as a result of violations during the procurement procedure and concluding public procurement contract.

Art. 122m (New - SG 52/10; amend.– SG 93/11, in force from 26.02.2012) The Commission for Protection of Competition shall send to the Public Procurement Agency its decisions under 122d and the rulings under art. 121a, para 3, art. 121b,para3 and art.122g, para1, in 7-days term from the notice thereof.

Art. 122n (New - SG 52/10) The Commission for Protection of Competition shall send to the
Public Procurement Agency its decisions under 122d and the rulings under art. 121a, para 2, art. 121b, para 3 and art. 122g, para 1, in 7-days term from the notice thereof.

Art. 122o (New - SG 52/10; revoked - SG 33/12; new – SG 40/14, in force from 01.07.2014) (1) For the proceedings under this Chapter before the Commission for protection of competition and the Supreme administrative court, state fees and charges shall be payable. State fees shall be pro rate and shall be determined by a tariff, approved by the Council of Ministers.

(2) Contracting authorities shall be exempted from payment of state fees.

Chapter eleven.
"A" CORRECTIVE MECHANISM REGARDING INFRINGEMENTS, ESTABLISHED BY THE EUROPEAN COMMISSION

Art. 122p. (New - SG 52/10) (1) (amend. – SG, 14/15) On the day of the receipt or no later than following working day the Permanent Representation of the Republic of Bulgaria to the European Union shall forward the notification, received from the European Commission regarding infringements of contracting authorities found during the conducting a procedure till concluding the contract for assigning public procurement, to the Public Procurement Agency, the administration of the Council of Ministers, the Ministry of Foreign affairs and to the Ministry of Economy.

(2) The Executive director of the Public Procurement Agency shall forward the notification under para 1 to the contracting authority concerned, who shall send back a reply in 5-days term.

(3) The respective evidence shall be enclosed to the reply by the contracting authority in case:
1. it acknowledges the assertions of the European Commission as reasonable and abates the violation, or
2. the infringement, referred to in the notification is already subject to appeal.

(4) Except the cases under para 3, provided the contracting authority establishes the lack of violation, it shall immediately send a well-grounded opinion to the Public Procurement Agency together with evidence enclosed.

(5) The contracting authority shall be obliged to suspend all actions, related to carrying out the procedure or concluding a public procurement contract, considered from the moment of the receipt of notification under para 2 until the final settlement of the argument.

(6) In the cases referred to in para 4 the Executive director of the Agency shall:
1. exercise his/her rights under art. 19, para 2, item 4, in case the violation, referred to in the notification under para 1, is a result of the contracting authority’s actions;
2. bring the case before a competent state body, in case the violation originates from the implementation of a legal act, that is not in compliance with the European union law.

(7) In 5-days term the body referred to in para 6, item 2 shall notify the Agency via a motivated opinion and shall specify the respective measures, in case such are provided.

(8) The Executive director of the Public Procurement Agency shall draw in a reply to the European Commission, containing the following:
1. confirmation that the violation is abated – in the cases pursuant to para 3, item 1;
2. information for the on-going procedure for appeal of violations – in the cases under para 3, item 2;
3. information for undertaking measures regarding removal of infringements – in the cases referred to in para 6, item 1 and para 7.

(9) (amend. – SG, 14/15) The reply under para 8 together with the evidence attached thereto shall be sent to the Permanent Representation of the Republic of Bulgaria to the European Union, the
administration of the Council of Ministers, the Ministry of Foreign Affairs and to the Ministry of Economy in 17-days term following the receipt of the notification under para 1 in the Public Procurement Agency.

(10) The Permanent Representation of the Republic of Bulgaria to the European Union shall provide the European commission with the reply under para 8 no later than 21 days considered from the date of receiving the notification under para 1.

Art. 122q. (New - SG 52/10) The information exchange under art. 122m could be carried out in electronic manner by an electronic signature or via fax.

Art. 122r. (New - SG 52/10) The contracting authorities shall be obliged to notify the agency in writing:
1. in 7-days term considered from entering into force of the decision of the Commission for protection of competition - regarding the appeal’s result in the cases under art. 122p, para 3, item 2;
2. in three days term considered from opening the procedure, in case the procedure, referred to in the notification under art. 122p, para 1, has been suspended by an enacted decision and a new procedure is started, connected to the same subject entirely or to a certain extent.

Art. 122s. (New - SG 52/10) In the cases referred to in Art. 122r the Executive director of the Agency shall notify the European Commission following the order of Art. 122p, para 9 in 7-days term considered from receiving the notification.

Chapter twelve.
CONTROL

Art. 123. (1) (amend. - SG 33/06; suppl. – SG 40/14, in force from 01.07.2014) The control over the fulfilment of this Acts, and also the control over the implementation of the public procurement contracts and of frame agreements, shall be exercised by the Audit Office and by the bodies of the Agency for state financial inspection. Control shall not be exercised for the quality of the fulfillment of the respective contract.

(2) (amend. - SG 37/06, in force from 01.07.2006) Subject to control by the Audit Office shall be the contracting authorities under art. 7, who fall within the jurisdiction of the National Audit Office Act.

(3) (amend. - SG 33/06, amend. - SG 37/06, in force from 01.07.2006) The contracting authorities under art. 7, falling within the jurisdiction of the State Financial Inspection Act shall be inspected by the bodies of the Public Financial Inspection Agency for the observance of this Act within the frames of financial inspection.

(4) (amend. - SG 33/06; amend.– SG 93/11, in force from 26.02.2012) The bodies of the State Financial Inspection shall carry out permanent follow up inspections regarding the observance of the regime of the public procurement of contracting authorities, who do not fall into the scope of the State Financial Inspection Act on the grounds of an approved annual plan.

(5) (amend. - SG 33/06) The orders for carrying out inspections by the bodies of the Public Financial Inspection Agency shall be issued by the director of the Agency or by official authorised by him.

(6) The orders under para 5 shall not be subject to appeal.
(7) (amend. - SG 33/06) The director of the Public procurement Agency may require from the bodies of the Public Financial Inspection Agency to exercise their legal capacity in a concrete case.

Art. 124. (1) (amend. - SG 33/06) In carrying out inspections under art. 123 the bodies of the Public Financial Inspection Agency shall have the right:
   1. to free access to the inspected object;
   2. to inspect the whole documentation related to the assignment of public procurement and to activities requiring assigning of public procurement;
   3. to require from the officials in the inspected objects documents, information and references in connection with the public procurement;
   4. (new - SG 98/08) to search through premises, transport vehicles, as well as other places where documentation of the inspected object is being stored, to confiscate documents, saved computer data and carriers of such in order to provide evidence – in cooperation with the bodies of the Ministry of Interior and provided that they have been authorized thereof by the court.

   (2) (amend. - SG 33/06, amend. - SG 37/06, in force from 01.07.2006) The persons in the inspected objects shall be obliged to render assistance to the bodies of the Public Financial Inspection Agency and to submit the necessary documents, information and references related to the public procurement.

Art. 125. In carrying out inspections under art. 123 the control bodies shall be obliged:
   1. to legitimize themselves by official cards and by an order for carrying out the inspection;
   2. to register precisely the results from the control activity;
   3. not to make public and not to distribute information having become known to them on carrying out the inspections.

Art. 126. (1) (amend. - SG 33/06) For the results from the inspection the control bodies of the Public Financial Inspection Agency shall work out a report containing the findings supported by proof.

   (2) The report under para 1 shall be presented to the contracting authority.

   (3) For established administrative offences the control bodies shall issue acts for administrative offences.

   (4) In the presence of data for committed offences the materials from the inspection shall be sent to the prosecution.

   (5) (amend. - SG 33/06) For found violation of the procedures for assigning public procurement the respective parts of the report for the financial inspection carried out and of the report under para 1 for the established violation of the procedures shall be sent in due time to the director of the Public Procurement Agency.

   (6) (amend. - SG 33/06) Information for the results from the control exercised regarding the observance of this Act may be submitted only by the director of the Public Financial Inspection Agency or by officials authorised by him, as well as by the director of the Public Procurement Agency the cases under para 5.

Art. 126a. (new – SG 40/14, in force from 01.07.2014) In the course of implementation of activities under this Chapter monitoring bodies shall have the right to use an electronic platform "Electronic monitoring" (E-monitoring), which collects, stores and provides online access to the protocols of all commissions for the conduction of public procurement procedures, frame agreements,
contracts between contracting authorities and contractors, supplementary agreements to the contracts and subcontracts.

Art. 126b. (new – SG 40/14, in force from 01.07.2014) In the course of implementation of activities under this Chapter monitoring bodies shall have the right to use an electronic platform "Electronic audit" (E-audit). The "E-audit" platform has got an available communication system, which allows to individuals and institutions to provide in a structured form warnings of deviations from the legitimate conduction of the proceedings under this act and of the implementation of public procurement contracts.

Art. 126c. (new - SG 40/14, in force from 01.07.2014) The warnings referred to in Art. 126b shall be used for confirmation and for the improvement of inspection or control methods, and also for analyses for the development of anti-corruption measures.

Art. 126d. (new - SG 40/14, in force from 01.07.2014) The terms and conditions and the procedure of introduction and of use of platforms referred to in Art. 126a and 126b shall be set out in the Regulations for the application of the law.

Chapter thirteen.
ADMINISTRATIVE PENAL PROVISIONS

Art. 127. (1) (amend. - SG 33/06, amend. - SG 37/06, in force from 01.07.2006; amend.– SG 93/11, in force from 26.02.2012) The acts for establishing offences under this Act shall be drawn up by officials of the Public Financial Inspection Agency within 6 months from the day on which the violator has been discovered by Agency bodies, but not later than three years from its commitment.

(2) The penal provisions shall be issued by the Minister of Finance or by officials authorised by him.

(3) The establishing of offences, the issuance, the appeal and the fulfilment of the penal provisions shall be carried out by the order of the Administrative Violations and Penalties Act.

Art. 127a. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 33/12) Upon non-fulfilment of decisions and/or definitions of the Commission for protection of the competition, which have entered into force, or of the obligation under art. 122, par. 5, a fee shall be imposed on natural persons, respectively a property sanction on legal persons and sole traders, amounting from 5 000 to 100 000 BGN.

(2) The Commission for Protection of Competition shall establish the committed offence and impose the penalties under par. 1, which shall be subject to appeal before the Supreme Administrative Court.

(3) The property sanctions and the fees under decisions of the Commission for protection of the competition, which have entered into force, shall be collected by the order of the Tax-insurance procedure code.

Art. 127b. (new - SG 37/06, in force from 01.07.2006) The Commission for Protection of
Competition shall send the decisions under art. 127a, par. 2 to the Public Procurement Agency in 7 days term from their announcing.

Art. 127c. (new – SG 98/10; revoked – SG 35/14; new – 12/15) (1) Acts for establishing violations under this Act found by the authorities of the Bulgarian National Audit Office shall be issued by authorized auditors within six months from the day on which the offender was found, but no later than three years from commitment of such violations.

(2) Penal decrees shall be issued by the Chairman of the Bulgarian National Audit Office or by officials authorized by the Chairman.

(3) Establishment of violations, issuance, appeal and execution of penalty decrees shall be carried out pursuant to the Administrative Violations and Penalties Act.

Art. 127d (new– SG 93/11, in force from 26.02.2012) A contracting authority failing to adopt internal rules for assigning of public procurements referred to in Art. 8b, shall be penalized by a fine or a proprietary sanction from 100 to 500 BGN.

Art. 128. (1) (amend. - SG 37/06, in force from 01.07.2006; prev. text of Art. 128. amend. – SG 94/08, in force from 01.01.2009; amend. – SG 33/12) A contracting authority who violates the prohibition of art. 13a, art. 15, para 4 - 7 and Art. 119a, par. 4 shall be punished by a property sanction amounting from 10 000 to 30 000 BGN or a fine from 2000 to 8000 BGN, and the persons under art. 8, para 1 shall be punished by a fine of 2000 to 8000 BGN.

(2) (new – SG 94/08, in force from 01.01.2009) The punishments under para 1 shall also be imposed on a contracting authority who violates the prohibition as per Art. 8, para 2, sentence two.

Art. 128a. (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) A contracting authority who violates the terms under art. 64, art. 76, par. 1 – 3, art. 81, par. 1 – 3, art. 83b, par. 1 and 2, art. 86, par. 1 – 3, art. 93h, par. 1, art. 104, art. 104a, par. 1, 2 and 4 and art. 114, par. 2 at conducting procedure, shall be punished by a property sanction amounting from 2000 to 3000 or a fine from 1000 to 2000 BGN, and the person under art. 8, par. 2 or 3 – by a fine amounting from 1000 to 2000 BGN.

Art. 128b. (1) (new - SG 37/06, in force from 01.07.2006; amend. and suppl. – SG 94/08, in force from 01.01.2009; amend.– SG 93/11, in force from 26.02.2012; prev. Art. 128b – SG 33/12; SG 40/14, in force from 01.07.2014) A contracting authority who violates the prohibition under art. 25, par. 5, 9 or 10, shall be punished by a property sanction amounting from 7000 to 25 000 BGN or a fine from 2000 to 7000 BGN, and the person under art. 8, par. 2 or 3 – by a fine amounting from 2000 to 7000 BGN.

(2) (new – SG 33/12) The punishments under par. 1 shall be imposed also to a contracting authority or to a person referred to in Art. 8, par. 2 or 3, who when assigning public procurements under Art. 3, par. 2 or 3 violates the restriction of Art. 119h, par. 3.

Art. 128c. (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend.– SG 93/11, in force from 26.02.2012) (1) A contracting authority having approved and sent for publication in the Public procurement register an notice for public procurement, which does not have the obligatory minimum content under Art. 25, par. 2, where applicable to a particular public
procurement, shall be penalized by a proprietary sanction from 1000 to 2000 BGN or by a fine from 500 to 1000 BGN, and the person under art. 8, par. 2 or 3 – by a fine from 500 to 1000 BGN. The punishment shall not be imposed, where the respective part of the notice has been supplemented by a decision for amendment, published in compliance with the provisions and within the term referred to in Art. 27a, par. 3 or where the procedure has been terminated.

(2) A contracting authority, having violating the provision of Art. 27a, par. 4 regarding publication of a decision for amendment or failing to meet the requirement of Art. 37, par. 3, shall be penalized by a proprietary sanction from 1000 to 2000 BGN or by a fine from 500 to 1000 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 500 to 1000 BGN.

(3) A contracting authority having approved a tender documentation, in which the assessment methods of the offers with economically most favourable offer criterion do not meet the requirements of Art. 28, par. 2, shall be penalized by a proprietary sanction from 1000 to 2000 BGN or by a fine from 500 to 1500 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 500 to 1500 BGN.

(4) (suppl. - SG 40/14, in force from 01.07.2014) A contracting authority, having violated Art. 28, par. 6 or 7 or having fixed a price of tender documentation in violation of the provision of Art. 28, par. 4 or a participation bond or a performance bond in violation of the provision of Art. 59, par. 2 or 3, shall be penalized by a proprietary sanction from 500 to 1000 BGN or by a fine from 200 to 500 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 200 to 500 BGN.

(5) A contracting authority having provided technical specifications in violation of Art. 32, par. 2 shall be penalized by a proprietary sanction from 7000 to 25 000 BGN or by a fine from 2000 to 7000 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 2000 to 7000 BGN.

(6) (amend. - SG 40/14, in force from 01.07.2014) A contracting authority, which in the cases referred to in Art. 29, par. 3 fails to extend the term for receiving of offers or applications for participation, shall be penalized by a proprietary sanction from 500 to 2000 BGN or by a fine from 300 to 1000 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 300 to 1000 BGN.

(7) (new - SG 40/14, in force from 01.07.2014) A contracting authority, having violated the provisions of Art. 73, par. 4 or Art. 89, par. 8 shall be penalized by a proprietary sanction from 500 to 2000 BGN or by a fine from 300 to 1000 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 300 to 1000 BGN.

Art. 128d. (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) A member of the commission for conducting public procurement, who violates art. 69, para 1, Art. 70, para 1 or Art. 72, para 1 and 2, shall be punished by a fine, amounting to 500 BGN.

Art. 128e. (1) (new - SG 37/06, in force from 01.07.2006; amend. and suppl. – SG 94/08, in force from 01.01.2009; prev. text of Art. 128e, amend. – SG 52/10) A contracting authority, who concludes a contract in violation of art. 41, par. 2, shall be punished by a property sanction amounting from 10 000 to 20 000 BGN or by a fine from 3000 to 5000 BGN, and the person under art. 8, par. 2 or 3 – by a fine amounting from 3000 to 5000 BGN.

(2) (new - SG 52/10) The property sanction under para 1 shall also be imposed on a contracting authority that concludes a contract prior to expiration of the term fixed in Art. 41, para 3, with the exception of the cases referred to in Art. 41a.

(3) (new - SG 52/10) The punishment under para 2 shall not be imposed in those cases where a sanction as per Art. 122d, para 5 has been imposed for the established violation.

Art. 128f. (new – SG 94/08, in force from 01.01.2009) An contracting authority, who does not
adopt a decision for preliminary selection and a decision for selection of a contractor of the public procurement within the set term, shall be punished by a proprietary sanction from 1000 to 5000 BGN or by a fine from 200 to 2000 BGN, and the person as per Art. 8, para 2 or 3 shall be punished by a fine from 200 to 2000 BGN.

Art. 129. (1) (prev. text of art. 129, amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009) An contracting authority, who does not conduct a procedure for assigning public procurement in presence of a ground for that, or who amends a public procurement contract in violation of art. 43, par. 1, shall be punished by a property sanction amounting from 15 000 to 50 000 BGN, or by a fine from 3000 to 10 000 BGN, and the person under art. 8, par. 2 or 3 – by a fine amounting from 3000 to 10 000 BGN.

(2) (new - SG 37/06, in force from 01.07.2006) The penalties under par. 1 shall also be imposed on a contracting authority or a person under art. 8, par. 2 or 3, who on the basis of frame agreement concludes a contract, in which the terms differentiate substantially from the ones, defined in the frame agreement.

(3) (new – SG 94/08, in force from 01.01.2009; amend. – SG 33/12) The punishments under para 1 shall also be imposed on a person referred to in Art. 8, para 2 or 3, who concludes a contract in violation of Art. 5, para 4.

(4) (new - SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) The punishments under par. 1 shall be imposed also to a contracting authority, which in violation of Art. 12, par. 6 fails to terminate a service contract under Art. 12, par. 1, item 13.

(5) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12; suppl. - SG 40/14, in force from 01.07.2014) A contracting authority, having assigned a public procurement for the cost referred to in Art. 14, par. 4, without meeting the provisions of Art. 101a, 101b, 101c, 101d or 101f, shall be penalized by a proprietary sanction from 1000 to 2000 BGN or by a fine from 500 to 1000 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 500 to 1000 BGN.

Art. 129a. (new - SG 37/06, in force from 01.07.2006) (1) (amend. – SG 94/08, in force from 01.01.2009; amend. – SG 52/10; amend.– SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) A contracting authority, who does not send the documents under art. 45c, par. 1, 3, 4, 5 and 46 or does not fulfill the obligations as per Art. 45c, paras 10 and 11, shall be punished by a property sanction amounting from 5000 to 15 000 BGN or by a fine from 1000 to 3000, and the person under art. 8, par. 2 or 3 shall be punished by a fine amounting from 1000 to 3000 BGN.

(2) (amend. – SG 94/08, in force from 01.01.2009; revoked – SG 52/10)

Art. 129b. (1) (new - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; prev. Art. 129b - SG 93/11, in force from 26.02.2012) A contracting authority, who does not preserve the documentation for conducting public procurement within the term under art. 58a, par. 6, shall be punished by a property sanction amounting from 1000 to 5000 BGN or by a fine amounting from 500 to 1500 BGN, and the person referred to in Art. 8, para 2 or 3 – by a fine from 500 to 1500 BGN.

(2) (new - SG 93/11, in force from 26.02.2012) A contracting authority not keeping all documents related to the assignment of public procurements under Chapter Eight "a" for the term referred to in Art. 101g, shall be penalized by a proprietary sanction from 500 to 1000 BGN or by a fine from 300 to 500 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 300 to 500 BGN.
Art. 130. (1) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; amend. – SG 33/12) A contracting authority under Art. 7, items 1 through 4 who conduct a competitive dialogue procedure of negotiation in the absence of the preconditions under Art. 83a, art. 84, art. 90 or art. 119c, par. 3 shall be punished by a property sanction from 10 000 to 20 000 BGN or by a fine from 3000 to 5000 BGN, and the person under art. 8, para 2 or 3 by a fine of 3000 to 5000 BGN.

(2) (amend. - SG 37/06, in force from 01.07.2006; amend. – SG 94/08, in force from 01.01.2009; suppl. – SG 33/12) A contracting authority under art. 7, item 5 and 6, who holds a procedure of negotiation without notice in the absence of the preconditions under art. 103, par. 2 or art. 119c, par. 3 shall be punished by a property sanction of 10 000 to 20 000 BGN or by a fine from 3000 to 5000 BGN, and the person under art. 8, para 2 or 3 – by a fine of 3000 to 5000 BGN.

Art. 130a. (1) (new - SG 94/08, in force from 01.01.2009; prev. art. 130a – SG 33/12) A contracting authority who concludes a frame agreement or creates a dynamic system for deliveries for a period longer than 4 years in violation of Art. 93a, para 1 or Art. 93e, para 1 or fails to fulfill his obligation for annual publication of an notice within a preliminary selection system with a term of more than three years, shall be punished by a property sanction of 10 000 to 20 000 BGN or by a fine from 3000 to 5000 BGN, and the person under art. 8, para 2 or 3 – by a fine of 3000 to 5000 BGN.

(2) (new – SG 33/12) The punishments under par. 1 shall be imposed also to a contracting authority or to a person referred to in Art. 8, par. 2 or 3, having concluded a frame agreement for assigning of public procurement under Art.3, par. 2 for a period exceeding 7 years, in violation of the provision of Art. 119d, par. 2.

Art. 131. (1) (amend. - SG 94/08, in force from 01.01.2009) A contracting authority, who terminates a procedure in the absence of the grounds under art. 39, para 1 or 2 shall be punished by a property sanction amounting from 2000 to 10 000 BGN or by a fine amounting from 1000 to 3000 BGN, and the person under Art. 8, para 2 or 3 shall be punished by a fine from 1000 to 3000 BGN.

(2) (amend.– SG 93/11, in force from 26.02.2012) A contracting authority who opens a new procedure in violation of art. 39, par. 6 shall be punished by a property sanction amounting from 2000 to 7000 BGN or by a fine from 1000 to 2000 BGN, and the person under art. 8, para 2 or 3 – by a fine amounting from 1000 to 2000 BGN.

(3) A contracting authority, who concludes a public procurement contract in violation of art. 42, para 1 shall be punished by a property sanction amounting from 5000 to 10 000 BGN or a fine from 2000 to 5000 BGN, and the person under art. 8, para 2 or 3 shall be punished by a fine from 2000 to 5000 BGN.

Art. 131a. (new – SG 52/10; prev. art. 131a – SG 33/12) A contracting authority, who fails to fulfill the obligation as per Art. 62, para 1 or 3 within the fixed term, shall be punished by a propriety sanction amounting to BGN 1000 to 5000 or by a fine amounting from BGN 500 to 1500, and the person under Art. 8, para 2 or para 3 – by a fine from BGN 500 to 1500.

(2) (new – SG 33/12) A contracting authority who utilizes a participation guarantee without availability of the grounds referred to in Art. 61, par. 2, shall be penalized with a proprietary sanction from BGN10 000 to 15 000 or with a fine from BGN1000 to 5000, and the person referred to in Art. 8, par. 2 or 3 – with a fine from BGN1000 to 5000.
Art. 132. (1) (prev. text of art. 132, amend. - SG 37/06, in force from 01.07.2006; amend. - SG 94/08, in force from 01.01.2009; amend.– SG 93/11, in force from 26.02.2012; suppl. - SG 40/14, in force from 01.07.2014) A contracting authority failing to send in time the information, subject to entry in the Public Procurement Register, or failing to publish on time the documents and the information subject to registration on the buyer’s profile, shall be punished by a proprietary sanction from 1000 to 2000 BGN or by a fine from 500 to 1500 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 500 to 1500 BGN.

(2) (new - SG 40/14, in force from 01.07.2014) A contracting authority, having failed to publish a document or information subject to registration on buyer’s profile, shall be imposed a proprietary sanction or a penalty of up to BGN2,000, and the person referred to in Art. 8, par. 2 or 3 shall be imposed a penalty of BGN1,500.

(3) (new – SG 52/10; amend.– SG 93/11, in force from 26.02.2012; prev. par. 2 - SG 40/14, in force from 01.07.2014) A contracting authority failing to fulfill its obligation under Art. 44, para 10, shall be punished by a property sanction amounting from BGN 500 to 1000 or by a fine from 100 to 500 BGN, and the person referred to in Art. 8, par. 2 or 3 – by a fine from 100 to 500 BGN.

(4) (new - SG 37/06, in force from 01.07.2006; amend. - SG 94/08, in force from 01.01.2009; prev. text of para 2, amend. – SG 52/10; suppl.– SG 93/11, in force from 26.02.2012; prev. par. 3 - SG 40/14, in force from 01.07.2014) A person referred to in Art. 8, para 2 or 3, who fails to fulfill an obligation as per Art. 19, para 44, Art. 20a, par. 2, Art. 122p, para 2 or 7, shall be punished by a fine amounting from 500 to 1500 BGN.

Art. 132a. (new - SG 37/06, in force from 01.07.2006; amend. - SG 94/08, in force from 01.01.2009) A person, who does not present documents, pieces of information and references to the bodies of the Public Financial Inspection Agency within the terms, fixed by them, in violation of art. 124, par. 2, shall be punished by a fine amounting from 200 to 500 BGN.

Art. 133. (1) (amend. - SG 37/06, in force from 01.07.2006; prev. Art. 133 - SG 93/11, in force from 26.02.2012) Where the offences under art. 128 – 132a are repeated the offenders shall be punished by a fine, respectively a material sanction in double size.

(2) (new – SG 93/11, in force from 26.02.2012; amend. – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) Where the violations under Art. 128 – 132a, except for those referred to in Art. 129, par. 4, Art. 129b, par. 2 and Art. 132, par. 3, have been done in case of assignment of public procurements for the cost referred to in Art. 14, par. 3, the provided amounts of the fines and proprietary sanctions shall be reduced by half.

Art. 134. (new - SG 40/14, in force from 01.07.2014) (1) A contractor violating the provisions of Art. 45a, par. 2 shall be punished with a proprietary sanction from BGN5,000 to BGN50,000 or a penalty from BGN1,000 to BGN10,000.

(2) The punishments referred to in par. 1 shall be imposed also to a subcontractor violating the prohibition referred to in Art. 45a, par. 4.

Additional provisions

§ 1. (amend. - SG 37/06, in force from 01.07.2006) In the meaning of this Act:
1. (new – SG 33/12) "Military equipment" is equipment specially designed or adapted for military purposes and meant for use as weapons, munitions or materials for military purposes.

1a. (new – SG 33/12) "Civilian public procurements" are all procurements, which are not mentioned in Art. 3, par. 2, covering the procurement of non-military goods, construction works or services for logistic purposes and concluded subject to compliance with the provisions of Art. 5, par. 4.

1b. (amend. – SG 52/10; prev. item 1 – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) "Public procurement contract" shall be a written contract against payment between one or more contractors, whose object is construction, delivery of goods or provision of services, concluded following the legislative procedures.

1c. (new – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) "Subcontract" is a written contract against payment, concluded by and between the contractor and one or more persons, with a subject the execution of one or more activities of an assigned public procurement with a subject being construction works, supply of goods or provision of services.

1g. (new – SG 93/11, in force from 26.02.2012; prev. item 1a – SG 33/12) "Contracts for communal services" are the contracts for carrying out of activities for:
   a) operation, maintenance, monitoring, reclamation and post-operating handling of domestic waste treatment and safe disposal systems and facilities;
   b) management and organization of activities, related to re-use, recycling, recovery and safe disposal of waste in order to achieve the objectives set in municipal waste management programs.

1d. (new – SG 24/09; prev. item 1a - SG 93/11, in force from 26.02.2012; prev. item 1b – SG 33/12) "European funds" shall mean the Structural funds, the Cohesion fund, the European Agricultural Fund for Rural Development and the European Fisheries Fund.

2. "European technical approval" shall be a positive technical assessment of the suitability of a product for a definite purpose, which shall be based on the fulfilment of the essential requirements to the constructions by the inherent characteristics of the product and the defined requirements for application and use. The European technical approvals shall be issued by authorities, determined by the Member state for this purpose.

3. "Operation of aerodromes" is carrying out activities of: maintaining the air field and the development of the infrastructure of the aerodrome, the restriction and removal of obstacles, maintenance of the visual signal devices, the emergency and rescue and fire safety provision of the flights on the territory of the aerodrome an in its vicinity, the guarding of the aerodrome; the safety of the flights; assigning the working out and updating of the general and cadastre plan of the aerodrome.

4. "Operation of ports" is carrying out activities of: maintenance of: the adherent aqua terry of the ports for public transport, the navigation and approach channels, the fulfilment of measuring and dredging activities, the maintenance of quay walls, diverting facilities, port industrial railways and under crane roads, fire fighting, water supply and sewage network, electric supply network – high and low voltage, road covers for public transport on the territory of the ports.

5. "Electronic auction" is a repeating (standardized) process, which includes electronic device for presentation of new lower prices and/or new values for some positions of the offers after the initial overall assessment of the offers, which gives the opportunity the latter to be rated by using methods of automatic assessment.

5a. (new - SG 40/14, in force from 01.07.2014) "Electronic catalogue" (E-catalogue) is an online platform allowing offering of supplies having already been standardized or for which it is possible to develop or approve individual standards.

6. "Electronic means" is electronic equipment for processing (including digital compression) and preserving data, which are transmitted, announced and received via cable, radio waves, by optical means or other electromagnetic means.

6a. (new – SG 33/12) "Life cycle" are all possible phases of a product, for instance research and development, industrial manufacturing, production, operation, repair, upgrading, modification,
maintenance, logistics, training, testing, taking out of operation and safe disposal.

6b. (new – SG 52/10; prev. item 6a – SG 33/12) "Interested candidate" is a candidate who is not absolutely suspended from participation in the procedure in the stage of preliminary selection, for he/she has not been informed of the said suspension or the appeal proceedings in relation to the suspension have not been finished yet.

6c. (new – SG 52/10; suppl.– SG 93/11, in force from 26.02.2012; prev. item 6b – SG 33/12) "Interested participant" is a participant who is not absolutely suspended from the procedure. Suspension shall be final in those cases where the participant has been informed of the decision ruling suspension and the decision has come into effect. An interested participant shall also be a participant having been rated, but who has not been selected as a contractor.

6d. (new – SG 52/10; prev. item 6c – SG 33/12) "Interested person" is any person who is or has been interested in assigning a certain public procurement or who has suffered damages or may suffer damages from the alleged infringement.

7. "Law of the country, where the candidate or the participant is established" is:
   a) for the natural persons – their native law within the meaning of art. 48 of the Code of the international civil law;
   b) for the legal persons – the law of the country, determined according to art. 56 of the Code of the international civil law;
   c) for the associations, which are not legal persons – the law of the country, where they are registered or constituted.

8. (amend.– SG 93/11, in force from 26.02.2012; suppl. – SG 33/12; amend. - SG 40/14, in force from 01.07.2014) "Extraordinary circumstances" are the circumstances caused by unforeseeable by the contracting authority events, such as natural calamities, an accident or a disaster, and also other directly endangering people’s life and health or the environment, or which may considerably affect or disturb the normal implementation of contracting authority activities set out by the laws. An extraordinary circumstance shall also be the subsequent occurrence of risk for the national security, country defense, the environment, human health, protected territories, zones and facilities and to the public order.

9. (suppl. – SG 94/08, in force from 01.01.2009) "Candidate" is a natural or legal person or an association, who has submitted an application for participation in a limited procedure, procedure of negotiation with notice, competitive dialogue or limited project competition.

10. (revoked – SG 94/08, in force from 01.01.2009, new – SG 33/12) "Classified information" is every information or material, regardless the form, nature or way of transmission, for which a classification level or security protection is determined and which, in national security interest and according to the legislative, secondary law and administrative provisions applicable in the respective European Union Member State, require protection against misuse, destruction, removal, disclosure, loss or making known to unauthorized persons or whatever way of damage.

11. (amend. – SG 33/12) "Compensatory (offset) agreement" is a contract, by which a contractor of a significant project in the field of security and defense undertakes to carry out activities (related directly or indirectly to the subject of the project), aiming at protection and/or development of existing or creation of new capabilities, required for guaranteeing of vital national interests in the field of security and defense.

11a. (new – SG 33/12) "Crisis" is any situation on an European Union Member State, or in a third country, in which a damage-causing event has occurred, which by its extend obviously exceeds the damage causing events of everyday life and which considerably endangers people’s life and health, has got significant consequences on the property or requires measures for provision of basic consumers goods to residents. Crisis is also existing in case when occurrence of such damage causing event is considered as immediately expected. Armed conflicts and wars are also crises.

12. "Minimal labour price" is the minimal size of payment of the manpower, determined as a
minimal monthly size of the insurance income in activities and groups of professions according to art. 8, item 1 of the Act on the Budget of the State Public Insurance for the respective year.

13. "Transport network" is a network whose terms of operation are determined by the state or the municipality and includes the scheme of the route, the capacity of providing transport service and frequency of the servicing.

13a. (new – SG 33/12) "Research and development activity" are all activities, covering fundamental scientific research, applied scientific studies and experimental development work, whereby the latter may include production of prototypes, for example facilities for demonstration of a new concept of new technology in a respective or in a representative environment.


14a. (new – SG 94/08, in force from 01.01.2009) The "Common Procurement Vocabulary (CPV)" is a unified classification system applicable to public procurement aiming at equivalence of the various cross-references used by contracting authorities for subject description of the procedures for assigning public procurement conducted by them. Where any differences have been found between CPV and NACE (Nomenclature generale des activites economiques dans les Communautes Europeennes), or between CPV and the Central Product Classification (CPC), the NACE and CPC nomenclatures shall take precedence respectively.

14b. (new – SG 52/10; suppl.– SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) "Unforeseen circumstances" are circumstances, having occurred after the conclusion of the contract and are not a result of an act or omission of the parties, which could not have been foreseen with the due care and make the fulfillment impossible under the agreed terms and conditions.

15. (amend. – SG 33/12) "Standard technical specification" is a technical specification, prepared in accordance with a procedure, recognized by a Member state and promulgated in Official Journal of the European Union.

16. (amend.– SG 93/11, in force from 26.02.2012)"Detached position" is such a part of the subject of the public procurement which is connected systematically with the other positions of the subject of public procurement, though practically it may be an individual subject of public procurement.

16a. (new – SG 52/10; suppl. - SG 40/14, in force from 01.07.2014) "Official translation" is a translation made by a translator listed in a list as a person who has concluded a contract for official translations with the Ministry of Foreign Affairs.

17. "In writing" or "written form" is every expression, compound of words or figures, which can be read, reproduced and announced. It may include information, transmitted and preserved by electronic means.

17a. (new – SG 33/12) "Government" is any national, regional or local government of an European Union Member State, or such of a third party.

18. (amend. – SG 33/12) "Acknowledged body" is a person, accredited for the respective filed by the Executive Agency "Bulgarian Accreditation Service" or by a foreign accreditation body, which is a party to the Multilateral agreement on the mutual recognition of the European Cooperation for Accreditation or which meets the requirements for recognition according to Art. 5a, par. 2 of the National Accreditation of Conformity Assessment Bodies Act.

19. "Repeated offence" is a violation, committed by the same person in one year term from the entry into force of the penal provision, with which a penalty has been imposed to him/her for the same kind of offence.

19a. (new – SG 52/10) "Requirements set in advance" are the terms included in the notice and/or documentation for participation.

20. (revoked - SG 40/14, in force from 01.07.2014).

21. "Public legal organisation" is a legal person, which is independent from its trade or production nature and is established with the purpose of satisfaction of public interests and for which at
least one of the following conditions is met:

a) (amend.– SG 93/11, in force from 26.02.2012) the financing is more than 50 per cent of the state budget, by the budgets of the state public insurance or the National Health Insurance Fund, by the municipal budgets or by a contracting authority under art. 7, item 1 or 3;

b) more than half of the members of its managing or control body are determined by the contracting authority under art. 7, item 1 or 3;

c) it is subject to managerial control on behalf of a contracting authority under art. 7, item 1 or 3; managerial control is present in case a person can exercise in one or another way dominating impact over the activity of another person.

Public legal organisation shall also be a medical establishment – a trade company, more than 30 percent of the incomes for the precedent year of which are at the expense of the state and/or the municipal budget, and/or the budget of the National Health Insurance Fund.

22. (amend. – SG 52/10) "Dominating impact" is present where a contracting authority under art. 7, item 1 or public organisations:

a) possess over 50 percent of the capital of the enterprise, or
b) possess blocking quota in the capital of the enterprise, or
c) may appoint more than half of the members of the management or control bodies of the enterprise.

22a. (new - SG 40/14, in force from 01.07.2014) "Professional competency" is the availability of knowledge, obtained through education or additional qualification and/or skills, acquired in the process of exercising of a particular job or a position, in fulfillment of employment, office or civil legal relationship.

23. "Public enterprise" is an entrepreneur in the meaning of the Commerce Act or according to the legislation of a Member state, over whom a contracting authority under art. 7, item 1, 3 or 4, may exercise direct or indirect dominating impact.

23a. (new – SG 93/11, in force from 26.02.2012) "Affiliated persons" are:

a) lineal relatives without limitations;

b) by-laws relatives up to the fourth degree, inclusive;

c) connected by marriage – up to the second degree, inclusive;

d) spouses or persons, living in actual co-habitation;

e) partners;

f) persons, one of whom participates in the management of the other person’s company;

g) a company and a person, holding more than 5 per cent of the issued voting shares or stake.

A company, the equity of which is 100 per cent governmental or municipal property shall not be considered to be an affiliated person, neither a person, exercising the state rights, respectively the municipality rights in this company.

24. "Related enterprise" is an enterprise:

a) which draws up a consolidated financial report with the contracting authority, or

b) on which the contracting authority may exercise direct or indirect dominating impact, or

c) may exercise a dominating impact on a contracting authority under art. 7, item 5 or 6, or

d) which, along with a contracting authority under art. 7, is an object of a dominating impact of another enterprise.

25. (amend. - SG 40/14, in force from 01.07.2014) "Specialized enterprises or cooperations of people with disabilities" are the ones within the meaning of art. 28, par. 1 of the Act on Integration of People with Disabilities or their equivalent according to the legislation of a Member state.

26. "Special or exclusive rights" are rights provided by an Act or by a competent state body on grounds stipulated by an Act, as a result of which the implementation of activities, including the ones, indicated in art. 7a – 7e, is reserved for one or more persons and the possibility other persons to perform such activities is considerably limited.
26a. (new – SG 33/12) "Special equipment, construction or service" is equipment, construction or service for security purposes, which include, require and/or contain classified information.

27. "Standard" is a technical specification, approved by a recognized organization for standardization, for repetitive or continuous application, the compliance with which is not obligatory and which does not come under one of the following categories:

   a) international standard: a standard which is approved by an international organisation for standardization and is generally accessible;
   b) European standard: a standard which is approved by European organisation for standardization and is generally accessible;
   c) national standard: a standard, a standard which is approved by a national organisation for standardization and is generally accessible.

27a. (new – SG 33/12) "Standard in the field of defense" is technical specification, the compliance with which is not obligatory and which is approved by a standardization organization specialized in production of technical specifications for multiple or for permanent application in the field of defense.

28. (suppl. – SG 40/14, in force from 01.07.2014) "Construction" is the result of over ground, semi-underground or underground construction, which is enough in itself to perform economic or technical function and for which the contracting authority has provided the issuance of a separate construction permit and or a separate commissioning certificate.

28a. (new – SG 93/11, in force from 26.02.2012; amend. - SG 40/14, in force from 01.07.2014) "Notice to the mass media" is an electronic document, the contracting authority being its holder, which is forwarded on the same day electronically to the Bulgarian News Agency, to minimum three printed media and to minimum three licensed radio- and television operators.

29. (amend. – SG 33/12) "Technical reference" is each product, created by European organizations for standardization, different from the official standards, according to the adopted procedures for stimulation of the market necessities.

30. (suppl. - SG 40/14, in force from 01.07.2014) "Technical specification for construction" is the combination of technical prescriptions, indicated in the documentation for participation, which determines the requirements for characteristics of the materials and goods in such a way as to suite the application stipulated by the contracting authority. These characteristics shall include a level of fulfilment according to the requirements for protection of the environment, designing, which shall meet all of the requirements, including access for persons with disabilities, and an assessment of the compliance, working characteristics, safety or sizes, including the procedures regarding the provision of quality, terminology, symbols, testing and testing methods, packing, marking, labelling. They shall also include rules for designing, testing, construction supervision and terms of accepting construction works and methods or technologies of construction and all other technical requirements which the contracting authority may prescribe by virtue of an Act or of bylaws regarding a completed construction and the materials and parts included in it. In case of engineering and implementation of a construction project, technical specifications shall also include terms of reference, and in the remaining cases of construction projects – technical documentation for the implementation of construction works, including an approved investment project, if relevant.

31. "Technical specification for services or goods" is a specification of a document determining the requirements for characteristics of goods or service, such as: level of quality, levels of protection of the environment, design, meeting all the requirements, including access for persons with disabilities, and an assessment of the compliance, process or method of production, usage, safety, sizes, requirements regarding the name under which the goods are sold, terminology, symbols, testing and testing methods, packing, marking, labelling, instructions for using, procedures of assessment of the compliance.

32. "Third country" is a country, which is not a member of the European Union.

32a. (new - SG 40/14, in force from 01.07.2014) "Single account and fiscal reserve
management system" shall include:

a) centralization of funds, receipts and payments through transit accounts and SEBRA and the products related thereof, activities, software and provision of resources according the Public Finance Act;

b) liquidity management of the single account system and the investment of temporarily available funds into financial instruments according to the Public Finance Act;

c) managements of the assets of the State fund for guaranteeing of state pension system sustainability according to the Act for the State fund for guaranteeing of state pension system sustainability;

d) management of the remaining accounts and assets, included in the fiscal reserve.

33. "Participant" is a natural or legal person or their association, who has presented an offer or a project.

34. "Fixed networks for public services" are:

a) the transfer or distribution networks within the meaning of the Energy Sector Act – with regard to the activities under art. 7a;

b) the water supply system and the sewerage system within the meaning of § 1, par. 1, items 32 and 33 of the Additional provisions of the Waters Act – with regard to the activities under art. 7b.

Transitional and concluding provisions

§ 2. This Act revokes the Public Procurement Act (prom., SG 56/99; amend., SG 92 and 97/00, SG 43 and 45/02, SG 109/03).

§ 3. The Council of Ministers shall adopt Regulations for Implementation of the Act, as well as the ordinances under art. 13, para 2 and art. 14, para 5 and the tariff under art. 20, para 6 by October 1, 2004.

§ 4. (1) The Council of Ministers shall adopt structural regulations of the Public Procurement Agency within two months from the promulgation of the Act in the State Gazette.

(2) The Public Procurement Agency shall be a legal successor of all rights over the current Public Procurement Register, including over the technical devices for its maintenance.

(3) The Council of Ministers shall take a decision for submitting an appropriate building to the Public Procurement Agency within two months from the promulgation of the Act in the State Gazette.

§ 5. (1) In assessing the offers of a candidate who is a small- or medium-size enterprise in the meaning of the Small- And Medium-Sized Enterprises Act the price offered by him shall be accepted as the lowest if it exceeds the lowest price offered by another candidate by no more than:

1. fifteen percent – for the public procurement assigned in 2004;
2. ten percent – for the public procurement assigned in 2005;
3. five percent – for the public procurement assigned in 2006.

(2) Para 1 shall apply where the assessed offers belong to candidates from countries not included in the list under art. 19, para 1, item 14.

(3) The provisions of para 1 and 2 shall apply until January 1, 2007.
§ 6. (amend. – SG 94/08, in force from 01.01.2009) In the cases of § 9 of the transitional and concluding provisions of the Environmental Protection Act, where the government finances measures for removal of ecological damages caused by past actions or inactions of the government, the contractors shall be chosen by the order of Part Two, and where the contracting authority is a person under art. 7, items 5 and 6 – by the order of Part Three.

§ 7. The public procurement procedures for which a decision is taken to be opened before the enactment of this Act shall be concluded by the previous order.

§ 8. The Council of Ministers shall adopt the regulations and the statute and shall appoint the chairman of the arbitration court by September 1, 2004.


1. In art. 45:
   a) para 4 is amended as follows:
   "(4) The Council of Ministers shall adopt an ordinance for the order and the terms of contracting the medicines for which NHIF pays in full or partially. The ordinance shall contain the procedure and the criteria for contracting the concrete medicines, as well as the methodology of determining the level of their payment. The draft of the ordinance shall be worked out by NHIF, coordinated with the Commission for Transparency under art. 85b of the Act on medicines and pharmacies in the human medicine and shall be put forward in the Council of Ministers by the Minister of Health."
   b) in para 5 the words "the producers and wholesale vendors of medicines" are replaced by "the holders of permit for using medicines or their authorised representatives on the territory of the Republic of Bulgaria under art. 17 of the Act on Medicines and Pharmacies in Human Medicine";
   c) para 6 is created:
   "(6) Upon contracting according to para 5 NHIF shall conclude with the holders of permit for using medicines or their authorized representatives on the territory of the Republic of Bulgaria according to art. 17 of the Act on Medicines and Pharmacies in Human Medicine contracts for the concrete medicines under para 1, item 10 and their prices."

2. Created in the transitional and concluding provisions is §19b:
   "§ 19b. The Council of Ministers, by April 30, 2004, shall adopt and promulgate in the State Gazette the ordinance under art. 45, para 4."

§ 10. New item 4 is created in art. 6 of the Public Procurement Act (prom., SG 56/99; amend., SG 92 and 97/00, SG 43 and 45/02, SG 109/03):
   "4. of the National Health Insurance Fund for the medicines for home therapy on the territory of the country."

§ 12. This Act shall enter into force on October 1, 2004 with exception of the provisions of art. 13, para 2, art. 14, para 5, art. 17, item 3 and 4, art. 18, art. 19, para 1 and para 2, item 5, 9 – 11, art. 20, § 3, § 4, para 1 and 3, § 8, § 9 and § 10 which shall enter into force on the day of promulgation of the Act in the State Gazette.

The Act was passed by the 39th National Assembly on March 24, 2004 and was affixed with the official seal of the National Assembly.

Transitional and concluding provisions

TO THE TAX-INSURANCE PROCEDURE CODE

(PROM. – SG 105/05, IN FORCE FROM 01.01.2006)

§ 88. The code shall enter in force from the 1st of January 2006, except Art. 179, Para 3, Art. 183, Para 9, § 10, item 1, letter "e" and item 4, letter "e", § 11, item 1, letter "b" and § 14, item 12 of the transitional and concluding provisions which shall enter in force from the day of promulgation of the code in the State Gazette.

Transitional and concluding provisions

TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT

(PROM. - SG 37/06, IN FORCE FROM 01.07.2006)

§ 148. (1) The procedures, opened by a decision prior to the entry into force of this Act, shall be completed by the previous order.

(2) The disputes over procedures under par. 1 shall be solved by the previous order before regional and district courts.
§ 149. The pending cases before the courts and before the Arbitration court at the Public Procurement Agency, initiated before the entry into force of this Act, shall be completed by the previous order.

§ 150. (1) The Council of Ministers shall set the issued subordinate normative acts in compliance with the provisions of this Act in two months term from its promulgation in State Gazette.

(2) The Council of Ministers shall discharge the chairman of the Arbitration court at the Public Procurement Agency in one moth term from the entry into force of this Act.

§ 160. The Act shall enter into force from the 1st of July 2006, except for § 12, item 1, letter "a" (with regards to item 2) and letter "g" (with regards to second sentence), § 13, item 1, letter "c", § 20, item 2, letter "c" (in the part regarding the notifying of the European commission about amendments of the lists) and letter "i" (with regards to items 17 - 22), § 46, item 4 (with regards to para 7), § 47, § 78, item 3 (with regards to second sentence) and § 125, which shall enter into force from the 1st of January 2007.

Transitional and concluding provisions
TO THE CIVIL PROCEDURE CODE

(PROM. – SG 59/07, IN FORCE FROM 01.03.2008)
§ 61. This code shall enter into force from 1 March 2008, except for:
1. Part Seven "Special rules related to proceedings on civil cases subject to application of European Union legislation";
2. paragraph 2, par. 4;
3. paragraph 3 related to revoking of Chapter Thirty Two "a" "Special rules for recognition and admission of fulfillment of decisions of foreign courts and of other foreign bodies" with Art. 307a – 307e and Part Seven "Proceedings for returning a child or exercising the right of personal relations" with Art. 502 – 507;
4. paragraph 4, par. 2;
5. paragraph 24;
6. paragraph 60.
which shall enter into force three days after the promulgation of the Code in the State Gazette.

Transitional and concluding provisions
TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT

(PROM. – SG 94/08, IN FORCE FROM 01.01.2009)
§ 70. The procedures initiated by a decision prior to the entry into force of this Act shall be completed under the previous terms.

§ 71. (1) In case a contracting authority under PHARE financed public procurement contracts, is a manager of such a programme, in the commissions conducting the procedures shall obligatory be included an independent lawyer.
(2) The lawyer under para 1 may not be an employee of the PHARE Executive Agency within the meaning of Memorandum of Understanding on establishment of National Fund between the government of the Republic of Bulgaria and the European Commission, signed on 7 December 1998 in Sofia (ratified by an Act – SG 15/99) (SG 37/99), or an employee of the beneficiary.

(3) The lawyer under para 1 shall draw in and present to the national manager a report on the commission’s activity as long as the procedure is completed.

(4) The requirements under para 1 and 2 shall be applied till the implementation of PHARE programme is over.

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§ 73. The Act shall enter into force from the 1st of January 2009

Transitional and concluding provisions

TO THE ACT ON PREVENTION AND FINDINGS OF CONFLICT OF INTERESTS ACT

(PROM. – SG 94/08, IN FORCE FROM 01.01.2009)

§ 14. The Act shall enter into force from the 1st of January 2009, except for § 3 and 4, which shall enter into force from the date of promulgation of the Act in State Gazette.

Concluding provisions

TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT

(PROM. – SG 24/09)

§ 5. (1) The preliminary control as per Art. 20a shall be exercised in public procurement procedures being carried out in relation to implementation of projects, approved after January 1, 2009.

(2) As regards to Transport operational programme the control referred to in the first paragraph shall be exercised in public procurement procedures which are to be carried out after the entry into force of this Act.

Transitional and concluding provisions

ON THE ACT AMENDING THE TOURISM ACT

(PROM. - SG 82/09, IN FORCE FROM 16.10.2009)

§ 37. Everywhere in the Public Procurement Act (prom. - SG 28/04; amend. - SG 53/04, SG 31, 34 and 105/05, SG 18, 33, 37 and 79/06, SG 59/07, SG 94, 98 and 102/08 and SG 24/09) the words "the Minister of Economy and Energy", "Minister of Economy and Energy" and "the Ministry of Economy and Energy" shall be replaced respectively with "the Minister of Economy, Energy and Tourism", "Minister of Economy, Energy and Tourism" and "the Ministry of Economy, Energy and Tourism".

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§ 59. This Act shall enter into force from the day of its promulgation in the State Gazette.

Additional provisions

TRANITIONAL AND FINAL PROVISIONS TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENT ACT

(PROM. – SG 52/10)

§ 59. Procedures which have been initiated prior to the entry into force of this Act shall be completed in the previous manner.

§ 60. Procedures initiated before the Commission for Protection of Competition prior to the entry into force of this Act shall be completed in the previous manner.

§ 61. The Council of Ministers shall bring the regulations and the acts related to the implementation of the Public Procurement Act in compliance with this Act within three months from its promulgation.

§ 64. Paragraph 9 shall enter into force from the 4th of December 2010.

Transitional and concluding provisions

TO THE ACT AMENDING AND SUPPLEMENTING THE PREVENTION AND FINDINGS OF CONFLICT OF INTERESTS ACT

(PROM. - SG 97/10, IN FORCE FROM 10.12.2010)

§ 49. In the Public Procurement Act (prom. – SG 28/04; amend. - SG 54/10) the words "the Act on Prevention and Disclosure of Conflict of Interests" shall be replaced by "Act on Prevention and Findings of Conflict of Interests" everywhere in the text.

§ 61. The Act shall enter into force from the date of its promulgation in the State Gazette, except for the following:

1. paragraph 11 regarding Art. 22a – 22e, which shall enter into force from January 1, 2011;
2. paragraphs 7, 8, 9, § 11 regarding Art. 22f – 22i and § 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 и 23, which shall enter into force from April 1, 2011.
Transitional and concluding provisions
TO THE ACT AMENDING THE PROTECTION OF COMPETITION ACT
(PROM. - SG 73/11, IN FORCE FROM 20.09.2011)

§ 7. The Act shall enter into force from the day of its promulgation in the State Gazette, except for § 2, 5 and 6 which shall enter into force within one month after the promulgation of the Act in the State Gazette.

Transitional and concluding provisions
TO THE ACT AMENDING THE PUBLIC PROCUREMENT ACT
(PROM. - SG 93/11, IN FORCE FROM 26.02.2012)

§ 120. (1) The procedures, opened prior to entering of this Act into force, shall be finalized following the existing procedures.
   (2) The contracting authorities may apply contracting without prior notice on the grounds of Art. 90, par. 1, items 1 and 2, where after entering of this Act into force there is a need of application of contracting following prior invitation under Art. 53, par. 1, item 1 and 2 of the Ordinance for assignment of small public procurement orders (Prom. SG 84/04, corr. SG 93/04; amend. SG 59/05, SG 53/06, SG 83/07, SG 3 and 34/09 and SG 86/10).

   § 121. (1) The appeals of procedures under § 120, par. 1 shall be considered by the Commission for protection of competition following the existing procedures.
   (2) The proceedings initiated before the Commission for protection of competitions prior to entering of this Act into force, shall be finalized following the existing procedures.

   § 122. The preliminary control under Art. 19, par. 2, item 22 of documents submitted to the Public Procurements Agency prior to entering of this Act into force, shall be carried out following the existing procedures.

   § 123. The Council of Minister shall adjust the secondary legislative documents related to the application of this Act in compliance with the provisions of this Act within three months after its promulgation.

…………………………

§ 125. This Act shall enter into force three months after its promulgation in the State Gazette.

Additional provisions
TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENTSACT
(PROM. – SG 33/12)

**Transitional and concluding provisions**

**TO THE ACT AMENDING AND SUPPLEMENTING THE PUBLIC PROCUREMENTS ACT**

(PROM. – SG 33/12)

§ 86. The procedures under the Ordinance for assignment of special public procurement (prom. – SG 80/04; amend. - SG 78/05, SG 7/07, SG 83/08, SG 93/09, SG 49 and 86/10, SG 12 and 22/11) opened by a decision prior to entering of this Act into force shall be finalized following the existing procedure.

§ 87. (1) The appeals against the procedures under § 86 shall be considered by the respective administrative court following the existing procedure.

(2) The proceedings instituted before the administrative courts prior to entering of this Act into force shall be finalized following the existing procedure.

§ 88. The Council of Ministers shall bring the secondary legislative acts related to the implementation of the Act in compliance with this Act within three months after its promulgation in the State Gazette.

§ 89. Within three months after entering of this Act into force the Council of Ministers upon a proposal of nationally representative organizations of and for people with disabilities shall update the list under Art. 16c, par. 1, item 1.

§ 90. Until entering into force of the Act on Export Control of Defence-Related Products and Dual-Use Items and Technologies, the List of arms, adopted by Decree No. 147 of the Council of Ministers for adoption of List of arms and List of products and technologies of dual use, subject to import control (SG 43/11) shall apply.

**Transitional and concluding provisions**

**TO THE ACT AMENDING AND SUPPLEMENTING THE CIVIL SERVANTS ACT**

(PROM. - SG 38/12, IN FORCE FROM 01.07.2012)

§ 84. (In force from 18.05.2012) Within one month from the promulgation of this Act in the State Gazette:

1. the Council of Ministers shall make the Classification of Offices in the Administration compliant with this Act;
2. the competent authorities shall make the structural acts of the respective administration compliant with this Act.

§ 85. ((1) The legal relationships with the persons of the administrations under the Radio and Television Act, the Independent Financial Audit Act, the Electronic Communications Act, the Financial Supervision Commission Act, the Access and Act on Access to and Disclosure of the Documents and Announcing Affiliation of Bulgarian Citizens with the State Security Service and the Intelligence Services of the Bulgarian Popular Army, the Act on Forfeiture of Property Acquired through Criminal Activity, the Act on Prevention and Findings of Conflict of Interests, the Code of Social Insurance, the Health Insurance Act, the Agricultural Producers Assistance Act and the Roads Act shall be settled under terms and conditions of § 36 of the Transitional and Final Provisions of the Act Amending and Supplementing the Civil Servants Act (SG 24/06).
(2) The act of appointment of the civil servant shall:
1. determine the lowest rank for the position specified in the Classification of Offices in the Administration, unless the officer holds a higher rank;
2. determine an individual basic monthly salary.
(3) The additional funds for insurance installments for the persons referred to in Para 2 shall be made available within the limits for expenses for salaries, remunerations and insurance installments in the budgets of the budget credit administrators.
(4) The Council of Ministers shall amend as required by this Act the non-budget account of State Fund "Agriculture".
(5) The governing bodies of the National Insurance Institute and the National Health Insurance Fund shall amend as required by this Act the respective budget credits.
(6) Any non-used days of leave under employment relations shall be preserved and shall not be subject to pecuniary compensation.

§ 86. (1) Within one month from entry into force of this Act the individual basic monthly salary of the officer shall be so calculated that the said salary, reduced by the due taxes and the mandatory insurance installments due by the insured person, if available, shall not be lower than gross monthly salary received before, reduced by the mandatory insurance installments due by the insured person, if available, and the due taxes.
(2) The gross salary referred to in Para 1 shall include:
1. the basic monthly salary or the basic monthly remuneration;
2. the additional remunerations paid on permanent basis together with the due basic monthly salary or the basic monthly remuneration and dependent only on the working time.

§ 87. This Act shall enter into force from 1 July 2012 except for § 84, which shall enter into force from the day of the promulgation of the Act in the State Gazette.

Transitional and concluding provisions
TO THE ACT ON PUBLIC FINANCE

(PROM. – SG 15/13, IN FORCE FROM 01.01.2014)

§ 123. This Act shall enter into force from 1st of January 2014, except for § 115, which shall
enter in force from 1st of January 2013, and § 18, § 114, § 120, § 121 and § 122, which shall enter into force from 1st of February 2013.

Transitional and concluding provisions
TO THE ACT AMENDING AND SUPPLEMENTATING THE PUBLIC PROCUREMENT ACT
(PROM. – SG 40/14, IN FORCE FROM 01.07.2014)

§ 112. In the remaining wording of the law the words "Art. 45a" shall be replaced with "Art. 45c".

§ 113. (1) Within one month after entering of this act into force the Council of Ministers upon a proposal of the Minister of Labor and Social Policy shall update the list referred to in Art. 30 of the People with disabilities integration act.

(2) Public procurement agency shall publish the updated list referred to in par. 1 in the Public Procurement Register within 7 days after its promulgation in the State Gazette and shall show a super link therefrom to the register referred to in Art. 29 of the People with disabilities integration act.

§ 114. Within 6 months after entering of this act into force:
1. The Council of Ministers shall bring the regulations for the application of the act into compliance with this act;
2. the Public procurement Agency shall draw up the list referred to in Art. 19, par. 2, item 8;
3. contracting authorities shall approve the internal rules referred to in Art. 22d, par. 1.

§ 115. (1) The procedures, opened prior to entering of this act into force, shall be finalized following the existing procedure.

(2) Where, as of entering of this act into force, there is a complaint filed before the Commission for protection of competition, the proceedings related to the complaint shall be initiated and finalized following the existing procedure.

(3) Article 42a shall also apply both to public procurement contracts and to subcontracts concluded prior to entering of this act into force.

§ 121. The act shall become effective on 1 July 2014, except for § 3, 4 and 37, which shall become effective on the day of promulgation of the act in the State Gazette, and § 5, § 11, § 12, § 13, § 15, § 17, § 19, § 20, § 22, § 23, § 26, § 27, § 30, § 35, § 39, § 61, item 3, § 63, § 64, § 71, item 2, § 73, § 75, item 2, § 85, item 2, § 86, § 96 and § 103, which shall become effective on 1 October 2014.

Transitional and concluding provisions
TO THE ACT AMENDING AND SUPPLEMENTATING THE ACT ON PROHIBITION OF CHEMICAL WEAPONS AND ON CONTROL OF TOXIC CHEMICAL AGENTS AND THEIR PRECURSORS
(PROM. – SG, 14/2015)
§ 19. In the Public Procurement Act the words "the Minister of Economy, Energy and Tourism" and "the Ministry of Economy, Energy and Tourism" shall be replaced by "the Minister of Economy" and "the Ministry of Economy" everywhere.

**Appendix No 1 of art. 3, para 1, item 3, item b**

(ampend. – SG 94/08, in force from 01.01.2009)

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<th>NACE (1)</th>
<th>CONSTRUCTION</th>
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### Construction

#### 45

**Construction and mounting works**

This Division includes:
- Construction of new buildings, restoring and common repairs

CPV code: 45000000

#### 45.1

**Site preparation**

CPV code: 45100000

#### 45.11

**Demolishing and cleaning of buildings; earth moving**

This class includes:
- demolition of buildings and other structures
- clearing of building sites
- earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc.
- site preparation for mining:
- overburden removal and other development and preparation of mineral properties and sites

This class also includes:
- building site drainage
- drainage of agricultural or forestry land

CPV code: 45110000

#### 45.12

**Test drilling and boring**

This class includes:
- test drilling, test boring core sampling for construction, geophysical, geological or similar purposes

This class excludes:
- drilling of production oil or gas wells, see 11.20
- water well drilling, see 45.25
- shaft sinking, see 45.25
- oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20

CPV code: 45120000

#### 45.2

**Building of complete constructions or parts thereof; civil engineering**

CPV code: 45200000

#### 45.21

**General construction of buildings and engineering works**

This class includes:
- construction of all types of civil engineering constructions:
- bridges, including those for elevated highways
- viaducts, tunnels and subways

CPV code: 45210000

Except for

CPV code: 45213316

45220000

45231000

45232000
- long-distance pipelines, communication and power lines  
- urban pipelines, urban communication and power lines  
- ancillary urban works  
- assembly and erection of prefabricated constructions on the site  
This class excludes:  
- service activities incidental to oil and gas extraction, see 11.20  
- erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28  
- construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, see 45.23  
- building installation, see 45.3  
- building completion, see 45.4  
- architectural and engineering activities, see 74.20  
- project management for construction, see 74.20

| 45.22 | Roof covering and waterproofing | This class includes:  
- erection and mounting of roofs and frames  
- roof covering works  
- waterproofing | 45261000 |

| 45.23 | Construction of highways, roads, airfields and sports facilities | This class includes:  
- construction of highways, streets, roads, other vehicular and pedestrian ways  
- construction of railways  
- construction of airfield runways  
- construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations  
- painting of markings on road surfaces and car parks  
This class excludes:  
- preliminary earth moving, see 45.11 | 45212212 and DA03 45230000 Except for:  
- 45231000  
- 45232000  
- 45234115 |

| 45.24 | Construction of water projects | This class includes:  
- construction of:  
  - waterways, harbour and river works, pleasure ports (marinas), locks, etc.  
  - dams and dykes  
  - dredging  
  - subsurface work | 45240000 |
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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<tr>
<td>45.25</td>
<td>Other construction work involving special trades</td>
<td>This class includes: - construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment: - construction of foundations, including pile driving - water well drilling and construction, shaft sinking - erection of non-self-manufactured steel elements - steel bending - bricklaying and stone setting - scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms - erection of chimneys and industrial ovens This class excludes: - renting of scaffolds without erection and dismantling, see 71.32</td>
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<tr>
<th>45.3</th>
<th>Building installation</th>
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<td>45.31</td>
<td>Installation of electrical wiring and fittings</td>
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<td>Insulation works activities</td>
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<td>45.33</td>
<td>Plumbing</td>
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<td>Other building</td>
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| 45.41 | Plastering | This class includes:  
- application in buildings  
or other construction  
projects of interior and exterior  
plaster or stucco, including related  
lathing materials |
| 45.42 | Joinery installation | This class includes:  
- installation of non  
self-manufactured doors,  
windows, door and window frames  
fitted kitchens, staircases, shop  
 fittings and  
the like, of wood or other materials  
- interior completion such as  
ceilings,  
wooden wall coverings, movable  
partitions, etc.  
This class excludes:  
- laying of parquet and other wood  
floor coverings, see 45.43 |
| 45.43 | Floor and wall covering | This class includes:  
- laying, tiling, hanging or fitting  
in buildings or other construction  
projects of:  
- ceramic, concrete or cut stone wall  
or  
- floor tiles parquet and other wood  
floor coverings  
- carpets and linoleum floor  
coverings, including of rubber or  
plastic  
- terrazzo, marble, granite or slate  
floor or wall coverings |
| 45.44 | Painting and glazing | This class includes:  
- interior and exterior  
painting of buildings  
- painting of civil engineering  
structures  
- installation of glass, mirrors, etc  
This class excludes:  
- installation of windows, see 45.42 |
| 45.45 | Other building completion | This class includes:  
- installation of in-door  
swimming pools  
- steam cleaning, sand blasting and  
similar activities for building  
exteriors  
- other building completion and  
finishing work n.e.c.  
This class excludes:  
- interior cleaning of buildings and  
other structures, see 74.70 |
| 45.5 | Renting of construction | 45500000 |
or demolition equipment
with operator

<table>
<thead>
<tr>
<th>Category No</th>
<th>Services</th>
<th>CPC Reference No (1)</th>
<th>CPV Reference No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Maintenance and repair services</td>
<td>6112, 6122, 633, 886</td>
<td>From 50100000-6 to 50884000-5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(except for No from 50310000-1 to 50324200-4 and 50116510-9, 50190000-3, 50229000-6, 50243000-0) and from 51000000-9 to 51900000-1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Land transport services (2), including armoured car services, and courier services, except transport of mail</td>
<td>712 (except for 71235), 7512, 87304</td>
<td>From 60100000-9 to 60183000-4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(except for 60160000-7, 60161000-4, 60220000-6) and from 64120000-3 to 64121200-2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Air transport services of passengers and freight, except transport of mail</td>
<td>73 (except for 7321)</td>
<td>From 60410000-5 to 60424120-3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(except for 60411000-2, 60421000-5) and 60500000-3 from 60440000-4 to 60443000-9</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Transport of mail by land (2) and by air</td>
<td>71235, 7321</td>
<td>60160000-7,60161000-4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>60411000-2, 60421000-5</td>
<td>60441000-2, 60421000-5</td>
</tr>
<tr>
<td>5</td>
<td>Telecommunications services</td>
<td>752</td>
<td>From 64200000-8 to 64228200-2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>72318000-7 and from 72700000-7 to 72720000-3</td>
<td>72318000-7 and from 72700000-7 to 72720000-3</td>
</tr>
<tr>
<td>6</td>
<td>Financial services:</td>
<td>ex 81, 812, 814</td>
<td>From 66100000-1 to 66720000-3 (3)</td>
</tr>
<tr>
<td></td>
<td>a) Insurance services</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b) Banking and investment services</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Computer and related services</td>
<td>84</td>
<td>From 50310000-1 to 50324200-4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(except for 73200000-4, 73210000-7, 73220000-0)</td>
<td>From 72000000-5 to 72920000-5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(except for 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Research and development services</td>
<td>85</td>
<td>From 73000000-2 to 73436000-7</td>
</tr>
<tr>
<td></td>
<td>(4)</td>
<td></td>
<td>(except for 73200000-4, 73210000-7, 73220000-0)</td>
</tr>
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<td></td>
<td>Description</td>
<td>Code</td>
<td>Scope</td>
</tr>
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<td>---</td>
<td>-----------------------------------------------------------------------------</td>
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<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>9</td>
<td>Accounting, auditing and bookkeeping services</td>
<td>862</td>
<td>From 79210000-9 to 79223000-3</td>
</tr>
<tr>
<td>10</td>
<td>Market research and public opinion polling services</td>
<td>864</td>
<td>From 79300000-7 to 79330000-6 and 79342000-9, 7934211-6</td>
</tr>
<tr>
<td>11</td>
<td>Management consulting services (5) and related services</td>
<td>865, 866</td>
<td>From 73200000-4 to 73220000-0 from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4 79342300-6, 79342320-2 79342321-9, 79910000-6, 79991000-7, 98362000-8</td>
</tr>
<tr>
<td>12</td>
<td>Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services</td>
<td>867</td>
<td>From 71000000-8 to 71900000-7 (except for 71550000-8) and 79994000-8</td>
</tr>
<tr>
<td>13</td>
<td>Advertising services</td>
<td>871</td>
<td>From 79341000-6 to 79342200-5 (except for 79342000-3) and 79342100-4</td>
</tr>
<tr>
<td>14</td>
<td>Building-cleaning services and private property management services</td>
<td>874, from 82201 to 82206</td>
<td>From 70300000-4 to 70340000-6 и from 90900000-6 to 90924000-0</td>
</tr>
<tr>
<td>15</td>
<td>Publishing and printing services on a fee or contract basis</td>
<td>88442</td>
<td>From 79800000-2 to 79824000-6 From 79970000-6 to 79980000-7</td>
</tr>
<tr>
<td>16</td>
<td>Street maintenance and cleaning services, sewage and refuse disposal services; sanitation and similar services</td>
<td>94</td>
<td>From 90400000-1 to 90743200-9 (except for 90712200-3) From 90910000-9 to 90920000-2 and 50190000-3, 50229000-6 50243000-0</td>
</tr>
</tbody>
</table>

(1) CPC Nomenclature (provisional version), used to define the scope of Directive 92/50/EEC.
(2) Except for rail transport services covered by category 18.
(3) Except financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, and central bank services. Also excluded: services involving the acquisition or rental, by whatever financial procedures, of land, existing buildings, or other immovable property or concerning rights thereon; nevertheless, financial services supplied at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive.
(4) Except research and development services other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting authority.
(5) Except arbitration and conciliation services.
### Appendix No 3 of art. 5, para 1, item 2

(amend. – SG 94/08, in force from 01.01.2009; amend. – SG 40/14, in force from 01.07.2014)

<table>
<thead>
<tr>
<th>Category No</th>
<th>Services</th>
<th>CPC (1) Reference No</th>
<th>CPV Reference No</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Hotel and restaurant services</td>
<td>64</td>
<td>From 55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6</td>
</tr>
<tr>
<td>18</td>
<td>Rail transport services</td>
<td>711</td>
<td>From 60200000-0 to 60220000-6</td>
</tr>
<tr>
<td>19</td>
<td>Water transport services</td>
<td>72</td>
<td>From 60600000-4 to 60653000-0 and from 63727000-1 to 63727200-3</td>
</tr>
<tr>
<td>20</td>
<td>Supporting and auxiliary transport services</td>
<td>74</td>
<td>From 63000000-9 to 63734000-3 (except for 63711200-8, 63712700-0, 63712710-3 and from 63727000-1 to 63727200-3 and 98361000-1)</td>
</tr>
<tr>
<td>21</td>
<td>Legal services</td>
<td>861</td>
<td>From 79100000-5 to 79140000-7</td>
</tr>
<tr>
<td>22</td>
<td>Personnel placement and supply services (2)</td>
<td>872</td>
<td>From 79600000-0 to 79635000-4 (except for 79611000-0, 79632000-3, 79633000-0 and from 98500000-8 to 98514000-9)</td>
</tr>
<tr>
<td>23</td>
<td>Investigation and security services, except armoured car services</td>
<td>873 (except for 87304)</td>
<td>From 79700000-1 to 79723000-8</td>
</tr>
<tr>
<td>24</td>
<td>Education and vocational education services</td>
<td>92</td>
<td>From 80100000-5 to 80660000-8 (except for 80533000-9, 80533100-0, 80533200-1)</td>
</tr>
<tr>
<td>25</td>
<td>Attending services</td>
<td>93</td>
<td>79611000-0 and from 85000000-9 From 85321000-9 (except for 85321000-5 and 85322000-2)</td>
</tr>
<tr>
<td>26</td>
<td>Recreational, cultural and sporting services (3)</td>
<td>96</td>
<td>From 79995000-5 to 79995200-7 and from 92000000-1 to 92700000-8 (except for 92230000-2, 92231000-9, 92232000-6)</td>
</tr>
<tr>
<td>27</td>
<td>Other services</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) CPC Nomenclature (provisional version), used to define the scope of Council Directive 92/50/EEC.
(2) Except for public procurement concerning personnel placement and supply.
(3) Except contracts for the acquisition, development, production or co-production of programmes by broadcasting organisations and contracts for broadcasting time.

### Appendix No 3a to art. 26a

(new - SG 52/10)

<table>
<thead>
<tr>
<th>Lifetime mileage of road transport vehicles</th>
</tr>
</thead>
<tbody>
<tr>
<td>(M and N categories as defined in Directive 2007/46/EC)</td>
</tr>
<tr>
<td>Passenger cars (M1)</td>
</tr>
<tr>
<td>Light commercial vehicles (N1)</td>
</tr>
<tr>
<td>Heavy goods vehicles (N2, N3)</td>
</tr>
<tr>
<td>Autobuses (M2, M3)</td>
</tr>
</tbody>
</table>
Appendix No 4 to art. 45c, par. 2, item 3, letter "b"
(New - SG 37/06, in force from 01.07.2006, prev. Appendix No 4 to Art. 45a, para 1, item 1, letter "a" - SG 94/08, in force from 01.01.2009; prev. Appendix No. 4 to Art. 45a, par. 2 – SG 93/11, in force from 26.02.2012; prev. Appendix No. 4 to Art. 45a, par. 2, item 3, item “b” – SG 40/14, in force from 01.07.2014)

List of the products, assigned by a contracting authority in the field of defence

Chapter 25: Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26: Metallic ores, slag and ash
Chapter 27: Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes
except:
ex 27.10: special engine fuels
Chapter 28: Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of radioactive elements and of isotopes
except:
ex 28.09: explosives
ex 28.13: explosives
ex 28.14: tear gas
ex 28.28: explosives
ex 28.32: explosives
ex 28.39: explosives
ex 28.50: toxic products
ex 28.51: toxic products
ex 28.54: explosives
Chapter 29: Organic chemicals
except:
ex 29.03: explosives
ex 29.04: explosives
ex 29.07: explosives
ex 29.08: explosives
ex 29.11: explosives
ex 29.12: explosives
ex 29.13: toxic products
ex 29.14: toxic products
ex 29.15: toxic products
ex 29.21: toxic products
ex 29.22: toxic products
ex 29.23: toxic products
ex 29.26: explosives
ex 29.27: toxic products
ex 29.29: explosives
Chapter 30: Pharmaceutical products
Chapter 31: Fertilisers
Chapter 32: Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33: Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34: Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and ‘dental waxes’
Chapter 35: Albuminoidal substances, glues, enzymes
Chapter 37: Photographic and cinematographic goods
Chapter 38: Miscellaneous chemical products
Chapter 39: Artificial resins and plastic materials, celluloses esters and ethers, articles thereof
except:
ex 39.03: explosives
Chapter 40: Rubber, synthetic rubber, factice, and articles thereof
except:
ex 40.11: bullet-proof tyres
Chapter 41: Raw hides and skins (other than fur skins) and leather
Articles of leather, saddlery and harness, travel goods, handbags and similar containers,
articles of
animal gut (other than silk-worm gut)
Chapter 42: Articles of leather, saddlery and harness, travel goods, handbags and similar containers,
articles of
animal gut (other than silk-worm gut)
Chapter 43: Furskins and artificial fur, manufactures thereof
Chapter 44: Wood and articles of wood, wood charcoal
Chapter 45: Cork and articles of cork
Chapter 46: Manufactures of straw of esparto and of other plaiting materials, basketware and
wickerwork
Chapter 47: Paper-making material
Chapter 48: Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49: Printed books, newspapers, pictures and other products of the printing industry,
manuscripts, typescripts and plans
Chapter 65: Headgear and parts thereof
Chapter 66: Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67: Prepared feathers and down and articles made of feathers or of down, artificial flowers,
articles of
human hair
Chapter 68: Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69: Ceramic products
Chapter 70: Glass and glassware
Chapter 71: Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and
articles thereof; imitation jewellery
Chapter 73: Iron and steel and articles thereof
Chapter 74: Copper and articles thereof
Chapter 75: Nickel and articles thereof
Chapter 76: Aluminium and articles thereof
Chapter 77: Magnesium and beryllium and articles thereof
Chapter 78: Lead and articles thereof
Chapter 79: Zinc and articles thereof
Chapter 80: Tin and articles thereof
Chapter 81: Other base metals employed in metallurgy and articles thereof
Chapter 82: Tools, implements, cutlery, spoons and forks, of base metal, parts thereof
except:
ex 82.05: tools
ex 82.07: tools, partd
Chapter 83: Miscellaneous articles of base metal
Chapter 84: Boilers, machinery and mechanical appliances, parts thereof
except:
ex 84.06: engines
ex 84.08: other engines
ex 84.45: machinery
ex 84.53: automatic data-processing machines
ex 84.55: parts of machines under heading No 84.53
ex 84.59: nuclear reactors
Chapter 85: Electrical machinery and equipment, parts thereof
except:
ex 85.13: telecommunication equipment
ex 85.15: transmission apparatus
Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof, railway and tramway tracks fixtures
and fittings, traffic
signalling equipment of all kinds (not electrically powered)
except:
ex 86.02: armoured locomotives, electric
ex 86.05: armoured wagons
ex 86.06: repair wagons
ex 86.07: wagons
Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof
except:
ex 87.08: tanks and other armoured vehicles
ex 87.01: tractors
ex 87.02: military vehicles
ex 87.03: breakdown lorries
ex 87.09: motorcycles
ex 87.14: trailers
Chapter 89: Ships, boats and floating structures
except:
ex 89.01 A: warships
Chapter 90: Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof
except:
ex 90.05: binoculars
ex 90.13: miscellaneous instruments, lasers
ex 90.14: telemeters
ex 90.28: electrical and electronic measuring instruments
ex 90.11: microscopes
ex 90.17: medical instruments
ex 90.18: mechano-therapy appliances
ex 90.19: orthopaedic appliances
ex 90.20: X-ray apparatus
Chapter 91: Manufacture of watches and clocks
Chapter 92: Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles
Chapter 93: Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles
Chapter 94: Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar stuffed furnishings
except:
ex 94.01: aircraft seats
Chapter 95: Articles and manufactures of carving or moulding material
Chapter 96: Brooms, brushes, powder-puffs and sieves
Chapter 98: Miscellaneous manufactured articles

**Attachment No. 5 to Art. 5, par. 1, item 3**
(new – SG 33/12)
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Reference Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Maintenance and repair services</td>
<td>50100000-5, from 50100000-6 to 50884000-5 (except for reference numbers from 50310000-1 to 50324200-4 and 50116510-9, 50190000-3, 50229000-6, 50243000-0) and from 51000000-9 to 51900000-1</td>
</tr>
<tr>
<td>2.</td>
<td>Services, related to external military support</td>
<td>75211300-1</td>
</tr>
<tr>
<td>3.</td>
<td>Defense services, military defense services and services in the field of civil defense</td>
<td>75220000-4, 75221000-1, 75222000-8</td>
</tr>
<tr>
<td>4.</td>
<td>Investigation and security services</td>
<td>From 79700000-1 to 79720000-7</td>
</tr>
<tr>
<td>5.</td>
<td>Services, related to road transport</td>
<td>60100000-8, from 60100000-9 to 60183000-4 (except for 60160000-7, 60161000-4 and from 64120000-3 to 64121200-2</td>
</tr>
<tr>
<td>6.</td>
<td>Air transport services: Transport of passengers and cargo, without mail transport</td>
<td>60400000-2, from 60410000-5 to 60424120-3 (without 60411000-2, 60421000-5), from 60440000-4 to 60445000-9 and 60500000-3</td>
</tr>
<tr>
<td>7.</td>
<td>Transportation of mail by road and by air</td>
<td>60160000-7, 60161000-4, 60411000-2, 60421000-5</td>
</tr>
<tr>
<td>8.</td>
<td>Services, related to railway transport</td>
<td>From 60200000-0 to 60220000-6</td>
</tr>
<tr>
<td>9.</td>
<td>Water-borne transportation</td>
<td>From 60600000-4 to 60653000-0 and from 63727000-1 to 63727200-3</td>
</tr>
<tr>
<td>10.</td>
<td>Additional and auxiliary transport services</td>
<td>From 63100000-0 to 63111000-0, from 63120000-6 to 63121200-4, 63122000-0, 63512000-1 and from 63520000-0 to 63700000-6</td>
</tr>
<tr>
<td>11.</td>
<td>Telecommunication services</td>
<td>From 64200000-8 to 64228200-2, 2318000-7 and from 72700000-7 to 72720000-3</td>
</tr>
<tr>
<td>12.</td>
<td>Financial services: Insurance services</td>
<td>From 66500000-5 to 66720000-3</td>
</tr>
<tr>
<td>13.</td>
<td>Information technology services and related to them services</td>
<td>From 50310000-1 to 50324200-4, from 72000000-5 to 72920000-5 (without 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4, 9342410-4</td>
</tr>
<tr>
<td>14.</td>
<td>Services, research and development (1) and testing for assessment</td>
<td>From 73000000-2 to 73436000-7</td>
</tr>
<tr>
<td>15.</td>
<td>Accounting, auditing services and bookkeeping</td>
<td>From 79210000-9 to 79212500-8</td>
</tr>
<tr>
<td>16.</td>
<td>Consultancy services for management (2) and related to them services</td>
<td>From 73200000-4 to 73220000-0, from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4, 79342300-6, 79342320-2, 79342321-9, 79910000-6, 79991000-7 98362000-8</td>
</tr>
</tbody>
</table>
Architectural services; engineering services and integrated engineering services; services for urban development and park architecture; related services for research and technical consultancy; services for technical testing and analysis. From 71000000-8 to 71900000-7 (without 71550000-8) and 79994000-8

Services for cleaning of buildings and property management services From 70300000-4 to 70340000-6 and from 90900000-6 to 90924000-0

Sewage services and refuse collection services; hygiene services and similar services From 90400000-1 to 90743200-9 except for 90712200-3, from 90910000-9 to 90920000-2 and 50190000-3, 50229000-6, 50243000-0

Services related to training and simulations in the field of defense and security. 80330000-6, 80600000-0, 80610000-3, 80620000-6, 80630000-9, 80640000-2, 80650000-5, 80660000-8

(1) Except for the services, related to research and development, referred to in Art. 13, par. 1, item 4.

(2) Without services, related to arbitration and conclusion of settlement agreement.

**Attachment No. 6 to Art. 5, par. 1, item 4**

(new – SG 33/12; amend. – SG 40/14, in force from 01.07.2014)

<table>
<thead>
<tr>
<th>Category No.</th>
<th>Services</th>
<th>Reference No. as per the Common Procurement Vocabulary (CPV)</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>Accommodation and restaurant services</td>
<td>From 55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6</td>
</tr>
<tr>
<td>22</td>
<td>Additional and auxiliary transport services</td>
<td>From 63000000-9 to 63734000-3 (except for 63711200-8, 63712700-0, 63712710-3 and from 63727000-1 to 63727200-3) and 98361000-1</td>
</tr>
<tr>
<td>23</td>
<td>Legal services</td>
<td>From 79100000-5 to 79140000-7</td>
</tr>
<tr>
<td>24</td>
<td>Services, related to hiring of employees and provision of personnel (1)</td>
<td>From 79600000-0 to 79635000-4 (except for 79611000-0, 79632000-3, 79633000-0) and from 98500000-8 to 98514000-9</td>
</tr>
<tr>
<td>25</td>
<td>Health care services</td>
<td>79611000-0 and from 85000000-9 to 85323000-9 (except for 85321000-5 and 85322000-2)</td>
</tr>
<tr>
<td>26</td>
<td>Other services</td>
<td></td>
</tr>
</tbody>
</table>