

**Council of Ministers' DECREE No 250 of 17.09.2004**  
**For the adoption of RULES FOR THE IMPLEMENTATION of the Public Procurement Law**

**Published in the State Gazette No 84 of 27 September 2004, in force from 1 October 2004**

The Council of Ministers  
DECREES:

**Sole Article**

The Rules for the Implementation of the Public Procurement Law shall be adopted.

**FINAL PROVISION**

**Sole Paragraph**

The present Decree shall enter into force on the 1 of October 2004.

**RULES FOR THE IMPLEMENTATION OF THE PUBLIC PROCUREMENT LAW**  
**Adopted with Council of Ministers' Decree No 250 of 17 September 2004**  
**Publ., SG No 84 of 27 September 2004, in force from 1 October 2004**

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**Article 1**

The implementation of the Public Procurement Law (PPL), including the circumstances, which are entered in the Public Procurement Register, as well as the types of the commodity goods, which may be supplied on the basis of a negotiated procedure without notice, shall be settled by the Rules for the implementation of the PPL.

**Article 2**

Objects of public procurement contracts shall be:

1. supply of goods in accordance with the Public Procurement Nomenclature, made through purchase, including hire purchase, operational or financial lease or hire by the contracting authority with or without purchase contracts;
2. provision of services in accordance with the Public Procurement Nomenclature, where executed for a money reward;
3. execution of works in accordance with the Public Procurement Nomenclature where executed for a money reward.

**Article 3**

- (1) The objects and the activities under Article 4, Article 7, Para 2, Article 12, Para 1 and Article 13, Para 1 of PPL shall not be objects of public procurement contracts with the exclusion of the cases under Article 12, Para 1, item 1, "a" and "b" and Article 13, Para 1, items 1 and 2 of PPL.
- (2) In the cases under Article 12, Para 1, item 5 of PPL, where the affiliated undertaking did not realized a turnover for the previous three years in the Republic of Bulgaria because of the date of its establishment or the starting moment of its activity, it shall be sufficient its business plans to envisage at least 80% of its average annual turnover in the Republic of Bulgaria to arise from the services which shall be provided to affiliated undertakings.
- (3) In the cases under Article 12, Para 1, item 6 of PPL, where the undertaking, established by contracting authorities did not realized a turnover for the previous three years because of the date of its establishment or the starting moment of its activity, it shall be sufficient its business plans to envisage at least 80% of its average annual turnover in the Republic of Bulgaria to arise from the services which shall be provided to affiliated undertakings.

**Article 4**

- (1) The persons under Article 7, Para 1, item 5 PPL shall be considered as contracting authorities only if and as far as they perform the activities, defined in the same provision or the activities under Article 12, Para 1, item 1, "a" and "b" PPL.
- (2) In the cases where the persons under Article 7, Para 1, item 3 PPL answer to the requirements for a contracting authority under Para 1, they shall award public procurement contracts in accordance with the conditions and procedures, applicable to the contracting authorities under Article 7, Para 1, item 3 PPL.
- (3) The persons under Article 14, Para 3 and 4, which assign the awarding of a public procurement contracts shall also be considered as contracting authorities.
- (4) The contracting authorities under Para 3 and under Article 7, Para 1 items 3 to 5 PPL shall inform the Public Procurement Agency, called hereinafter "the Agency" about:
  1. the acquisition of the virtue of a "contracting authority", including the establishment of an association of contracting authorities under Article 7, Para 1, item 4 PPL;

2. the loss of the virtue of a “contracting authority”, including the termination of an association of contracting authorities under Article 7, Para 1, item 4 PPL.
- (5) The obligation under Para 4 shall be executed in a 7-days term from the date of the acquisition or loss of the virtue of a contracting authority, respectively from the date of the establishment or termination of the association of contracting authorities.

## **CHAPTER TWO**

### **CONDITIONS AND RULES FOR SUBMISSION OF INFORMATION ABOUT PUBLIC PROCUREMENT CONTRACTS**

#### **Section I**

#### **Submission of information to the Agency**

#### **Article 5**

- (1) The contracting authorities shall submit to the Executive Director of the Agency against the entering of the circumstances under Article 18 into the Public Procurement Register:
  1. the decisions for:
    - a) opening of procedures for awarding public procurement contracts;
    - b) prolongation of the deadline for submission of tenders or of the deadline for submission of applications for participation ;
    - c) suspension of the awarding procedure;
    - d) nomination of the candidates, which shall be invited to submit tenders in a restricted procedure;
  2. the preliminary notices for the award of public procurement contracts;
  3. the public procurement notices;
  4. the notices for holding a design contest;
  5. the invitations for participation in a negotiated procedure without notice, unless in the cases under Article 90, Para 1, item 11 PPL;
  6. the information about the awarded public procurement contracts;
  7. the information about the design contests held;
  8. certified copies of the Court’s Decisions which entered into force, enacted on cases connected with the conformity with the Law of the awarding procedures, opened by the contracting authority, as well as of the Court’s Decrees, with which the execution of the implementation of a decision of the contracting authority is ceased, or the cessation is revoked.
- (2) The contracting authorities under Article 7, Para 1, item 5 PPL shall submit to the Executive Director of the Agency also:
  1. the notices about the qualification systems, created by them;
  2. the preliminary notices – calls under Article 109 PPL.
- (3) The documents under Para 1, items 2, 3, 4, 6 and 7 and Para 2 shall be drawn up in accordance with the approved standard forms under Article 17, item 4 PPL.
- (4) The content of the standard forms for the notices and the preliminary notices under Para 1, items 2 to 4 and Para 2, filled in by the contracting authority may not exceed 650 words.
- (5) The documents under Para 1, item 1 to 7 and Para 2 shall be submitted to the Executive Director of the Agency simultaneously on paper and in electronic form – on a magnetic carrier , by e-mail or in accordance with the conditions and rules of the Law on the Electronic Document and the Electronic Signature. The Executive Director of the Agency shall determine and announce the form and the technical requirements to the documents, submitted in electronic form.
- (6) When submitting documents under Paras 1 and 2, the contracting authority with open accounts shall point the number of its account in the Public Procurement Register and in cases where an awarding procedure has already been open also the registration number of the corresponding procedure.

- (7) In cases where the contracting authority does not have the information under Para 6 available, he/she shall point the number and the date of the Decision for the opening of the award procedure, to which the submitted documents correspond.
- (8) The contracting authorities shall point the information under Para 6 and 7 in the title part of the accompanying letter as well as on the magnetic carrier, submitted to the Agency and respectively inscribed, and where the document is sent by an e-mail – also in the margin “Subject” of the e-mail sent.
- (9) The documents under Para 1, items 1, 3 to 8 and Para 2 shall be sent to the Executive Director of the Agency in a 7-days term from the date of the relevant decision of the contracting authority, the awarding of the contract or the holding of the design contest or of the date on which the contracting authority has become aware of the corresponding Court’s Decision or Decree.
- (10) In the cases where with a view to the special features of the subject, the precise value of the public procurement contract may not be preliminary determined, the contracting authorities shall also send to the Agency, in accordance with Paras 5 to 7, information about the value of the contract in a 7-days term from the finishing of the execution of the public procurement contract.
- (11) In the term under Para 10, the contracting authorities shall also submit to the Executive Director of the Agency information about the sums paid on each public procurement contract which has been terminated before the term set or broke.

#### **Article 6**

- (1) In connection with the realization of his/her obligations, the Executive Director of the Agency shall have the right to require the necessary information and documents from the contracting authorities. The required information shall be submitted on paper and in electronic form in the deadline and form, determined by the Executive Director.
- (2) In cases, where the documents under Article 5 or the information under Para 1 are not submitted in the relevant deadlines, the Executive Director of the Agency shall inform the National Audit Office or the authorities of the Public Internal Financial Control Agency.

### **Section II**

#### **Submission of information to the State Gazette**

#### **Article 7**

- (1) The contracting authorities shall submit to the State Gazette:
1. the preliminary notices for the award of public procurement contracts;
  2. the public procurement notices;
  3. the notices for the hold of design contests;
  4. the notices of the contracting authorities under Article 7, Para 1, item 5 PPL for the qualification systems, created by them;
  5. the preliminary notices-calls under Article 109 PPL;
  6. the notices for the prolongation of the deadline for submitting tenders and applications for participation.
- (2) The notices under Para 1, items 1 to 5 shall be drawn up in accordance with the standard forms under Article 17, Para 4 PPL and shall be submitted to the State Gazette simultaneously on paper and in electronic form – on a magnetic carrier or by e-mail.
- (3) The State Gazette shall publish the content of the notices under Para 1, which may not exceed 650 words.
- (4) The notices under Para 1 shall be submitted to the State Gazette in 7-days term from the date of the corresponding decision of the contracting authority.
- (5) In cases of contradiction between the description of the subject of the public procurement contract and the code in accordance with the Public Procurement Nomenclature, pointed out in the notice, the information about the description of the subject of the contract shall be considered as correct.

**Section III**  
**Announcement of information from the Agency**

**Article 8**

- (1) The Agency shall announce the information, connected with the implementation of the public procurement award procedures through its Web-page.
- (2) The Agency may announce information, connected with its activity also by catalogues, periodical bulletins, brochures, reports, expansions and other specialized editions in the field of public procurement.

**Article 9**

- (1) On the Web-page of the Agency shall be announced:
  1. the Public Procurement Register;
  2. the methodological instructions under Article 19, Para 2, item 1 PPL, issued by the Executive Director of the Agency;
  3. the lists of the contracting authorities, kept by the Agency;
  4. the list of the persons, which the contracting authorities may use as external expert during the implementation of a public procurement award procedure;
  5. the annual report on the activity of the Agency;
  6. the practice on the implementation of the PPL, including the decisions and the Decrees of the Court and of the Court of Arbitration concerning public procurement disputes;
  7. information about the persons, who acted as arbiters in the cases before the Court of Arbitration to the Agency;
  8. the list of the countries, with which the Republic of Bulgaria has concluded multilateral or bilateral contract, assuring comparable and effective access of Bulgarian persons to participation in public procurement procedures in those countries;
  9. other information, connected with public procurement, determined by the Executive Director of the Agency.
- (2) In the list under Para 1, item 4 shall also be pointed out the trade organization which suggested the corresponding expert. The contracting authorities may also use as experts persons not included in the list.

**CHAPTER THREE**  
**PUBLIC PROCUREMENT REGISTER**

**Section I**  
**General provisions**

**Article 10**

- (1) In the Public Procurement Register, called hereinafter “the Register” shall be acquired and kept information, connected with public procurement contracts with the aim to ensure the publicity and the transparency of their awarding.
- (2) The Register shall be an electronic data-base, which shall be kept by officials, appointed by the Executive Director of the Agency.
- (3) The information about the circumstances which have to be entered in the Register shall be submitted by the contracting authorities in accordance with the provisions of Articles 5 and 6.

**Article 11**

- (1) The circumstances under Articles 18 and 19 as well as the changes occurred in them shall be entered into the Register.

- (2) The Register shall be public. The access to the information entered into the Register shall be free and shall be accomplished through the Web-page of the Agency.

## **Section II Keeping of the Register**

### **Article 12**

- (1) For each contracting authority an account shall be opened in the Register with a unique identification number and in the account all the afterwards entries shall be done.
- (2) The unique identification number shall be a 5-digit number and shall be the serial number of the entry of the contracting authority in the Register.

### **Article 13**

Each public procurement contract shall be entered into the Register under a unique number, which shall contain three parts, as follows:

1. first part – the number of the account of the contracting authority;
2. second part – the year of the decision for the opening of the public procurement award procedure;
3. third part – a 4-digit number, which shall be the official number of the serial entry of the public procurement to the corresponding contracting authority for the year and shall be obtained automatically from the electronic data-base.

### **Article 14**

- (1) The afterwards entries of new circumstances, connected with the account of the contracting authority, shall be done without affecting the information, contained in the previous entries.
- (2) Where an entered circumstance is to be deleted, in the corresponding margin shall be recorded that the entry has been deleted.
- (3) Errors, committed in the entering, shall be corrected by the officials, and in the corresponding margin of the Register is entered the correct text with the explanation “technical error”. The corrections shall be done without affecting the information, contained in the previous entries, except in cases, where the error entry is done on the account of another contracting authority.

### **Article 15**

- (1) The Public Procurement Register shall be kept in a way that shall guarantee the protection of the information in the system against destruction, unlawful modification and use.
- (2) The protection of the information shall be ensured through its periodical operative archiving.

### **Article 16**

The officials under Article 10, Para 2 shall have the right to refuse the entering of circumstances in the Register in cases where the information is submitted not according to the approved standard forms under Article 17, Para 4 PPL or is submitted only on paper.

### **Article 17**

The information about public procurement contracts entered into the Register for every budgetary year shall be archived after the expiry of a 5-years term from the year of the entry.

## **Section III Circumstances which should be entered into the Register**

### **Article 18**

- (1) Into the Register shall be entered:

1. identification information about the contracting authority:
    - a) the unique identification number of the contracting authority in accordance with Article 12;
    - b) identification code BULSTAT;
  2. the unique number of the public procurement contract in accordance with Article 13;
  3. the information from the filled-in in accordance with the standard forms under Article 17,
- Para 4 PPL:
- a) preliminary notices under Article 23 PPL;
  - b) preliminary notices of the contracting authorities under Article 7, Para 1, item 5 PPL;
  - c) notices under Article 25, Para 2 PPL;
  - d) notices for design contests;
  - e) notices for qualification systems, created by contracting authorities under Article 7, Para 1, item 5 PPL;
  - f) preliminary notices-calls of the contracting authorities under Article 7, Para 1, item 5 PPL;
4. information about the decisions of the contracting authorities:
    - a) number, date of issue and legal grounds in accordance with the PPL of the Decision for the opening of public procurement contract award procedure;
    - b) in case, where the Decision is for awarding a public procurement contract through a negotiated procedure with or without notice – a brief report of the motives of the contracting authority about the choice of the corresponding procedure;
    - c) in case, where the Decision is for awarding a public procurement contract through a negotiated procedure without notice – a brief report of the subject and the code of the public procurement contract according to the Public Procurement Nomenclature, including of the lots;
    - d) number, date of issue and legal grounds of the Decision for suspension of the public procurement contract award procedure, and in cases of suspension because of insufficiency of the financial resources of the contracting authority – also the lowest price, offered by a qualified candidate;
    - e) number and date of issue of the for prolongation of the term for submission of tenders in case of an open procedure, and for submission of applications for participation in case of a negotiated procedure with notices, as well as the respectively prolonged term;
  5. the filled in standard forms under Article 17, item 4 PPL, with which information about the public procurement contracts awarded and about the design contests held, is submitted.
- (2) In case of public procurement contracts awarded in accordance with the Ordinance on the Award of Small Public Procurement Contracts, into the Register shall be entered:
    1. the circumstances under Para 1, items 1 and 2;
    2. number, date of issue and legal grounds in accordance with the Ordinance on the Award of Small Public Procurement Contracts of the Decision for opening of a small public procurement contract award procedure;
    3. the information from the filled-in in accordance with the standard form under Article 17, item 4 PPL notices for small public procurement contracts;
    4. the data from the filled-in in accordance with the standard form under Article 17, item 4 PPL for small public procurement contracts awarded and design contests held.
  - (3) All modifications of the circumstances under Paras 1 and 2 shall also be entered into the Register. When entering the modification, the grounds for its occurrence shall also be entered.

#### **Article 19**

Other information may also be entered into the Register, as an exception, if necessary in order to ensure the publicity and transparency of the award procedures and the protection of the rights and the legal interests of the participants. In these cases the circumstances subjects to entering shall be determined through an Ordinance of the Executive Director of the Agency for each particular case.

### **CHAPTER FOUR PUBLIC PROCUREMENT CONTRACTS AWARD PROCEDURES**

**Section I**  
**Requirements To The Candidates And To The Contractors**

**Article 20**

- (1) The candidates and the contractors shall be obliged to inform the contracting authority of all the changes that occurred in the circumstances under Article 47, Para 1 and 2 PPL in a 7-days term after their occurrence.
- (2) The contracting authorities shall point out the circumstances under Article 47, Para 2 in the public procurement notice, and in a negotiated procedure without notice – in the invitation for participation in the procedure.

**Article 21**

- (1) The candidates – legal persons or lone traders shall attach to their tenders also a Certificate for actual Court registration, and the foreign legal persons – a relevant equivalent document, issued by a judicial or administrative authority in the country, where they are established.
- (2) Where the offer envisages the participation of subcontractors, in it shall be pointed out the subcontractors, the value, the percentage of the total value as well as the particular part of the subject of the public procurement contract, including lots, which shall be implemented by each of the subcontractors.
- (3) Where the subject of the public procurement contract necessitates its implementation on stages, in the offer shall be pointed out the particular stages as well as the deadlines for the implementation of each stage.

**Section II**  
**Obligations of the Contracting Authorities**

**Article 22**

The Commission, appointed by the contracting authority shall inform the candidates, admitted to participation in the procedure, about the place, the day and the time of the opening of the price offers. The candidates may witness the opening and the announcement of the offered prices.

**Article 23**

- (1) The contracting authority shall inform the candidates about the conclusion of offered by him/her arbitration agreement in 3-days term from its signing by all of the participants.
- (2) Where the arbitration agreement has not been offered in the documentation for participation or has been signed after a proposal by a candidate in the procedure, the contracting authority shall submit to the candidates the text of the arbitration agreement in a 3-days term after its signing by all of the participants.
- (3) In the cases under Para 1 and 2 the contracting authority shall inform the candidates also about the names, addresses and telephone numbers of all the parties of the arbitration agreement.

**Article 24**

- (1) In cases of public procurement contracts for supply of goods, the contracting authorities shall point out in the documentation for participation also the act that arranges the technical, qualitative and other requirements to the goods – subject of the contract.
- (2) The Decisions of the contracting authority under Article 39, Para 1, Article 73, Para 1, Article 79, Para 4, Article 88, Para 4, and Article 101, Para 3 PPL shall contain:
  1. the number and date of issue of the decision for opening a public procurement contract award procedure;

2. the date and number of the State Gazette and the serial number of the published public procurement notice, unless in cases of negotiated procedure without notice.
- (3) In the decisions under Article 73, Para 1, Article 79, Para 4, Article 88, Para 4 and Article 101, Para 3 PPL the contracting authorities shall obligatory point out the names and the addresses of all of the candidates in the public procurement contract award procedure.

#### **Article 25**

The contracting authorities may not modify the conditions and the other parameters of the public procurement contracts, announced by them, with the exclusion of the deadlines for submission of offers or applications for participation.

### **Section III Special Rules for Particular Procedures**

#### **Article 26**

- (1) Where the number of the candidates, who fulfil the requirements, pointed out in the notice for a restricted procedure, exceeds the announced number of the persons, who shall be invited to submit offers, the Commission shall accomplish a selection on the basis of a complex assessment of the circumstances under Article 79, Para 2 PPL.
- (2) In the cases under Para 1 the contracting authority shall be obliged to invite to submit offers all of the candidates, who have been qualified in the frame of the determined in the notice maximum number of persons.
- (3) The provisions of Para 1 and 2 shall be applied also in the cases under Article 97, Para 4 PPL respectively.

#### **Article 27**

- (1) Where the number of the candidates, who fulfil the announced requirements in a negotiated procedure with notice, is more than three, the Commission shall accomplish a selection on the basis of a complex assessment of the circumstances under Article 88, Para 2 PPL.
- (2) In the cases under Para 1 the contracting authority shall be obliged to invite for participation in the negotiations the candidates, ranked on the first three places.

#### **Article 28**

- (1) Where during the term for submission of applications for participation in a restricted procedure or a negotiated procedure with notice, applications has not been submitted, the contracting authority may prolong the term with no more than 30 days.
- (2) Each modification in the term for submission of applications for participation shall be published in the State Gazette and entered into the Public Procurement Register.

#### **Article 29**

- (1) The contracting authority make take decision for awarding the public procurement contract through a deal on the commodity market only in cases where the subject of the contracts is the supply of goods, included in the Annex to these Rules for the Implementation of the Public Procurement Law.
- (2) The decision for the award of a public procurement contract through an exchange deal shall contain:
  1. name of the contracting authority;
  2. type of the procedure;
  3. subject of the contract as well as quantity or volume;
  4. code in accordance with the Public Procurement Nomenclature;
  5. other possible conditions, compatible with the rules of the commodity trade.

- (3) The contracting authorities shall submit the decision under Para 2 to the Agency as well as an information about the concluded stock deal in accordance with the rules and in the terms under Article 5.
- (4) In the cases under Para 1 invitation for participation in the public procurement contract award procedure, shall not be submitted.

#### **Article 30**

In the decision for the opening of a negotiated procedure without notice, the contracting authorities shall also determine the persons, which shall be invited for participation in the negotiations unless in the cases under Article 90, Para 1, item 11 and Article 104, Para 1, item 9 PPL.

### **Section IV**

#### **Award of the Public Procurement Contracts**

#### **Article 31**

- (1) The persons, selected for contractors shall fulfil the requirements and the limitations under Article 47, Para 1 and 2 PPL also at the time of the awarding of the public procurement contract.
- (2) The contracting authority shall select for contractor of the public procurement contract the next ranked candidate:
  1. in the cases under Article 42 PPL;
  2. in cases where the selected contractor unjustifiably refuses the awarding of the contract in a 1-month term from the date of the announcement for selection of contractor.
- (3) The contracting authority shall select for contractor the next ranked candidate and shall invite him/her in writing for the conclusion of the public procurement contract in 3-days term from the specification of the circumstances under Para 2 or from the expiration of the term under Article 41, Para 3 PPL.

#### **Article 32**

Where the selected contractor is an association of natural and/or legal persons, which is not a legal person itself and the contracting authority has not provided for a requirement for an establishment of a legal person in the public procurement notice, the public procurement contract shall be awarded after the contractor submits to the contracting authority a copy of the Certificate for taxation registration as well as a BULSTAT registration of the established association.

#### **Article 33**

- (1) In the cases under Article 90, Para 1, item 11 and Article 104, Para 1, item 9 PPL the public procurement contract shall be concluded on the commodity market, on a particular stock round and in accordance with the provisions of the Law on the Commodity Markets and the Market-places.
- (2) The description of the goods, included in the list under Article 29, Para 1 shall be accomplished in accordance with the Public Procurement Nomenclature and in a method, which does not allow the elusion of the PPL through a conclusion of a stock deal.

### **CHAPTER FIVE**

#### **ADMINISTRATIVE-PENAL PROVISIONS**

#### **Article 34**

For a violation of the Rules for the Implementation of the Public Procurement Law, the persons who has been found guilty as well as the persons who has permitted the commission of a violation shall be penalized under Article 32 of the Law on the Administrative Violations and Punishments, unless if for the violations committed is provided a more severe punishments in the PPL.

### **Article 35**

- (1) The statements for the establishment of the violations under the Rules for the Implementation of the Public Procurement Law shall be issued by officials of the Public Internal Financial Control Agency in a 6-months term from the date on which the violation has become known and not later than 3 years of its commission.
- (2) The penal statements shall be issued by the Minister of Finance or by officials authorized by the Minister.
- (3) The establishment of violations, the issuing, appealing and the enforcement of the penal statements shall follow the provisions of the Law on the Administrative Violations and Punishments.

### **TRANSITIONAL AND FINAL PROVISIONS**

§ 1 These Rules for the Implementation of the Public Procurement Law shall be adopted on the legal ground of § 3 of the Transitional and Final Provisions of the Public Procurement Law.

§ 2 The persons, which have acquired the virtue of a contracting authority up to 1 October 2004, shall execute the obligation under Article 3, Para 4 of the Rules for the Implementation of the Public Procurement Law up to 31 December 2004.

Code in accordance with the Public Procurement Nomenclature	Description
01111100-9	Wheat
01111200-0	Maize
01111300-1	Rice
01111400-2	Barley
01111500-3	Rye
01111600-4	Oats
01121210-6	Beans
02130000-4	Fuel wood
10110000-7	Coal
10122000-4	Briquettes
15111100-0	Beef
15111200-1	Veal
15112130-6	Chickens
15113300-6	Pork carcasses
15411200-4	Cooking oil
15511100-4	Pasteurised milk
15612100-2	Wheat flour
15831200-4	White sugar
15872400-5	Salt
23111200-0	Unleaded petrol
23111300-1	Leaded petrol
23121000-1	Gas oils
23121100-2	Diesel oil
23122000-8	Fuel oils
23123000-5	Lubricating oils and lubricating agents