

official translation

LAW ON THE AMENDMENT OF THE LAW ON PUBLIC PROCUREMENT

3 June 1999 No. VIII- 1210

Vilnius

Article 1. Revised Version of the Law of the Republic of Lithuania on Public Procurement

The Law of the Republic of Lithuania on Public Procurement shall be amended and set forth to read as follows:

**“LAW OF THE R REPUBLIC OF LITHUANIA
ON PUBLIC PROCUREMENT**

(as amended by 12 January 2000 No.VIII-1526)

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1. The Objective of this Law

1. This Law shall regulate:

1) the procedure of procurement by state and local authorities, public undertakings (including those specified in subparagraph 3 hereof), offices or organisations of products or services the value whereof during the financial year is not less than LTL 75 000 or of public works the value whereof is not less than LTL 300 000, executed with the resources of the State Budget, municipal budgets, the budgets of the State Social Insurance Fund and the Compulsory Health Insurance Fund and other state money funds, also resources received in the name of the State as charity or any other financial support, when the charity donor does not specify the purpose for which it should be used, also with funds received as loans on behalf of the State or loans received with State guarantee, unless the loan use agreements provide for other terms and conditions for the use of the loans;

2) procurement by the Bank of Lithuania, with the funds of the Bank of Lithuania, of products or services the value whereof during the financial year is not less than LTL 75 000 or of public works the value whereof is not less than LTL 300 000;

3) procurement of products or services the value whereof during the financial year is not less than LTL 1.8m or public works the value whereof is not less than LTL 1m, when the contracting authorities are state or municipality controlled undertakings or branches of undertakings that are on the list approved by the Government, operating in the water, energy, transport and telecommunications sectors as well as undertakings which have had the special or exclusive right of operation in the sphere granted to them by the state or municipality, irrespective of the types of undertakings or forms of their ownership when such procurement is financed with the funds of the above undertakings.

2. The procurement of products, services or works the value whereof is less than the amounts specified in paragraph 1 hereof shall be effected in accordance with the procedure laid down by the Government of the Republic of Lithuania. The Government may approve the list of products, works, services in respect whereof public procurement shall apply in any case, regardless of their value.

3. Public procurement of products, works or services, the value whereof is not less than that specified in paragraph 3 of Article 12 of this Law and an international notice whereof must be published in a publication with international circulation or specialised publication, may be engaged in only by contracting authorities included in the list approved by the Government of the Republic of Lithuania or by the competent authority.

4. The value of public procurement regulated under paragraph 1 hereof, paragraph 3 of Article 32 and paragraph 1 of Article 33 is given net of the VAT. The value shall be indexed in the manner laid down by the Government of the Republic of Lithuania or the competent authority taking into account the rate of inflation in the Republic of Lithuania.

5. The requirements of this Law shall not apply to:

1) procurement connected with state secret established by law. The procedure of procurement of the type shall be established by the Government of the Republic of Lithuania;

2) procurement carried out following the special procurement procedures of international organisations;

3) procurement or lease of land or other immovable property effected by undertakings specified in subparagraph 3 of paragraph 1 hereof with the funds of the said undertakings, provided the procurement or lease in a specific location is necessitated by the intended purpose of the undertaking;

4) financial services connected with the issuing, purchase, sale and transfer of securities and other instruments of debt;

- 5) services provided by the Bank of Lithuania;
 - 6) contracts for the acquisition of time for radio and television programme development, preparation for broadcasting, broadcasting of already developed radio and television broadcasts, except when the procurement is engaged in by state or local authorities;
 - 7) research and development services of national significance according to the programmes approved by the Government, except for those research and development services the benefit from which is used solely for business needs of the contracting authority and which are fully paid for by the contracting authority.
6. The Government of the Republic of Lithuania may, for economic and social reasons which are of state significance, take a decision regarding the application of preferences during the procurement of products, works or services. The provision shall apply until the expiry of the transitional period specified in the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part (31 December 1999).

Article 2. Definitions

As used in this Law:

1. **“Public procurement”** (hereinafter referred to as **procurement**) means the acquisition of products, works or services (including lease of property) carried out in the manner prescribed by this Law by contracting authorities specified in paragraph 1 of Article 1 and paid for on demand or by instalments.
2. **“Open procedure”** means procurement procedure under which all interested suppliers/contractors may submit their tenders.
3. **“Works”** means any works associated with the construction (assemblage, building), reconstruction, removal, demolition, repairs or renovation of structures as well as research, design or other services incidental to the works which are the object of procurement.
4. **“Discount price”** means a price recalculated taking into account the time limits of payments, supply of products and performance of works.
5. **“Financial year”** means a 12-month period beginning 1 January and ending 31 December.
6. **“Final tender”** means the supplier’s/contractor’s written document whereby an offer is made to supply products, provide services or perform works in accordance with the terms agreed upon in the course of negotiated procedure.

7. **“Undertaking possessing the special or exclusive right granted by the state or municipality to operate in the water, energy, transport and telecommunications sectors”** means an undertaking to which the state or municipality has granted a special or exclusive right to engage in any type of activities specified in paragraph 27 hereof.

8. **“Request for quotations”** means a method of procurement where the procuring entity requests from the suppliers/contractors a statement of the price of products or services.

9. **“Negotiated procedure”** means a method of procurement where the procuring entity negotiates with the suppliers/contractors the contents of tenders and the terms of the contract.

10. **“Invitation”** means a procurement-related document announced or delivered to the supplier (contractor), offering an invitation to participate in prequalification proceedings, tendering, negotiated procedure or to respond to the request for quotations.

11. **“Legalised documents”** means documents recognised as lawful according to the procedure prescribed by law.

12. **“Declaration of impartiality”** means a written statement given by the Public Procurement Commission member or expert declaring his impartiality with respect to the suppliers/contractors.

13. **“Application”** means a document whereby the supplier (contract) expresses his willingness to take part in the procurement procedures.

14. **“Tender”** means a written document submitted by the supplier/contractor offering to supply products, perform works or provide services under the terms set by the contracting authority.

15. **“Tender security/(security for the performance of the contract)”** means the method of ensuring the fulfilment of an obligation provided for by the Civil Code of the Republic of Lithuania, perfected by the contract between the contracting authority and the supplier/contractor.

16. **“Offered price”** means the sum total of the price of products, services or works indicated in the tender and other prices of additional services specified in the procurement documents.

17. **“Discounting of the offered price”** means recalculation of the offered price (carried out for the purpose of tender evaluation) by applying the rate fixed in advance (the rate of discount), taking into account the time limit for payment and supply of products, provision of services, and performance of works.

18. “**Services**” means any object of procurement, except for products and works, as well as services related to products, where the value of the services exceeds the value of products.

19. **Contracting authorities** means the state or local authorities, public undertakings, offices or organisations specified in paragraph 1 of Article 1 as well as the Bank of Lithuania.

20. “**Procurement from single source of supply**” means the method of procurement where the contracting authority negotiates with a single supplier/contractor the subject and price of the offers and the terms of the contract.

21. “**Contract documents**” means documents presented by the contracting authority to the suppliers/contractors characterising the subject of the procurement contract and the conditions of procurement: the invitation, tender solicitation documents and documents of other procurement procedures and conditions, explications/revisions of and supplements to the above documents.

22. “**Contract of procurement- sale**” (hereinafter - “**procurement contract**”) means the contract of procurement-sale, contract agreement, work or service contract, contract of lease or other written contract which the contracting authority concludes with the supplier/contractor when procuring products, services or works in the manner prescribed by this Law.

23. “**Preference**” means priority, privilege.

24. “**Products**” means raw materials, products, equipment and other objects of every kind and description, as well as services incidental to the supply of the products if the value of those services does not exceed that of the products themselves.

25. “**Restricted procedure**” means the procurement procedures whereby only those suppliers/contractors who satisfy the qualification requirements announced in advance by the contracting authority may submit tenders.

26. “**Supplier/contractor**” means a potential or actual party to the procurement contract concluded with the contracting authority.

27. “**Public undertaking operating in the water, energy, transport and telecommunications sectors**” means a state or municipality-owned undertaking, also the undertaking in which public authorities control over 50% of votes attaching to shares and which exercises one of the following activities:

1) the operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water, or electricity, or gas or heat;

- 2) the exploitation of a geographical area for the purpose of exploring for or extracting oil, gas, coal or other fossil fuels;
- 3) the provision of airport, maritime or inland port or other terminal facilities to carriers by air, sea or inland waterway;
- 4) the operation of networks providing a service to the public in the field of transport by trolley bus, bus, cable or railway;
- 5) the operation of public telecommunications networks and provision of public telecommunications services.

Article 3. International Obligations of the State, Relating to Procurement

If international agreements of the Republic of Lithuania provide otherwise than this Law, the provisions of international agreements shall apply.

Article 4. Regulation of Public Procurement and Examination of Complaints

1. Public procurement in the Republic of Lithuania shall be regulated by the Government and the Public Procurement Office, who shall be governed by this Law, whereas complaints relating to public procurement shall be examined by the Independent Commission for the Examination of Complaints Relating to Public Procurement.

Article 5. Public Procurement Office

1. Public Procurement Office is an institution operating under the Government of the Republic of Lithuania, which co-ordinates the activities of procurement, supervises compliance of procurement activities with this Law and subordinate legislation, is governed by this and other laws, legal acts and international obligations of the Republic of Lithuania and its own regulations and is financed from the State Budget.

2. Public Procurement Office is a legal person, having its seal with the State emblem.

3. Public Procurement Office shall fulfil the following functions:

- 1) draft and submit to the Government for approval legislation regulating public procurement;
- 2) draft and adopt, within the scope of its competence, legal acts regulating public procurement;
- 3) supervise compliance during public procurement proceedings with the Law on Public Procurement and the requirements of related secondary legislation;

- 4) approve the methodology of drawing up technical requirements of contract documents;
- 5) store, in the manner prescribed by the Government, information concerning the intended procurement or that being engaged in, the concluded procurement contracts and the contract performance results, and communicate it to state (municipal) institutions and the public;
- 6) analyse and assess the procurement system and draw up proposals for its improvement;
- 7) organise the training of the contracting authorities' personnel responsible for procurement and train the personnel
- 8) offer consultations to contracting authorities and suppliers/contractors or organise their consulting on issues of procurement;
- 9) when deciding the issues of procurement, maintain contacts with the relevant foreign state institutions and international organisations;
- 10) specify the mandatory requirements of communications (prior indicative notices, invitations, and contract award notices and contract performance results);
- 11) approve the methodology of calculating the estimated contract value, specify the procedure for discounting the price offered by the suppliers/contractors and fixing the rate of discount;
- 12) approve standard forms of procurement reports;
- 13) lay down the requirements for the members of the Independent Commission for the Examination of Complaints Relating to Public Procurement;
- 14) prepare and furnish information to the Independent Commission for the Examination of Complaints Relating to Public Procurement which examines the complaints;
- 15) engage in other activities prescribed by legal acts.

4. Rights of the Public Procurement Office:

- 1) to be provided by the contracting authority with information relating to procurement;
- 2) to be provided by the contracting authority, Public Procurement Commission or its members as well as experts taking part in procurement procedures explications of procurement-related actions or decisions;
- 3) to present contract documents and tenders submitted by suppliers/contractors for additional expert examination;
- 4) upon ascertaining violations of law, to obligate the contracting authority to revoke or to change the decisions or actions which are not in conformity with the requirements of the Law on Public Procurement;

5) to take administrative proceedings in the manner prescribed by law against the persons who violate this Law.

Article 6. Public Procurement Commission

1. For arranging and executing procurement, the contracting authority must appoint the Public Procurement Commission (hereinafter - Commission), set its tasks and grant it the powers required for the fulfilment of said tasks. The Commission shall be accountable to the contracting authority and fulfil only its tasks and obligations given in writing. The responsibility for awarding and fulfilling procurement contracts shall rest with the contracting authority. The contracting authority shall be responsible for the actions of the Commission. The contracting authority shall approve the Commission's rules of procedure.

2. The Commission shall be appointed by the decision of the contracting authority of at least 3 natural persons, who may also be employed on a contract basis, and shall function on behalf of the contracting authority within the scope of the powers granted to it. The Commission shall function from the day of adoption of the decision concerning its appointment until the submission of the draft of the procurement contract to the contracting authority for signing or until the adoption of the decision to terminate the procurement. The Commission shall adopt decisions at the meetings by a simple majority vote, voting by open ballot. In the event of a tie, the Chairman of the Commission shall have a casting vote. The Commission's decisions shall be recorded in the minutes signed by all the members present at the meeting. The head of the contracting authority or the person authorised by him shall be appointed Chairman of the Commission. When appointing Commission members, regard must be had to their knowledge in the area of economics, technology, and legislation as well as their cognisance of this Law and other legal acts regulating public procurement. The contracting authority shall have the right to invite experts for examining the submitted proposals.

3. Except in cases prescribed by the legal acts of the Republic of Lithuania, the Commission members and the experts invited by the contracting authority shall be prohibited from providing third persons with any information concerning the contents of the tenders submitted by suppliers/contractors.

4. Every Commission member and expert may take part in the work of the Commission only upon signing the declaration of impartiality.

5. Commission members and experts shall be held liable for their work under the laws of the Republic of Lithuania.

Article 7. Qualification of Suppliers/Contractors

1. The contracting authority must ascertain whether the supplier/contractor is competent, reliable and capable to fulfil procurement conditions. For this purpose, at certain stages of the procurement process it shall have the right to demand that the supplier/contractor submit the documents and information specified in paragraph 2 hereof.

2. The contracting authority shall specify in the contract documents the information relating to the legal status, financial standing, also economic and technical information that the suppliers/contractors must provide so as to enable the contracting authority to determine whether the suppliers/contractors satisfy the minimum financial, economic and technical requirements laid down in its contract documents. The contracting authority may request that the suppliers/contractors submit:

- 1) documents confirming the suppliers'/contractors' legal status;
- 2) extracts from reports or other documents confirming the activities of the suppliers/contractors (unless under the laws of the country where the supplier/contractor is domiciled the reports or documents are not subject to publication);
- 3) extracts from reports or other documents concerning the supplier's/contractor's total turnover and the turnover relating to the object of procurement within the last 3-year period or within the time period from the date of the supplier's/contractor's registration (in case the supplier/contractor engaged in the activities for less than a 3-year period);
- 4) where the supplier/contractor is not in the position to submit documents specified in subparagraph 2 hereof, the contracting authority may accept other information which it deems to be appropriate;
- 5) information concerning the principal supplies of products made, works performed or services provided, specifying the procuring entities and contracts executed earlier within the last 3 years or within the period from the supplier's/contractor's registration date (where the supplier/contractor engaged in the activities for less than 3 years);
- 6) information concerning the supplier's/contractor's technical possibilities and other measures ensuring good quality of the products supplied, works performed or services provided by him;
- 7) information about the specialists or organisations responsible for quality control, irrespective of their subordination;

8) certificates drawn up by official quality control institutes or agencies attesting conforming of the products, works or services to the binding technical specifications;

9) description, samples or photographs of the products to be supplied, works to be performed or services to be provided by the supplier/contractor. Where the products to be supplied are complex or are required for a special purpose, the contracting authority may request the supplier's/contractor's permission to carry out on-the-spot inspection of the product to be supplied or demand that the information furnished by the supplier/contractor be evaluated by independent experts;

10) evidence of the educational and professional qualifications of the supplier's/contractor's managerial staff, of the persons responsible (in particular those responsible for the execution of works);

11) a statement evidencing the supplier's/contractor's financial standing;

12) other financial, economic and technical information specified by the Public Procurement Office.

3. Qualification requirements set by the contracting authority, the criteria for their evaluation and the evaluation procedures shall be laid down in the contract documents. The documents must be furnished to the suppliers/contractors only after the publishing of the notice in the publications specified in Article 12 of this Law.

4. The same qualification requirements must be applied with respect to all suppliers/contractors, the requirements may not violate the supplier's/contractor's rights to protect intellectual property, a trade or commercial secret.

5. The contracting authority may not impose on the suppliers/contractors requirements which would prejudice fair competition.

6. The contracting authority shall have no right to reject the suppliers'/contractors' tenders on the grounds of the tenders having been submitted by natural persons or a group of suppliers/contractors who have formed a joint venture. The joint venture agreement must be notarised. The contracting authority shall award a contract only after the group of suppliers/contractors have registered, according to the procedure laid down by law, the undertaking on the basis of the joint venture agreement.

7. The contracting authority must reject the supplier's/contractor's application or tender if the Commission establishes that the supplier/contractor submitted inaccurate or incomplete information concerning the qualifications and if the supplier/contractor fails to remedy the

deficiencies within 3 working days upon request by the contracting party. The contracting authority shall within 3 working days notify the supplier/contractor thereof in writing.

8. The qualifications of the suppliers/contractors shall be evaluated in accordance with the criteria and procedures set forth in contract documents presented to them. The Commission shall make a decision regarding the qualifications of each supplier/contractor who submitted an application and shall notify each one of them of the verification results. Only the suppliers/contractors whose qualifications meet the requirements of the contracting authority shall be entitled to participate in the subsequent procurement procedures.

Article 8. Method of Notification

1. While carrying out the procedures regulated by this Law, the notices of the contracting authority and suppliers/contractors to each other must be transmitted in writing.

2. The contracting authority must ensure that the contract documents, decisions or other notices be transmitted to all suppliers/contractors under equal conditions.

Article 9. Legalisation of the Documents Submitted by Foreign Suppliers/Contractors

The contracting authority shall have the right to demand that foreign suppliers/contractors submit documents confirming their qualifications legalised in the established manner.

Article 10. Description of Products, Works or Services

1. Technical specifications of products, works or services indicated in the procurement documents (requirements concerning their quality, packaging, marking, safety, certification, testing) as well as the terminology must not create obstacles for participation by any suppliers/contractors in the procurement procedures, except where such specifications are necessary by reason of the specific character of the object of procurement or its application. The description of products, works or services shall not contain any indication of a particular trade mark, patent, type or specific origin or producer of the product, the trademarks, patents, models or origin of products, performers of works or providers of services. However, where such indication is accompanied by the words “or equivalent”, it shall be authorised in cases where the contracting authorities are unable to give a description of the subject of the contract using specifications which are sufficiently precise and intelligible to all parties concerned.

2. In the descriptions of products, works or services, including contract documents, submitted technical specifications, plans, drawings and designs international standards, marking and terminology must be used. Where such international standards are not available, the terminology and marking requirements accepted in the Republic of Lithuania shall be used.

3. The methodology for developing technical requirements to be presented in contract documents shall be approved by the Public Procurement Office.

Article 11. The Language of Documents

The contracting authority shall draw up contract documents in the official language. When, according to the requirements set forth in Article 12 (3) of this Law, notices of procurement are published in a publication with international circulation or special publication, foreign suppliers/contractors shall be provided contract documents in the English language or, if they so desire, also either in German, or French, or Russian.

Article 12. Notices

1. The requirements for notices (prior notices, invitations, contract award notices and contract performance results) shall be laid down by the Public Procurement Office.

2. The contracting authority shall:

1) make known, in accordance with the procedure prescribed by the Government, by means of the indicative notice the total procurement envisaged to be awarded during the current financial year, published in the information supplement to the “*Official Gazette*” and, in the cases specified in paragraph 3 hereof, also in the publication with international circulation or specialised publication;

2) every time wishing to award a contract by open, restricted or negotiated procedure or by request for quotations, besides the indicative notice specified in subparagraph 1 hereof, also publish invitations to participate in the procurement procedure in the information supplement to the “*Official Gazette*” and, in the cases specified in paragraph 3 hereof, also in the publication with international circulation or specialised publication;

3) publish notices of the awarded contracts in the special supplement to the “*Official Gazette*”. The notices shall be dispatched to the publication “*Official Gazette*” within 5 days after the award of the contract. The notice shall indicate the entity to whom the contract is awarded, the subject of the procurement contract, the price indicated in the contract and the discounted price;

4) Within 15 days after the performance of the procurement contract publish a notice in the special supplement to the “*Official Gazette*” announcing the contract performance results, the price of procurement and the discount price.

3. The contracting authority must publish notices of public procurement in the publication with international circulation or specialised publication if:

1) the estimated value of products to be procured is not less than LTL 700,000, and not less than LTL 1.8 m in case of procurement in of water, energy, transport sectors, and not less than LTL 2.7 m in the telecommunications sector;

2) the estimated value of services to be procured is not less than LTL 700,000, and in the field of water, energy, transport and telecommunications sectors - not less than LTL 1.8 m;

3) the estimated value of works to be procured is not less than LTL 22 m.

4. The estimated value of procurement contracts is indicated in paragraph 3 hereof net of VAT. The figures shall be revised every 2 years with due regard being had of the revised value as indicated in the EU directives.

CHAPTER II

METHODS OF PROCUREMENT

SECTION I

METHODS OF PROCUREMENT, THEIR CHOICE AND INDIVISIBILITY OF PROCUREMENT CONTRACTS

Article 13. Methods of Public Procurement

Public procurement shall be engaged in by the following methods:

- 1) open procedure;
- 2) restricted procedure;
- 3) negotiated procedure;
- 4) procurement from single source of supply;
- 5) request for quotations.

Article 14. Procedure for Choosing the Method of Procurement

The contracting authority may choose the method of procurement - either negotiated procedure or procurement from single source of supply, or request for quotations - only under

the conditions provided for in Chapter Two, Sections IV, V and VI, of this Law. In addition, in the case specified in paragraph 2(7) of Article 32 of this Law, the Government may establish that the consent to execute procurement from single source of supply or according to any other procedure, as established in the procurement regulations approved by the contracting authority, shall be effective not for a specific case of procurement, but for the entire period of the investment or commercial project (including projects financed with borrowed funds) implemented by the contracting authority; the above period shall be approved by the Government of the Republic of Lithuania. In other cases procurement shall be effected by means of tendering procedure.

Article 15. Indivisibility of Procurement Contracts

1. The contracting authority shall have no right to award the procurement contract at the same time in parts with the intention of avoiding the established procurement procedure. The contracting authority shall have the right to split up a procurement requirement only provided that the method of procurement chosen under this Law for the total value of procurement contract is applied with respect to all parts of the split up procurement requirement.

2. The contracting authority shall award procurement contract under this Law on the basis of the total value of the contract (as regards the value of products and services - the total value during the financial year, as regards the value of works - the value of the entire object).

3. The value of procurement contract shall be calculated and the products, services and works shall be identified (distinguished from those identical) in accordance with the methodology approved by the Public Procurement Office.

SECTION II

OPEN PROCEDURE

Article 16. Open Procedure

When making arrangements for an open procedure, the contracting authority shall invite, in the manner laid down in Article 12 of this Law, all suppliers/contractors to take part in the procedure and submit their tenders.

Article 17. Contents of the Invitation to Tender

An invitation to tender must contain the following information:

- 1) the name, code, address, phone and fax numbers of the contracting authority;
- 2) the name and quantity of products to be supplied, the address of their delivery, character and place of services to be provided or works to be performed;
- 3) desired or required final date for the supply of products, provision of services or completion of works;
- 4) the procedure and place for acquiring solicitation documents;
- 5) language (languages) in which solicitation documents must be drawn up;
- 6) if the contracting authority has fixed a charge for solicitation documents - the amount of the charge and payment procedure. The charge shall cover the actual costs of the drawing up and copying of documents and their delivery to the suppliers/contractors. Additional amount may be charged to cover the expenses relating to translation of documents into foreign languages;
- 7) the addressee of tenders and the date of tender submission;
- 8) other information prescribed by the Public Procurement Office to the supplier (contractor).

Article 18. Presentation of Solicitation Documents

1. The contracting authority shall present solicitation documents to the suppliers/contractors desiring to take part in the tendering procedure in the manner specified in the invitation to tender. A charge of an equal amount shall be payable by all suppliers/contractors for covering actual expenses relating to the drawing up and copying of documents and their delivery to the suppliers/contractors. An extra charge may be payable for the translation of solicitation documents into a foreign language which will cover expenses relating to translation into a foreign language.

2. The contracting authority must deliver solicitation documents to the suppliers/contractors within 6 days from the receipt of their applications.

Article 19. Contents of Solicitation Documents

The following information shall be submitted in the solicitation documents:

- 1) instructions for preparing tenders;
- 2) information concerning the criteria and procedures relative to the evaluation of the qualifications of suppliers/contractors;
- 3) documentary evidence demonstrating the qualifications of suppliers/contractors;

4) names of products, works or services to be procured and their required technical, aesthetic, functional and quality characteristics, plans, drawings and designs, the quantity of the products, any incidental services to be performed, the required time when the products are to be delivered, the services are to be provided and the works are to be performed, the running costs and other terms and conditions;

5) criteria and terms and conditions of tender valuation, procedure for discounting the offered price and the rate of discount;

6) procedure and terms and conditions of price indexing owing to inflation;

7) terms and conditions of the contract offered to the parties for signing by the contracting authority and the contract form, if any, to be signed by the parties;

8) if alternatives to the characteristics of the products, services and works, contractual terms and conditions set forth in solicitation documents are permitted, a statement to the effect;

9) if, without infringing Article 15 of this Law, the suppliers/contractors are authorised to submit tenders for only a portion of the products, works or services concerned - a description of the portion or portions for which tenders may be submitted;

10) the manner in which tender price is to be formulated and expressed. The price shall be given with all the taxes due included. The price of products, services and works and the prices of additional services specified in the solicitation documents (transportation, insurance, loading charges, etc.) must be calculated and presented separately;

11) requirements for tender security and security for the performance of the procurement contract;

12) final date, place and method of submission of tenders;

13) the means by which suppliers/contractors may seek clarification of the solicitation documents and a statement as to whether the contracting authority intends, at this stage, to convene, a meeting of suppliers/contractors;

14) the period of time during which tenders shall be in effect;

15) the place, date and time for the opening of envelopes with tenders;

16) the procedure to be followed for opening and examining tenders;

17) indication that the value of the object of procurement named in the tender will be calculated in litas. Where the prices are indicated in the tenders in foreign currency, the prices will be recalculated in litas according to litas and the foreign currency exchange rate determined and announced by the Bank of Lithuania on the day of tender evaluation;

18) full names, addresses, telephone and fax numbers of the officers and employees of the contracting authority, or the Commission members (one or several) who are authorised to communicate directly with and to receive communications directly from suppliers/contractors in connection with the procurement procedure, without the intervention of an intermediary;

19) other requirements laid down by the Public Procurement Office in compliance with this Law and other legal acts regulating procurement;

20) reference to the prior publication of a tender notice in the information supplement to the “*Official Gazette*” and/or in the publication with international circulation or specialised publication.

Article 20. Clarification of Solicitation Documents

1. Suppliers/contractors may request a clarification of the solicitation documents from the contracting authority. The contracting authority shall respond to any written request by a supplier/contractor for clarification/revision of the solicitation documents provided it is received not later than 15 days before the final date fixed for the submission of tenders. The contracting authority must respond to the request not later than within 6 days from the date of receipt of the request. When responding to a supplier/contractor the contracting authority shall simultaneously send explanations to all suppliers/contractors to whom it has presented contract documents, without identifying the source of the request.

2. At any time prior to the deadline for submission of tenders, the contracting authority may explain/revise the solicitation documents on its own initiative. The clarification/revision must be communicated to all suppliers/contractors to which the contracting authority has provided the solicitation documents not later than 9 days before the final date fixed for the submission of tenders.

3. If the contracting authority convenes a meeting of suppliers/contractors, it must prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the solicitation documents, and its responses to those requests. Minutes must be dispatched to all suppliers/contractors taking part in the procurement procedures not later than 9 days before the final date fixed for the submission of tenders.

4. If the contracting authority provides clarification/revision of the solicitation documents or convenes a meeting with the suppliers/contractors less than 9 days before the final date fixed for the submission of tenders, it must postpone the time limit fixed for the submission of tenders

for a period enabling the suppliers/contractors to take the clarification/revision or minutes of the meetings into account in preparing their tenders.

5. Notices of the postponement of the final date fixed for the submission of tenders must be dispatched, not later than on the next working day following the adoption of the decision, to all suppliers/contractors to whom the solicitation documents have been presented.

Article 21. Submission of Tenders

1. The contracting authority shall fix the date and the hour which shall be considered the deadline for the submission of tenders. The time period for the submission of tenders may not be less than 30 days from the publication of the invitation to tender in the information supplement to the “*Official Gazette*” and, in cases where the notice is published in a publication with international circulation or specialised publication, less than 52 days from the day of publishing of the invitation in the publication, except where a prior notice has been published in accordance with the procedure and within the time limit laid down in Article 12 of this Law. In such cases the time period for the submission of tenders may be reduced accordingly to 20 and 36 days.

2. A written tender signed by the supplier/contractor or the person authorised by him shall be submitted in a sealed and stamped envelope. The tenders (with supplements) must be numbered, bound and endorsed by the supplier’s/contractor’s signature and stamp put on the back of the last sheet.

3. The contracting authority must present to each supplier/contractor a written confirmation of the receipt of the tender, indicating the date and hour of receipt.

4. If a tender is received after the expiry of the time limit set for the submission of tenders, the unopened envelope with the tender shall be returned to the supplier/contractor that submitted it.

Article 22. Period of Effectiveness of Tenders; Modification and Withdrawal of Tenders

1. Tenders shall be in effect during the period of time specified in the solicitation documents which may not be longer than 90 days after the final date fixed for the submission of tenders.

2. Prior to the expiry of the period of effectiveness of tenders, the contracting authority may request suppliers/contractors to extend the period of tender effectiveness until the fixed deadline, without exceeding the time limit specified in paragraph 1 hereof.

3. Suppliers/contractors that agree to an extension of the period of effectiveness of their tenders and notify the contracting authority thereof in writing, shall extend the period of effectiveness of tender securities or provide new tender securities. A supplier/contractor that fails, within a 6-day period, to respond to the request of the contracting authority to extend the period of effectiveness of tenders or fails to extend the period of tender securities or to provide new tender securities, shall be considered to have refused the request to extend the period of effectiveness of its tender and to have withdrawn its tender.

4. Unless otherwise stipulated in the solicitation documents, the supplier/contractor may modify or withdraw its tender without forfeiting its tender security prior to the expiry of the time limit for the submission of tenders. The modification or notice of withdrawal shall be recognised as effective if it is received by the contracting authority prior to the expiry of the time limit for the submission of tenders.

Article 23. Tender Security and Security for the Performance of the Contract

1. The contracting authority must request that the effectiveness of tenders and the performance of the contract be guaranteed in the manner established by the Code of Civil Procedure of the Republic of Lithuania.

2. The Commission may not reject the tender security or the security for the performance of the contract on the grounds that the security was not issued by the economic entity of the Republic of Lithuania provided that the tender security and the security for the performance of the contract and the economic entity who is the issuer of the security conform to the requirements set forth in the contract documents.

3. Prior to submitting a tender, a supplier/contractor may request the contracting authority to confirm the acceptability of the proposed issuer of a security. In this case the contracting authority shall respond to the supplier's/contractor's request within 3 working days. Confirmation of the acceptability of a proposed issuer shall not preclude the contracting authority from rejecting the tender security upon receipt of information that the issuer has become insolvent or defaulted on its obligations to the contracting authority or other economic entities, or otherwise lacks creditworthiness.

4. The Government of the Republic of Lithuania or the competent authority shall have the right to prescribe additional mandatory requirements for tender securities and securities for the performance of the contract.

Article 24. Opening of Envelopes with Tenders

1. Envelopes with tenders shall be opened at the Commission meeting held at the place, at the date and hour specified in the solicitation documents. The date must coincide with the deadline for the submission of tenders. Upon changing the deadline, the date of opening of the envelopes with tenders must be changed accordingly. All envelopes with tenders received prior to the expiry of the time limit for their submission must be opened at the fixed time. All suppliers/contractors who submitted their tenders or their representatives shall have the right to participate in the envelope opening procedure.

2. The envelopes shall be opened by one of the Commission members in the presence of the suppliers/contractors attending the meeting, who submitted their tenders.

3. In conformity with the requirements prescribed by Article 21 of this Law, the members present at the Commission meeting shall put their signatures at the back of the last sheet of the tenders.

4. The Commission shall record the results of the opening of envelopes in the record, mandatory requisites whereof shall be laid down by the Public Procurement Office.

5. The name of the supplier who submitted the tender, his address and the price indicated in the tender, the time limits of payment, supply of products, provision of services and performance of works shall be announced to the suppliers/contractors or their representatives, who are present at the opening envelopes with tenders. The information shall also be communicated to those suppliers/contractors who have submitted their tenders but are not present at the envelope opening procedure, if they so desire. Every supplier/contractor who is present or represented at the envelope opening procedure shall have the right of access in person to the information which is publicly read out.

6. The Commission shall engage in further tender examination, evaluation and comparison procedures without the participation of the suppliers/contractors who submitted the tender tenders.

Article 25. Prohibition of Negotiations with Suppliers/contractors

No negotiations shall take place between the contracting authority and a supplier/contractor with respect to the subject of the tender submitted by the supplier/contractor. Having proved the fact of illegal negotiations in the manner prescribed by law, the contracting authority shall declare the tendering procedure invalid in the information supplement to the

“*Official Gazette*”, and legal proceedings shall be instituted against the guilty persons according to the procedure established by law.

Article 26. Examination, Evaluation and Comparison of Tenders

1. The contracting authority may ask the suppliers/contractors for clarifications of their tenders. However, the contracting authority may not seek, offer or permit any changes in a matter of substance in a tender, including changes in price and changes aimed at making an unresponsive tender responsive.

2. The contracting authority shall not accept a tender submitted by a supplier/contractor:

1) if the supplier/contractor that submitted the tender does not meet the qualification requirement set forth in Article 7 of this Law and the solicitation documents;

2) if the tender is not responsive;

3) if the supplier (contractor) that submitted the tender has infringed the Law of the Republic of Lithuania on Competition;

4) if all suppliers/contractors have offered disproportionately high prices unacceptable to the contracting authority;

5) if tenders appear to be abnormally low and the supplier (contractor) failed to substantiate the low prices as specified in paragraph 5 hereof.

3. If, for reasons indicated in paragraph 2 hereof, the Commission must reject all tenders, it must be given the authorisation of the Public Procurement Office.

4. In the process of evaluation of the tenders the criterion for the award of contract shall be the lowest tender price, discounted taking into account the terms of payment and supply of products, provision of services and performance of works, or the most economically advantageous tender. The procedure for discounting the tender price and the rate of discount shall be established by the Public Procurement Office, whereas the methodology for establishing the criteria for evaluating the most economically advantageous tenders shall be approved by the Government of the Republic of Lithuania.

5. If, for a given contract, the tender appears to be abnormally low, the contracting authority must request in writing from the supplier/contractor substantiation of the constituent elements of the tender price. If the supplier/contractor fails to substantiate the tender price, its tender shall be rejected. The contracting authority shall notify the Public Procurement Office of the reasons of the rejection of the tender and shall make a record thereof in the report on procurement procedures.

6. The Commission appointed by the contracting authority shall evaluate and compare only the responsive tenders submitted by the suppliers/contractors. In order to ascertain the successful tender, the Commission must:

1) evaluate, in accordance with the evaluation criteria and terms set forth in the solicitation documents, the tenders submitted by the suppliers/contractors and draw up a preliminary order of tenders (except for the cases of single-source procurement). The preliminary order of tenders shall be drawn up based on the increasing discounted tender prices. First in the order shall be the tender with the lowest discounted price;

2) notify the suppliers/contractors who submitted the tenders of the preliminary order of tenders and of the reasons for the rejection of tenders no later than on the next working day after the drawing up of the preliminary order of tenders;

3) approve the order of tenders and adopt a decision with respect to the successful tender only after the examination, according to the procedure established in Chapter Three of this Law, of the claims and complaints (if such were received) of the suppliers/contractors who submitted tenders, but no earlier than after 15 days from the day of dispatch to the suppliers/contractors of the notice of the preliminary order of tenders.

7. The notice of the successful tender shall be dispatched to all suppliers/contractors who submitted tenders not later than within 3 working days after the adoption of the Commission decision.

8. Access to the information relating to the examination, explication, evaluation and comparison of tenders, except for the information specified in Article 35 of this Law, shall be granted only to the Commission members and experts invited by the Commission, representatives of the Public Procurement Office and the Independent Commission for the Examination of Complaints Relating to Public Procurement, the head of the contracting authority and other persons and institutions entitled under the laws of the Republic of Lithuania to have access to the above information.

9. If, by the expiry of the time limit set by the contracting authority for the submission of tenders, less than 3 tenders are received or, upon rejection of tenders in conformity with the requirements of this Article, less than 3 tenders are left, tendering shall be considered not to have taken place and a notice to the effect shall be within 3 working days dispatched to all suppliers/contractors who submitted tenders.

SECTION III

RESTRICTED PROCEDURE

Article 27. Restricted Procedure

1. Restricted procedures shall be engaged in where a large number of suppliers/contractors is expected and the cost of examination of tenders would be very high.

2. The contracting authority shall use restricted procedures by two rounds:

1) during the first round the contracting authority shall invite, in the manner set forth in Article 12 of this Law, suppliers/contractors to participate in pre-qualification procedure and shall select according to the requirements set forth in the pre-qualification documents at least 10 qualifying suppliers/contractors from the suppliers/contractors who submitted applications to pre-qualify. Where during the first round applications to pre-qualify of less than 10 suppliers/contractors are received, the contracting authority shall invite to the second round all the suppliers/contractors who submitted applications and meet the qualification requirements set forth by the contracting authority;

2) during the second round every supplier (contractor) who has been pre-qualified in the first round shall be sent invitations to tender, and all suppliers/contractors who participated in the pre-qualification proceedings but were not selected to the second round shall be dispatched notices of the pre-qualification results. Invitations must be sent at the same time to all suppliers/contractors who have been pre-qualified. Solicitation documents shall be dispatched together with the invitation, or an indication shall be made in the invitation as to the place and deadline for receiving the documents. Procurement procedures set forth in Chapter Two, Section II, of this Law shall be used for preparing the solicitation documents, submitting and evaluating tenders.

3. The invitation to pre-qualify must contain the following information:

1) the name, code, address, telephone and fax numbers of the contracting authority;

2) the object of procurement and its description;

3) the manner, place and deadline for the receipt of pre-qualification documents;

4) the language/languages in which pre-qualification documents are prepared;

5) the price (if any) charged by the contracting authority for pre-qualification documents, and the payment procedure. The price shall reflect the actual cost of copying the pre-qualification documents and providing them to the suppliers/contractors. Additional payment may be charged for the translation of documents into a foreign language, comprising the costs of translation;

6) the place and time for the submission of applications to pre-qualify, the number of suppliers/contractors that will be pre-qualified;

7) other information prescribed by the Public Procurement Office.

4. The time limit for the submission of applications to pre-qualify, set by the contracting authority, may not be shorter than 15 days and in cases where the tender notice is published in a publication with international circulation or specialised publication - not shorter than 35 days after the publication of the invitation to tender.

5. The time limit for the submission of tenders laid down by the contracting authority may not be less than 30 days and in cases where the tender notice is published in a publication with international circulation or specialised publication - not less than 40 days after the day of dispatch of invitations to tender to the selected suppliers/contractors, unless there has been a prior publication of tender notice according to the procedure and terms set forth in Article 12 of this Law. In such cases the time limits for the submission of tenders may be reduced accordingly to 20 and 26 days.

6. If less than 3 tenders are received within the time limit fixed by the contracting authority for the submission of tenders, or, if after rejection of tenders in conformity with the requirements of Article 26 of this Law, less than 3 tenders are left, the restricted tendering procedure shall be considered not to have taken place and a notice to the effect shall be within 3 working days sent to the suppliers/contractors who submitted their tenders.

SECTION IV

NEGOTIATED PROCEDURE

Article 28. Conditions of Negotiated Procedure

1. Negotiated procedure may be announced where there is at least one of the following conditions:

1) because of the character and complexity the object of procurement it is not feasible to formulate detailed specifications for the object in order to engage in open or restricted procedure;

2) tendering by open or restricted procedure has not taken place as only 2 tenders have been received;

3) tendering by open or restricted procedure has not taken place since all tenders were rejected as being not in conformity with the requirements of the solicitation document of the open or restricted procedure.

2. Where procurement is engaged in by the contracting authorities specified in paragraph 1(3) of Article 1 of this Law, the negotiated procedure may be chosen without complying with the conditions provided for in paragraph 1 hereof.

3. In the case specified in paragraph 1 (2) hereof the contracting authority may, without publishing invitations for submission of initial tenders for negotiated procedure, engage in negotiated procedure with two suppliers/contractors who have submitted tenders. In such case negotiations shall be engaged in following the procedures indicated in paragraph 4 of Article 29, Articles 30 and 31 of this Law, without substantially changing the terms of procurement.

Article 29. Selection of Suppliers/Contractors for Negotiations

1. For procurement by using negotiated procedure, the contracting authority shall call upon the suppliers/contractors in the manner specified in Article 12 of this Law to submit initial tenders to take part in the selection for participation in the negotiated procedure. The invitation to submit initial tenders must contain the following information:

- 1) the name, code, address, telephone and fax numbers of the contacting authority;
- 2) description of the object of procurement, giving technical and other specifications. When works or services are procured, the place of their performance or provision shall be indicated;
- 3) the documents confirming the qualification data to be presented by the suppliers/contractors;
- 4) the language/languages in which tenders shall be prepared;
- 5) criteria and conditions of tender evaluation;
- 6) the place and deadline for submission of tenders;
- 7) reference to the prior indicative notice of the negotiated procedure to be held, published in the information supplement to the "*Official Gazette*" and/or in the publication with international circulation or specialised publication;
- 8) other information prescribed by the Public Procurement Office.

2. The time limit for the submission of initial tenders fixed by the contacting authority may not be less than 15 days from the day of publishing of the invitation and in cases where a notice of negotiated procedure is published in the publication with international circulation or specialised publication, the time limit may not be less than 37 days from the date of publishing of the invitation.

3. Upon evaluating, according to the criteria set forth in the invitation, the qualification data indicated by the suppliers/contractors in the initial tenders and the proposed conditions of procurement, the Commission shall select at least 3 suppliers/contractors to be invited to take part in negotiations. Where only 2 initial tenders have been received, the Commission shall invite the suppliers/contractors who submitted the tenders to take part in the negotiation procedure, and in case only one tender has been received, the negotiations and procurement may be carried out in the manner laid down in Article 32 of this Law.

4. A written invitation to negotiate dispatched to the suppliers/contractors must contain information on the time, place and proposed language of negotiations.

Article 30. Negotiations with the Selected Suppliers/Contractors

1. The Commission shall have the right to negotiate with the supplier/contractor the contents of tenders.

2. During the negotiations the following conditions must be observed:

1) the parties must not reveal to any other person any technical, commercial or price-related information;

2) the same requirements must be applied with respect to all suppliers/contractors selected by the Commission;

3) minutes of the negotiations must be taken. The minutes of the negotiations shall be signed by the chairman of the Commission and the Commission members who took part in the negotiations.

Article 31. Submission and Evaluation of Final Tenders

1. Having taken account of the negotiation results, the contracting authority shall invite the selected suppliers/contractors to submit final tenders. The invitation to submit final tenders must contain the following information:

1) requirements for the preparation of final tenders;

2) revised description of the object of procurement;

3) the criteria and conditions for the evaluation of tenders;

4) the procedure for discounting the offered price and the rate of discount;

5) the proposed conditions of the contract;

6) the tender security and the security for the performance of the contract;

7) the language/languages, time limits, place, time, methods of the submission of tenders;

8) the procedure for o
9) opening of envelopes;
9) other information prescribed by the Public Procurement Office for the supplier/contractors.

2. The time limit fixed by the contracting authority for the submission of final tenders may not be less than 30 days and in cases where a notice of procurement by using negotiated procedure was published in a publication with international circulation or specialised publication - not less than 40 days from the day of dispatch of the invitation to the selected suppliers/contractors, except where a prior notice of the intended procurement by negotiated procedure was published according to the procedure and within the time limits specified in Article 12 of this Law. In such cases the time limits for the submission of final tender may be reduced to accordingly 20 and 26 days.

3. The successful tender shall be ascertained according to the procedure set forth in Chapter Two, Section II, of this Law.

4. The security of the final tender of the negotiated procedure and the security for the performance of the contract shall be regulated in the manner laid down in Chapter Two, Section II, of this Law.

5. A notice of the successful tender shall be dispatched to all suppliers/contractors who submitted final tenders no later than within 3 working days after the date of the decision taken by the Commission regarding the successful tender.

6. The contracting authority shall award the contract to the supplier/contractor whose tender has been recognised as the successful tender by the decision of the Commission.

SECTION V

PROCUREMENT FROM SINGLE-SOURCE OF SUPPLY

Article 32. Procurement from Single Source of Supply

1. The contracting authority may procure products, works and services by soliciting an offer from a single supplier/contractor with whom the contracting authority may engage in negotiations for substance, price of the offer and terms of contract..

2. Procurement by single-source procedure shall be allowed if:

1) the products, works or services are available only from a particular supplier/contractor or a particular supplier/contractor has exclusive rights in respect of the products, works or services and no reasonable alternative exists;

2) for reasons of extreme urgency, brought about by events unforeseeable by the contracting authorities in question, there is an urgent need for products, works or services and engaging in tendering procedures or any other method of procurement would therefore be impractical;

3) the contracting authority seeks to enter into a contract with the supplier/contractor for the purpose of research, experiment, study or development. The provision shall not apply to cases where the contract includes the production of products in quantities to establish their commercial viability or to recover research and development costs;

4) the contracting authority, having procured products or services from a supplier/contractor, determines that additional supplies must be procured from that supplier/contractor for reasons of standardisation or because of the need of compatibility with existing products or services, taking into account the effectiveness of the original procurement in meeting the needs of the contracting authority, also if the price of the additionally procured products or services does not exceed 30 % of the price of the original procurement, the reasonableness of price of products or services and other terms are not affected, whereas the alternatives to the products or services in question would not be suitable for reasons of technical incompatibility with those originally procured;

5) a contract is to be awarded for additional works or services not included initially in the contract first concluded, but which have through unforeseen circumstances become necessary for the performance of the works or services described therein. The award of the contract may be made to the supplier/contractor to whom the main contract has been awarded and the aggregate estimated value of contracts awarded for additional services/works may not exceed 50 % of the amount of the main contract;

6) tendering by open, restricted or negotiated procedure has not taken place as only one tender has been received. In this case the terms announced in the tendering procedure may not be altered, neither may be the tender price increased;

7) a strategic investor/strategic investors invested in the contracting authority not less than LTL 200 m within 3 years (36 calendar months) after 1 October 1998, and the contracting authority has approved the regulations of procurement engaged in by it.

3. Where the contract value for the procurement of products or services exceeds LTL 150 000 and of works - LTL 500 000, contracts with single source of supply shall be permitted only if at least one of the conditions provided for in paragraph 2 hereof are present and with the authorisation of the Government of the Republic of Lithuania. The provision shall also apply in cases where the contracting authority engages in procurement awarding contracts to single source of supply according to the terms specified in paragraph 2(5) hereof, the aggregate estimated value of original contracts for services and contracts awarded for additional purposes exceeds LTL 150 000 and in case of contracts for works - LTL 500 000. The authorisation of the Government shall not be required for procurement executed by the Bank of Lithuania with the funds of the Bank. Procurement specified herein shall be executed by the Bank of Lithuania upon the resolution of the Board of the Bank of Lithuania. Undertakings operating in the water, energy, transport and telecommunications sectors shall be required to receive authorisation of the Government of the Republic of Lithuania for the procurement of products, services or works the value whereof exceeds the value specified in paragraph 1(3) of Article 1 of this Law. The authorisation of the Government of the Republic of Lithuania shall not be required for the procurement of hot and cold water, electricity, heat, gas supplied by pipeline and wire communications services, also for procurement executed by the undertakings operating in the water, energy, transport and telecommunications sectors according to the requirements of paragraph 2 (2) of this Article. The authorisation of the Government shall not be required for the procurement of raw materials, materials, complementary parts, primary energy resources and services relating to the supply thereof, also special equipment and spare parts necessary for the primary activity of the State Enterprise Ignalina NPP.

4. Procurement under the terms provided for in paragraphs 2(4) and 2(5) may be engaged in for a period not exceeding 3 years.

5. In case of procurement contracts with single source of supply, the tender security and the security for the performance of the procurement contract shall be regulated in the manner set forth in Chapter Two, Section II, of this Law.

6. Upon ascertaining that the supplier's/contractor's tender is responsive and the price is justified and acceptable, the Commission shall make a decision to award the contract to the supplier/contractor.

SECTION VI

REQUEST FOR QUOTATIONS

Article 33. Request for Quotations

1. Procurement by means of a request for quotations may be engaged in provided that all the following conditions are present:

1) there is a competitive supply on the market of readily available goods or services that are not specially produced or provided to the particular specifications of the contracting authority;

2) the estimated value of procurement contract does not exceed LTL 150 000 within a financial year;

3) the criteria for the evaluation of the object of procurement shall be solely the price.

2. The contracting authority shall request quotations from suppliers/contractors according to the procedure laid down in Article 12 of this Law. The request for quotations must contain the following information:

1) name, code, address, telephone and fax numbers of the contracting authority;

2) name, amount, technical and aesthetic, functional and quality requirements of products, services;

3) place, time limits and terms of supply of products, provision of services;

4) that all taxes are to be included in the price. The tender price and the charges for additional services indicated in the tender (transportation, insurance, loading charges) are to be calculated and submitted separately;

5) in what manner, to whom and when the tenders are to be submitted;

6) envelope opening procedure, place and time;

7) other information prescribed by the Public Procurement Office.

3. The time limit for giving price quotations may not be less than 10 days after the date of publishing of request for quotations in the information supplement to the "*Official Gazette*".

4 Each supplier/contractor shall be permitted to give only one price quotation. It shall not be permitted to change the quotation. Price quotations shall be given and envelopes shall be opened according to the procedure set forth in Articles 21 and 24 of this Law.

5. When procurement is engaged in by means of request for quotations, tender security and security for the performance of the procurement contract shall be regulated according to the procedure established in Chapter One, Section II, of this Law.

6. The Commission shall ascertain the supplier/contractor who gave the lowest-priced quotation, announce him as the successful tenderer in the manner set forth in Chapter Two, Section II, of this Law and draw up the draft procurement contract. The contracting authority shall award the procurement contract to the supplier/contractor.

7. Notice of the successful tender shall be dispatched to all suppliers/contractors who gave price quotations no later than within 3 days after the date of the taking of decision by the Commission.

8. If less than 3 tenders are received by the final date fixed by the contracting authority for the submission of tenders or less than 3 tenders remain upon rejection of tenders in accordance with the requirements of Article 26 of this Law, request for quotations shall be considered not to have been issued and a notice to the effect shall be dispatched within 3 working days to the suppliers/contractors who submitted their tenders.

SECTION VII

AWARD OF PROCUREMENT CONTRACT

Article 34. Award and Alteration of Procurement Contract

1. The award and termination of procurement contract shall be governed by the Civil Code of the Republic of Lithuania and this Law.

2. If unforeseeable circumstances evolve, the contracting authority, upon being given authorisation of the Public Procurement Office, shall have the right to terminate all procurement procedures prior to the award of the procurement contract. The contracting authority shall publish a notice to the effect in the information supplement to the *“Official Gazette”*.

3. The contracting authority must award the contract of procurement to the supplier/contractor whose tender is recognised as the successful tender by the Commission and to the supplier/contractor specified in paragraph 6 of Article 32 of this Law. The successful tenderer shall be notified in writing that its tender has been recognised as the successful tender and be indicated the date by which it is to arrive and sign the procurement contract.

4. If the supplier/contractor, who has been given a proposal of contract award, refuses the award in writing or fails to present security for the performance of the procurement contract

prescribed by contract documents or fails to come to sign the procurement contract by the date indicated by the contracting authority, it shall be deemed to have refused the award of the procurement contract. In such event the Commission shall propose awarding the contract to the supplier/contractor whose tender in the descending order of tenders approved by the Commission is next after that of the successful tenderer who refused the contract award.

5. When awarding the procurement contract, the price given in the successful tender, the object of the tender, the requirements for the security of the performance of the contract may not be altered.

6. After the award of the contract the contracting authority shall within 3 working days dispatch a notice of the results of the award procedure. The notice shall indicate the tenderer to whom the contract is awarded, the object of the contract, the price given in the contract and the discounted price.

7. It shall be prohibited to increase the price of procurement throughout the contract validity period or to modify the essential terms of the awarded procurement contract laid down during the tendering procedure, except in cases where the price of procurement is affected by the changes in taxation or where there is an at least 10% change in the market price of products and services and this could not have been foreseen when awarding the procurement contract. In the above cases the contracting authority must receive the authorisation of the Public Procurement Office. The contracting authority may also increase the price of procurement taking into account the price indexation to mitigate inflation in the second and subsequent years, where the awarded contract is for the construction of the entire facility, the duration whereof is over 1 year.

SECTION VIII

REPORT ON THE PROCUREMENT PROCEDURES

Article 35. Report on the Procurement Procedures

1. The contracting authority shall within 10 days from the award of the contract or the termination of procurement procedures present a report on each contract awarded in accordance with the form approved by the Public Procurement Office. The report shall include:

- 1) the name, code, address, telephone number of the contracting authority;
- 2) short description of the object of procurement and value of the contract;
- 3) the names and addresses of the suppliers/contractors who submitted tenders;

4) professional qualifications of the suppliers/contractors who took part in the procurement procedures;

5) price of every tender;

6) description of tender evaluation and comparison and the conclusion of the Commission regarding the successful tender, the name of the successful tenderer (supplier/contractor) and motives for the selection of the tender;

7) where the method of procurement used was other than tendering, grounds for the use thereof;

8) if tenders were rejected - grounds for their rejection;

9) other information prescribed by the Public Procurement Office.

2. The information specified in subparagraphs 2 and 3 of paragraph 1 hereof shall be furnished to every person who requests for it.

3. The information specified in subparagraphs 4-8 of paragraph 1 hereof shall be furnished to the suppliers/contractors who request for it.

4. The contracting authority and the Commission shall have no right to release information on the contract performance where the release would be contrary to law, would prejudice the legitimate commercial interests of third parties or might prejudice fair competition.

5. The performed procurement contracts, minutes and other procurement related documents shall be preserved in the manner prescribed by the Law of the Republic of Lithuania on Archives.

CHAPTER THREE

EXAMINATION OF COMPLAINTS AND PAYMENT OF DAMAGES

Article 36. The Right of the Supplier/Contractor to File a Claim or Lodge a Complaint about the Actions or Decisions of the Contracting Authority

1. Every supplier/contractor who has an interest in procurement and believes that the contracting authority has not complied with the requirements of this Law and violated his lawful interests, shall have the right to file a claim or lodge a complaint about the actions or decisions of the contracting authority in the manner and within time limits set forth in Articles 37-41 of this Law, prior to the adoption by the Commission of the decision on the successful tender.

2. The supplier/contractor who objects to the Commission's decision regarding the recognition of the successful tender or believes that the awarded procurement contract violates his lawful interests shall have the right to apply to court in the manner established by law.

Article 37. The Procedure and Time Limits for the Filing and Examination of Claims

1. Claims shall be filed with the contracting authority in writing within 5 days from the day the supplier/contractor became aware or should have become aware of the violation of his lawful interests.

2. The contracting authority shall review only those claims of the suppliers/contractors which have been received before the adoption by the Commission of the decision on the successful tender.

3. Upon receiving the supplier's/contractor's written claim, the contracting authority shall suspend procurement procedures until the claims are fully examined and a decision is taken. Procurement procedures shall not be suspended upon receipt of the authorisation of the Public Procurement Office if, upon suspension of the procurement procedure, the supplier/contractor would sustain much heavier losses than those which could be sustained by the supplier/contractor who filed the claim.

4. The contracting authority must extend the time limits of procurement procedures for the period of suspension of procurement procedures. After a decision on the claim is taken the procurement procedures shall be continued. In case the time limits of procurement procedures notified to the suppliers/contractors are changed due to consideration of claims, the contracting authority shall dispatch to suppliers/contractors a notice to the effect, indicating the reasons for the extension of time limits.

5. The contracting authority must examine the claims and take a justified decision within 5 days of the receipt of the claim as well as notifying the supplier/contractor who filed the claim of the taken decision not later than on the next working day.

6. If the contracting authority fails to consider the claims within the time limit specified in paragraph 5 hereof, or rejects the claims, the supplier/contractor may file a complaint with the Public Procurement Office.

Article 38. Procedure and Time Limits for Filing Complaints

1. The supplier/contractor shall have the right to file a complaint with the Public Procurement Office without filing a claim with the contracting authority.

2. The complaint shall be filed within 10 days from the day when the supplier/contractor became aware or should have become aware of the violation of its lawful interests or within 5 days from the receipt of the decision of the contracting authority on the examination of the claim or, in case the decision was not received, within 5 days of the expiry of the time period set in Article 37 of this Law for the examination of claims.

3. Upon receipt of the supplier's/contractor's complaint, the Public Procurement Office shall organise examination of complaints at the Independent Commission for the Examination of Complaints Relating to Public Procurement.

4. Upon receipt of the supplier's/contractor's complaint, the Public Procurement Office must not later than on the next working day notify the contracting authority of the receipt of the complaint. Upon receipt of the notification of the Public Procurement Office regarding the complaint filed by the supplier/contractor, the contracting authority must suspend procurement procedures. The procedures shall be resumed only upon authorisation of the Public Procurement Office.

5. The contracting authority must extend the time limits of procurement procedures for the period the procedures are suspended. If the time limits of procurement procedures of which the suppliers/contractors were earlier notified are extended by reason of the complaint examination, the contracting authority shall send a notice to the effect to other suppliers/contractors and specify the reasons for the extension of the time limits.

Article 39. Form and Contents of Complaints

1. Complaints shall be filed with the Public Procurement Office in writing. The complaint shall indicate:

- 1) the name, address and code of the supplier/contractor;
- 2) the name, address and code of the contracting authority the actions or decisions whereof are the object of complaint;
- 3) unlawful actions or decisions of the contracting authority and the legal acts or circumstances which prove the unlawfulness thereof;
- 4) full name of the member of the Independent Commission for the Examination of Complaints Relating to Public Procurement, selected by the supplier/contractor;
- 5) the requirements of the supplier/contractor.

2. The supplier/contractor shall attach to the complaint the documents substantiating the complaint.

Article 40. Independent Commission for the Examination of Complaints Relating to Public Procurement

1. The Independent Commission for the Examination of Complaints Relating to Public Procurement (hereinafter referred to as the Independent Commission) is a Commission for the examination of complaints filed by the suppliers/contractors, whose functioning is governed by this Law and the regulations approved by the Government of the Republic of Lithuania.

2. Candidates to the members of the Independent Commission shall be nominated by state and municipal institutions, associations, public organisations.

3. The Public Procurement Office shall draw up and approve the list of the Independent Commission members from the nominated candidates, to be published in the information supplement to the “*Official Gazette*”.

4. The requirements for the members of the Independent Commission and the requirements for the drawing up of their list (the entry of members on the list and their removal from the list) shall be laid down by the Public Procurement Office.

5. The procedure of remuneration of the Independent Commission members for their work and the procedure for covering the costs of complaint examination at the Independent Commission shall be established by the Government of the Republic of Lithuania.

Article 41. The Procedure and Time Limits of Complaint Examination

1. The Independent Commission shall examine only those complaints of the suppliers/contractors which are received prior to the adoption of the decision by the Commission regarding the successful tender and filed in compliance with the requirements of Articles 38 and 39 of this Law.

2. The complaints shall be examined by 3 members of the Independent Commission, of whom the supplier/contractor, the contracting authority and the Public Procurement Office shall each select one member from the list of the Independent Commission members provided for by Article 40 of this Law. The Public Procurement Office shall appoint the Chairman of the Independent Commission from the selected members.

3. Upon receipt of a complaint the Public Procurement Office shall within 3 days address the contracting authority requesting that the latter select, within a 3-day period, a member of the

Independent Commission. If the contracting authority fails to select a member within the prescribed time period, the member of the Independent Commission shall be appointed by the Public Procurement Office.

4. The Independent Commission must examine the complaint within 20 days from the receipt thereof by the Public Procurement Office. The Public Procurement Office may extend the time limit for the examination of the complaint for no longer than 20 days.

5. Upon examining the complaint, the Independent Commission shall have the right to:

- 1) refuse to meet the complaint and dismiss it;
- 2) meet the complaint and obligate the contracting authority to cancel or alter the decisions or actions;
- 3) meet the complaint and terminate the procurement procedures.

6. After the Independent Commission makes decisions provided for in subparagraphs 2 and 3 of paragraph 5 hereof, the Public Procurement Office, if it believes that the elements of crime are present, shall notify the State Control or the appropriate law enforcement institutions thereof.

7. The conditions and procedure of complaint examination and removal of the Independent Commission members from complaint examination shall be established by the Government of the Republic of Lithuania .

Article 42. Appealing against the Actions of the Public Procurement Office and the Decisions of the Independent Commission

The supplier/contractor and the contracting authority shall have the right to appeal to court according to the procedure prescribed by law against the actions of the Public Procurement Office and the decisions of the Independent Commission.

Article 43. The Right of the Supplier/Contractor to Recover Damages

If the contracting authority fails to fulfil the requirements set forth by this Law and other legal acts or violates the supplier's/contractor's rights, the supplier/contractor shall have the right to bring an action for damages.

Article 44. Liability of the Supplier/Contractor

If the supplier/contractor presents forged documents or false data to the contracting authority or fails to fulfil the requirements of this Law and other legal acts, the contracting

authority may sue the supplier/contractor for damages in accordance with the procedure established by law.

Article 45. Liability of the Executives or other Authorised Persons of the Contracting Authority

The executives or other authorised persons of the contracting authority (Commission members and experts) who violate this Law shall be held liable in accordance with the procedure established by law.

CHAPTER FOUR

FINAL PROVISIONS

Article 46. Coming into Effect of the Law

1. The Law shall come into effect as of 1 October 1999, except for CHAPTER THREE which shall come into effect as of 1 January 2000.

2. Procurement, a notice whereof was announced (by publishing an invitation in the press or dispatching the same to the suppliers/contractors) prior to the coming into effect of this Law, shall be performed and complaints, received prior to the coming into effect of Chapter Three of this Law shall be examined in accordance with the provisions of the Law of the Republic of Lithuania on Public Procurement No.I-1491, enacted on 13 August 1996.”

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS