

THE LAW OF THE REPUBLIC OF AZERBAIJAN
ON GOVERNMENT PROCUREMENTS

This Law defines the economic, legal and organizational basis for government procurement in the Republic of Azerbaijan, establishes the principles and rules for the rational and economical use of state funds during procurement, creating an equal competitive environment for all suppliers (contractors) on the basis of competition and publicity.

Section 1

GENERAL PROVISIONS

Article 1. Scope of the Law

1.1. This Law, considering the provisions of Clause 1.2. of this Law, applies to procurement of goods (works and services) by state enterprises and entities (institutions) in the Republic of Azerbaijan, the enterprises and entities whose State share in the authorized fund is 30 percent or more, by means of state funds received by the state and guaranteed state loans and grants.

1.2. Procurement of foodstuffs by state enterprises (institutions) in a centralized order (except for wheat procured for State Grain Stock Fund) at the expense of State Budget is carried out in an order fixed by conforming executive authority.

Article 2. Basic Definitions

The definitions used in this Law express the following meanings:

procurement - the purchase of goods (works and services) at the cost of State funds by the methods established by this Law;

procuring entity - state enterprises and entities (institutions) procuring the goods (works and services) at the cost of state funds, the enterprises and entities the share of which in the authorized capital is 30 percent or more;

tender - a competition held in order to select the most effective of the bids submitted *in hard copy or in electronic format* by bidders for fulfillment of the procurement contract;

goods - products with certain quantitative and qualitative features, products that are in solid, liquid or gaseous state, equipment, raw materials, as well as electrical energy;

works - design, construction, reconstruction, demolition, repair of a building, structure or object, including preparation of a construction site, installation of equipment, construction, erection, finishing

or excavation works, as well as associated drilling, geodetic, scientific design, exploration, publishing and printing works, satellite surveys, seismic surveys and other works carried out on the basis of a procurement contract;

services - any item of purchase other than goods and works;

supplier (contractor) - potential or actual party to the procurement contract concluded with the procuring entity;

bidder - legal or natural persons or an association of legal entities that submitted a bid on the basis of tender conditions who have paid for participation fee in the tender;

bid guarantee - a guarantee of the bid commitments made by the bidder to the procuring entity. Such a guarantee can be a bank guarantee, letter of credit, securities, cash, deposits and other financial assets;

tender commission - a temporary working group established by the procuring entity and carrying out the tender procedures on its behalf;

a set of the basic terms of the tender - a document submitted to bidders reflecting the tender conditions of the procurement organization;

procurement contract - a document concluded between the procuring entity and the winner (winners) of the tender and establishing the obligations of the parties in connection with the procurement of goods (works and services);

performance bond for procurement contract - a guarantee of performance of obligations under the procurement contract provided by the winner (s) of the tender of the procurement organization. Such a guarantee can be a bank guarantee, letter of credit, securities, cash, deposits and other financial assets;

favorable adjustment - *a privilege applied by procuring entity in accordance with Clauses 36.9 and 44.2 of this Law for local suppliers (contractors);*

state funds - funds of the state budget of the Republic of Azerbaijan, loans, grants, foreign aid received on the basis of international agreements and contracts concluded by the state, funds of extra-budgetary funds financed from the organization's budget and other funds classified by the law as state funds.

issuer - financial structure that guarantees the bid of the supplier (contractor), its obligations to fulfill the procurement contract and other payment documents;

estimated price of goods (works and services) - average market price of goods (works and services), established by the procuring entity before the tender is released in accordance with current legal documents.

unified Internet-portal of government procurements – *a unified electronic information system formed and the activity of which is secured by an authority defined by the conforming executive power, where the invitations about the procurement procedures and the results of those procedures*

are published, a unified register of procurement contracts and unqualified suppliers (contractors) is maintained, securing the realization of government procurement through electronic means, containing the legislation that regulates government procurement and integrated to the electronic information system of an authority (unit) defined by the conforming executive power;

***electronic procurement** – a procurement procedure securing the automatic evaluation of bids submitted by suppliers (contractors), held through the unified Internet portal of government procurement in a real time mode, applied by the procuring entity for selecting the bid won in the bidding;*

***procurement plan** – a document drawn up by the procuring entity, containing the information about the composition, volume, quantity and size of the goods (works and services) to be procured during one budgetary year pursuant to this Law and placed in the unified Internet portal in an electronic form reflecting the sequence of government procurement and its distribution during the calendar year.*

***attracting the bids** – a call given for participation in tender, in the procedure of determining the prequalification, in the procedure of bids request or in electronic procurement.*

Article 3. The legislation of the Republic of Azerbaijan on government procurement

Relations associated with government procurement are governed by this Law, other laws and regulations of the Republic of Azerbaijan.

Article 4. The conforming executive authority for government procurement

4.1. The conforming executive authority for government procurement implements the state procurement policy for goods (works and services) at the expense of state funds and to this end, it:

4.1.1. participates in the creation and improvement of the regulatory framework governing the government procurement in the Republic of Azerbaijan. It prepares the rules, instructions, other documents on government procurement and submits them to the conforming executive authorities for approval;

4.1.2. monitors the legality of procurement goods (works and services) on a competitive basis at the expense of state funds and the execution of contracts, considers controversial issues, if a violation of the law is detected, suspends the procurement procedures for up to 7 banking days and, if necessary, brings a question to the procuring entity to annul the results of tender;

4.1.3. considers the controversial issues in government procurement procedures, in cases of violation of the law, takes measures in accordance with the provisions of this Law;

4.1.4. provides the procurement entities with methodological and organizational assistance in organizing and conducting the government procurement, making recommendations, creating courses to improve the professional level of specialists, holding seminars and conferences, preparing conforming teaching materials;

4.1.5. establishes the rules for compiling the reports on government procurement, ensures that the public is informed of regulatory legal acts, documents and information governing the government procurement;

4.1.6. prepares and submits the annual reports on government procurement to the conforming executive authorities.

4.1.7. creates the official Internet site (hereinafter referred to as “an official Internet site”) of government procurements where the advertisements on tenders, bids request and quotation request and the information on their results are placed;

4.1.8. renders a methodical assistance and gives consultations to procuring entities, suppliers (contractors) for their access to unified Internet portal;

4.1.9. takes measures for protecting the security of information resources existing in unified Internet portal of government procurements.

4.2. If officials and other responsible employees of the executive authority for government procurement do not fulfill their official duties, they bear responsibilities in accordance with the conforming legislation.

Article 4-1. Planning the government procurements

4-1.1. the procuring entity develops and confirms the initial procurement plan for subsequent year not later than the 15th of October of current year and places it in the unified Internet portal. The initial procurement plan is effective until the state budget of the Republic of Azerbaijan is confirmed for subsequent year.

4-1.2. the procuring entity confirms that plan and places it in the unified Internet portal of government procurements by making rectification in the initial procurement plan within the following 10 banking days after approval of state budget of the Republic of Azerbaijan for subsequent year and receiving the budgetary index numbers.

4-1.3. The following information is reflected in the annual procurement plan:

4-1.3.1. the name of procurement organization;

4-1.3.2. the name, volume, quantity and size of goods (works and services) to be procured;

4-1.3.3. sequence, distribution per calendar year of procurement and the method of procurement;

4-1.3.4. the venue of planning and terms of goods delivery, execution of works, rendering services.

4-1.4. The procuring entity is entitled to make adjustment in procurement plan, provided that it wouldn't be more than once a month. The decision on making adjustment in procurement plan by the procuring entity is placed in the unified Internet portal of government procurements within 5 banking days by indicating the information about it and legal ground caused the adjustment.

4-1.5. The Clauses 4-1.1– 4-1.4 are not applicable to the procurements held for defense and national security needs.

4-1.6. The procuring entity arranges the procurement procedures in accordance with the approved procurement plan. In case of urgent need arises for purchase of any goods (work and services) not included in the procurement plan, the procuring entity may perform the procurement of those goods (work and services), provided that it is approved by the authority (unit) assigned by the conforming executive authority.

4.1.7. Pursuant to this Clause, placing the procurement plan in unified Internet portal of government procurements doesn't imply an involvement of bids, doesn't impose any commitments in regard to procuring entity to attract the bids and doesn't entitle the suppliers (contractors) in any way, accordingly.

Article 5. Entry into force of the procurement contract and notification of the public in regard to it

5.1. During the application of tender procedures, the acceptance of bid and the entry into force of the procurement contract are carried out in accordance with Article 40 of this Law.

5.2. During the application of all other procurement methods, suppliers (contractors) are notified of the rules for the entry into force of the procurement contract upon receipt by the procuring entity of a request related to bids, offers or quotations.

5.3. The information on the procurement contract concluded as a result of the tender is published within 5 banking days in the press organ, where the bid issue of the tender is given and is placed in the official Internet site. The terms and conditions, as well as the results of government procurement are publicized in a way fixed by the legislation.

Article 6. Requirements for prequalification of suppliers (contractors)

6.1. This Article applies to determining and evaluating the qualifications of suppliers (contractors) by tender commission at any stage of the procurement procedures for.

6.2. The qualifications of suppliers (contractors) must meet the following criteria for participation in the procurement procedures:

6.2.1. professionalism, experience, technical and financial capabilities, availability of labor, competence in management, reliability in the conforming field to ensure the execution of the procurement contract;

6.2.2. authority to conclude the procurement contract;

6.2.3. the possibility of free and unrestricted use of their property, as well as solvency;

6.2.4. the suppliers (contractors) should not be declared bankrupt, their property should not be seized, they should not have a pledge payable, should not be persons whose commercial activities were suspended by a court decision;

6.2.5. the absence of obligations on taxes and other obligatory payments in the Republic of Azerbaijan, the fulfillment of which is overdue;

6.2.6. no convictions for 5 years preceding the commencement of procurement procedures, for a crime related to their professional activities, as well as professional activities of the managers of their activities, employees or incorrect indication of their qualifications to conclude a procurement contract, or the absence of a prohibition on conforming professional activities in court order.

6.2.7. having a license or permission for fulfilment of conforming type of enterprising activity or execution of definite actions.

6.3. The Procuring entity may, taking into account the right of suppliers (contractors) to protect their intellectual property or commercial secrets, require documentary evidence or other information from them confirming that they possess the prequalification indicators in accordance with the criteria specified in Clause 6.2 of this Law.

6.4. The requirements corresponding to this Article are commented in determining of prequalification compliance documents (when conducting the determining of prequalification procedure) or in the set of basic tender conditions or in other documents related to inviting bids, offers or quotations, and apply to the same extent to all suppliers (contractors). The procuring entity may not establish certain criteria, requirements or procedures related to the qualifications of suppliers (contractors) that are not provided for in this Clause.

6.5. The procuring entity evaluates the qualification indicators of suppliers (contractors) on the basis of criteria and qualification conformity procedures, commented in the documents on determining of prequalification and in the set of basic tender conditions or in other documents related to the attraction of bids, offers or quotations.

6.6. Taking into account the Clauses 8.1, 36.9, 44.2 of this Law, the procuring entity does not establish the criteria, requirements or procedures that cause discrimination among the suppliers (contractors).

6.7. If the procuring entity at one time or another finds that the supplier (contractor) has provided fictitious information about the indicators of its qualifications, it removes that supplier (contractor) from the tender.

6.8. If essentially insignificant inaccurate and incomplete information provided by the supplier (contractor) about the indicators of his qualifications is immediately eliminated at the request of the procuring entity in the manner prescribed by this Law, this supplier (contractor) cannot be removed from the tender.

6.9. In the course of the procurement procedures, the procuring entity may require the approval and execution of documents in accordance with the procedure stipulated by the legislation of the Azerbaijan Republic reflecting the qualifications of the bidder.

Article 7. Determination of prequalification of suppliers (contractors)

7.1. The procuring entity may, before submitting the bids or offers, conduct procedures for determining prequalification of suppliers (contractors).

7.2. When conducting the prequalification procedures, the procuring entity submits or sends a set of documents related to these procedures to the supplier (contractor) who addressed and paid for participation (if any).

7.3. The set of documents related to defining of prequalification procedures include:

7.3.1. instructions on preparation and submission of bids related to the procedures for determining the prequalification;

7.3.2. review of the main terms and conditions of procurement contract to be concluded as a result of the procurement procedures;

7.3.3. the method, place and deadline for submission of documents for determining the prequalification with an indication of the specific day and time of preparation and submission by suppliers (contractors) of their bids;

7.3.4. in accordance with the laws on procurement – the other requirements related to the preparation of the presentation of documents and the procurement organization's procedures for determining the prequalification;

7.3.5. the information to be specified in the invitation to participate in the tender in accordance with Clauses 26.1.1, 26.1.2, 26.1.7 - 26.1.10 and 26.1.13 of this Law;

7.3.6. the information provided for in Clauses 42.1.1 - 42.1.3, 42.1.6, 42.1.14, 42.1.17 of this Law.

7.4. In order to provide an opportunity for the supplier (contractor) to submit its bid to determine the prequalification, the procuring entity must respond to any request within 3 banking days. The answer to a particular request is sent to suppliers (contractors) who received documents on the definition of prequalification, without notifying who the request was sent by.

7.5. When deciding on the qualification indices of the supplier (contractor) who submitted a bid for determining prequalification, the procuring entity shall be guided only by the criteria established by this Law.

7.6. The procuring entity notifies the supplier (contractor) of the results of determining the prequalification. The suppliers (contractors) that have passed the prequalification procedure may continue to participate in tenders.

7.7. The procuring entity provides to suppliers (contractors) who have not passed the procedure for determining prequalification, a reasonable information about this.

7.8. The procuring entity may require the supplier (contractor) who has passed the qualification eligibility procedure to re-confirm their qualifications. The supplier (contractor), who has not confirmed its qualification indicators anew, is suspended from the tender. Each supplier (contractor) who has received a request for reconfirmation of indicators of its qualifications and has responded to this request is promptly notified of the extent to which the indicators of his qualifications suit the procurement organization.

Article 8. Participation of suppliers (contractors) in government procurement

8.1. All legal entities or individuals or associations of legal entities that are resident and non-resident, regardless of state affiliation, may participate as bidders in government procurement procedures, except in cases specified in regulatory documents governing the government procurement.

8.2. When limiting the participation of suppliers (contractors) in state-owned procurement procedures, the procuring entity comments on the reasons for this in the report on procurement procedures.

8.3. Taking into account the provisions of Clause 8.1 of this Law, when inviting the suppliers (contractors) to participate in the procurement procedures, the procuring entity cannot subsequently remove them from the procurement procedures in view of state affiliation.

Article 9. Procurement Notice Forms

9.1. The documents, notifications, decisions and other information provided for by this Law, sent by the procuring entity and suppliers (contractors) to each other, shall be submitted in writing.

9.2. The supplier (contractor) or the procuring entity may transmit the information provided for in Clauses 7.4, 7.6, 11.4, 28.4, 32.2, 33.3, 36.1, 36.2, 40.1, 41.3, 47.1 and 47.2 of this Law, by means of communication that does not allow the recording of their contents. At the same time, written confirmation of the information is promptly communicated to the receiving party.

9.3. The procuring entity does not allow discrimination among suppliers (contractors), regardless of the form in which the documents, notifications, decisions and other information were sent or received.

9.4. *The procuring entity must inform the suppliers (contractors) of the following when attracting them to procurement procedure:*

9.4.1. data transmission form;

9.4.2. the requirements for security of such information in regard to confidential information during procurement;

9.4.3. the methods of data transmission to supplier (contractor) by procuring entity or on behalf it, as well as to procuring entity by suppliers (contractors);

9.4.4. the method of securing the requirements envisaged in this Law in regard to written information and signatures.

9.5. The procuring entity uses the communication means securing a handy communication with suppliers (contractors) during any particular procurements. The procuring entity creates a complete and equal participation opportunities for suppliers (contractors) during any meeting and sessions.

Article 10. Report on procurement procedures

10.1. The procuring entity shall compile a report on the procurement procedures with the following information:

10.1.1. a brief description of the procured goods (works and services);

10.1.2. the names and addresses of the suppliers (contractors) who submitted bids, offers or quotations, the name and address of the suppliers (contractors) with whom the procurement contract is concluded, the cost of that contract;

10.1.3. the information on qualifications indicators of suppliers (contractors) who submitted bids, offers or quotations, or a note about the absence of such information;

10.1.4. the estimated price of the procured goods (works and services) or the basis for its establishment, a brief overview of the other main conditions of each bid, offer, quotation and procurement contract;

10.1.5. a brief description of the evaluation and comparison of the bid, offer or quotation, including the application of a favorable adjustment in accordance with Clauses 36.9 and 44.2 of this Law;

10.1.6. in accordance with Article 11 of this Law, if all bids, offers or quotations are rejected, information about this with indication of the conforming grounds;

10.1.7. if, as a result of the procurement procedures conducted using the procurement methods, other than an open tender, the contract will not be concluded, a notification thereof indicating the conforming grounds;

10.1.8. in case of rejection of the bid, offer or quotation on the basis of clauses 12 or 13 of this Law, a notification thereof;

10.1.9. when using the procurement method in accordance with Clauses 16.2 and 16.3 of this Law - commenting on the circumstances taken as the basis by the procuring entity for choosing the used procurement method;

10.1.10. when a procuring entity restricts the participation of suppliers (contractors) in procurement procedures for state affiliation in accordance with Clause 8.2 of this Law, commenting on the circumstances by the procuring entity taken as the basis for applying such a restriction;

10.1.11. review of one or another request for clarification of prequalification documents or tender documents, responses to such requests, as well as any changes in these documents.

10.1.12. If a decision is taken on application of other procurement methods in the cases envisaged in Clause 50-1.1. without holding an open bidding through electronic procurement, the reasons and conditions substantiating it;

10.1.13. in case of holding the procurements through unified Internet portal of government procurements, the information about opening and closing time and date.

10.2. After acceptance, taking into account Clause 35.2 of this Law, the parts of the report on procurement procedures specified in Clauses 10.1.1 and 10.1.2, and also depending on the conditions - the bid, offer or quotation or upon completion of the procurement procedures that did not lead to the conclusion of the procurement contract, they can be transferred upon request to the interested person.

10.3. After acceptance, taking into account Clause 35.2 of this Law, the parts of the report on procurement procedures, bids, offer or quotation specified in Clauses 10.1.3 - 10.1.7 and 10.1.11 or upon completion of procurement procedures that did not lead to the conclusion of the procurement contract, are specified upon request, to suppliers (contractors) who have submitted a bid, offer or quotation or submitted a bid for determining prequalification. Except as provided by law, the procuring entity does not disclose the following information:

10.3.1. the information, the disclosure of which is not in the state interest, is detrimental to the commercial interests of the parties or interferes with fair competition;

10.3.2. the information relating to the study, evaluation and comparison of bids, offers and quotations, except for the review of the information provided for in Clause 10.1.5 of this Law.

Article 11. Failed tender, as well as refusal to continue it

11.1. If the number of bidders who have submitted a bid for participation in a tender is less than three, the procuring entity refuses to continue the tender and publishes information about it in the press where the bid issue is given within 5 banking days.

11.2. In order to protect the state interests, the procuring entity may decide to reject all bids, offers and quotations before acceptance in the following cases:

- if a transaction between bidders is revealed during the tender procedures, aimed at raising the price;
- if the bids do not correspond to the set of basic conditions of the tender;
- in case of suspension of financing of the tender subject.

This decision must be approved by the conforming executive authority. The procurement organization, on the basis of a request from the supplier (contractor) who submitted the bid, offer or quotation, notifies it of the rejection of all bids, offers or quotations.

11.3. The procuring entity shall not be liable to suppliers (contractors) who have submitted a bid, offer or quotation for the application of Clauses 11.1 and 11.2 of this Law.

11.4. Notification of rejection of bids, offers and quotations shall be immediately sent to all suppliers (contractors) who submitted them.

11.5. In case of refusal to continue the tender or rejection of all bids, offers and quotations, the procuring entity may release a bid proposals a new tender for the procurement of these goods (works and services) or, without changing their essence, divide them into parts, if the features of the procured goods (works and services), and hold a separate tender for each part. The amount of divided parts may not be lower than the amount established by the conforming executive authority.

Article 12. Cases of falsification in state procurement

In the event that the procuring entity determines that the supplier (contractor) is engaged in falsification in order to influence over making a decision related to the procurement procedures, and this is confirmed by the conforming executive authority, it:

- rejects the bids, offers and quotations submitted by that supplier (contractor);
- prohibits the participation of the supplier (contractor) in further procurement procedures for an indefinite period or for a period established by the conforming executive authority;
- submits the information to the conforming competent authorities for the investigation of the facts of falsification;
- indicates the rejection of the bid, offer or quotation and the reasons for the rejection, and promptly notifies the supplier (contractor) thereof in the report on procurement procedures.

Article 13. Conflict of interests in government procurement

13.1. The participation of suppliers (contractors) who are in legal, financial or organizational dependence on the procuring entity in the procurement procedures conducted by that entity is not allowed.

13.2. In the course of the procurement procedures, the following persons cannot be representatives, consultants of the procuring entity and executing other procurement-related duties:

13.2.1. having direct kinship, custodial, guardianship or relations related to adoption, founding and dependency, with a representative or official of the bidder participating in procurement procedures;

13.2.2. who was an employee or an officer of the bidder participating in the procurement procedure during the three years preceding the procurement procedure.

13.3. The persons who are employees of the supplier (contractor), the parent enterprise to which it subordinates to, or its branch (representative office) cannot be involved in the preparation of documents on procurement procedures.

13.4. The refusal of bid, offer or quotation for the reasons specified in this Article and its reasons shall be indicated in the report on the procurement procedures and instantly reported to the supplier (contractor).

Article 13-1. Code of conduct

13-1.1. The Code of Conduct of public officials involved in government procurements is approved by the authority (unit) assigned by conforming executive power. The approved code of conduct is published instantly in unified Internet portal and in mass media for the purposes of its publicity. The following matters are reflected in the Code of Conduct:

13-1.1.1. elimination issues concerning the conflict of interests in the field of conflicts of interests;

13-1.1.2. declaring if the functionaries involved in government procurements have interests in specific procurements;

13-1.1.3. the responsibility and professional qualification of functionaries involved in government procurements fixed by the legislation and its inspection procedure.

Article 14. Requirements for the description of goods (works and services)

14.1. Some specific features of the goods (works and services), plans, drawings, sketches, requirements or descriptions should be based on the objective technical indicators and indicators of the quality of the purchased goods (works and services).

14.2. Certain features, plans, drawings and sketches, the requirements relating to testing and testing methods, packaging, marking, labeling or certification, as well as symbols and terms or description services that prevent the bidders from participating in procurement procedures or restricting this participation, including those that discriminate on the grounds of State affiliation, reflecting the technical indicators and indicators of quality of procured goods (works and services), are not included

in the qualification documents, in the set of basic tender conditions or in the documents on the involvement of bids, offers or quotations, and they are not used.

Article 15. The language of documentation in government procurements

The set of documents for determining the prequalification, a set of basic tender conditions, documents on involving the bids, offers and quotations should be made in the state language of the Republic of Azerbaijan. If necessary, the noted documents can be translated into one of the languages widely used in international trade.

Section II

TERMS OF APPLICATION OF PROCUREMENT METHODS

Article 16. Procurement Methods

16.1 State procurement of goods (works) and services in the Republic of Azerbaijan is carried out using the methods of open tender, two-stage tender, limited participation tender and closed tender, request for bids, request for quotations and procurement from one source, depending on the conditions of use noted in Clauses 17-21 of this Act. *In the cases stipulated in Article 50-1 of this Law the state procurements are held through electronic procurement by applying an open tender method.*

16.2 The procuring entity uses the other procurement methods based only on the terms and conditions stipulated in Clauses 18, 19, 20, 21 of this Law during the procuring of goods (works) in addition to open tender procedures.

16.3. Except for the following cases, the procuring entity applies the procurement method established by Section V when procuring the services:

16.3.1. if the detailed formulation of the features is possible from practical point of view and the implementation of open tender procedures in view of the technical nature of the procured services is more expedient;

16.3.2. if using the procurement methods provided for in Clauses 18-21 of this Law is more expedient, as well as if the conditions for their use are met.

16.4. If the procuring entity uses a particular procurement method in accordance with Clauses 16.2 and 16.3 of this Law, it includes the commentaries of circumstances taken as the basis for choosing this method in the report on the procurement procedures.

Article 17. Open tender

17.1. If the estimated price of goods (works and services) exceeds the minimum amount set by the conforming executive authority, they are procured through an open tender.

17.2. If the estimated price of goods (works and services) is lower than the amount provided for in Clause 17.1 of this Law, the procuring entity shall use any method of procurement. The procuring entity cannot split the procurement of goods (works and services) into separate contracts (that is, separate parts) for the purpose of eliminating the amount limit for the application of this Article within one budgetary year at the expense of funds foreseen in conforming costs items.

17.3. Realization of goods (works and services), the estimated price of which is higher than the amount provided for in Clause 17.1. of this Law, through the use of other methods of procurement can be carried out only with the condition of approval by the conforming executive authority.

Article 18. Two-stage tender or request for bids

18.1. The procurement entity may use a two-stage tender procedures during the procurement in accordance with Section 46 of this Law or request for bids in accordance with Section 48 in the following cases:

18.1.1. if the procuring entity cannot determine the detailed particularities of the goods (works and services), in order to make the most acceptable decision to satisfy its demand for purchases, it:

- attracts the bids, requests for bids or offers in connection with various possible ways to ensure its demand;
- conducts discussions with suppliers (contractors) in connection with the technical nature of the goods (works) or features of services.

18.1.2. if the procuring entity intends to conclude contract for the purpose of conducting scientific researches, experiments, searches or investigations (save for the cases foreseen for production of goods in satisfactory quantity for reimbursement of expenses incurred for investigation and researches or securing the profit in the contract).

18.2. The procuring entity, besides the aforesaid, may apply the bids requests method to a greater extent during procurements in the following situations:

18.2.1. If an urgent demand arises for procurement of goods (works and services) and application of open tender procedure or other methods of procurement aren't considered as practically reasonable where that demand isn't an outcome of failure in regard to intentional prolongation of procurement process by the procuring entity and the prediction of such a situation is impossible.

Article 19. Tender with limited participation and closed tender

19.1. The procuring entity holds a tender with limited participation or a closed tender in accordance with Article 47 of this Law.

19.2. The tender with limited participation is used in the following cases:

19.2.1. when conforming goods (works and services) due to their extreme complexity or a special characteristics are available to potential suppliers (contractors) only in limited quantities;

19.2.2. if there is not a proportionality between the time and expenses required for consideration and evaluation of numerous bids and the cost of goods (works and services) to be procured.

19.3. If the goods (works and services) are provided for the needs of defense and national security, the procuring entity applies a closed tender. Procurement of clothing, ~~food~~, items, inventory, medical equipment, medical supplies, official/company vehicles, repair and construction work for these needs are conducted by an open tender.

Article 20. Conditions for the use of a request for quotations

20.1. For procurement of goods (works and services) that have an existent market, the estimated price of which is lower than the minimum amount set by the conforming executive authority, the procuring entity may use the request for quotations in accordance with Article 49 of this Law.

20.2. The reference to Clause 20.1 of this Law cannot serve as a basis a procuring entity for splitting the procurements into separate contracts (that is, the division of goods, works and services into separate parts).

Article 21. The conditions for using the method of procurement from a single source

21.1. The procuring entity may use the single-source procurement method when approving by the conforming executive authority in accordance with Article 50 of this Law in the following cases:

21.1.1. if the procured goods are only at a specific supplier (contractor) or any specific supplier (contractor) has special rights over these goods (works and services), in the absence of their substitutes or alternatives;

21.1.2. if there is an urgent demand for goods (works and services) and the inexpediency of tender procedures or the use of any other method of procurement; when it is impossible to foresee in advance the cases that led to the urgency of demand or if such cases are not the result of a delay committed by the procuring entity.

21.1.3. in the event of an urgent demand for these goods (works and services) in connection with emergency situations, with the inexpediency of using other methods of procurement in terms of the time spent on them;

21.1.4 after procuring the goods, equipment, technology or services by the procuring entity from any supplier (contractor), it comes to a conclusion that it procured those goods from that particular supplier (contractor) due to the necessity of ensuring its prequalification with the implications in regard to standardization or existing goods, equipment, technology or services.

Section III

ARRANGING THE PROCUREMENTS

Article 22. Preparation stages of procurements

22.1. For arranging the procurements, a procuring entity:

- forms the tender commission;
- prepares a set of basic conditions of the tender;
- it gets the bid issue published after approval of set of basic terms and conditions and bid issue or sends an individual invitation to suppliers (contractors) for participation in the bidding.

22.1-1. The procuring entity secures the arrangement of procurements on the basis of publicity, transparency, equality and competitiveness.

22.2. In the absence of experience in the field of state procurement, the procuring entity in accordance with the procedure established by this Law may involve the local and foreign specialists or consulting companies in organizing the tender.

Article 23. Formation of tender commission

23.1. The tender commission includes the specialists from the procuring entity and representatives of conforming entities. The chairman of the tender commission is appointed from among the officials of procuring entity (with the exception of the head). The composition of the tender commission is approved by the head of procuring entity (the person performing its duties).

23.2. If the estimated price of the tender subject amounts to 5 billion manat and 1.5 billion manat in the entities financed from the budget or exceeds the equivalent amount in a freely convertible currency, the representatives of conforming executive powers are included in the composition of Tender Commission under their power of attorney.

23.3. Experts may be involved to the tender commission for preparation of a set of basic conditions for the tender, consideration, evaluation and comparison of bids.

Article 24. Set of the basic conditions of the tender

24.1. The following information is indicated in the basic set of conditions of the tender,:

24.1.1. instructions for preparing bids;

24.1.2. evaluation of qualifications of suppliers (contractors) in accordance with the provisions of Article 6 of this Law, as well as the procedures and criteria for re-confirmation of qualification indicators on the basis of Article 36.13 of this Law;

24.1.3. the requirements for documents or other information confirming the qualifications of suppliers (contractors);

24.1.4. taking into account the requirements of Article 14 of this Law - the necessary technical features and quality features of goods (works and services), including plans, drawings and sketches, the quantity (volume) of goods, additional services, place and terms for sending goods (performing the works, rendering services);

24.1.5. the criteria and their relative assessment established to determine the winning bid, taking into account the requirements of Clauses 36.7, 36.8 and 36.9 of this Law;

24.1.6. the conditions for dividing the tender subject (when proving their effectiveness) between two or more bidders;

24.1.7. the terms and conditions of procurement contract and the form to be signed by the parties to the contract;

24.1.8. when allowing an alternative variant of bid - information about it, description of the method of comparison and evaluation of these offers;

24.1.9. upon permission to submit a bid for a part of goods (works and services) - a description of this part (s);

24.1.10. information about the possibility of including other expenses (expenses related to transport, insurance, taxes and duties) in the price of goods (works and services) in addition to their cost, the method of calculating and expressing the price of the bid;

24.1.11. the currency (currencies) in which the price of the bid is to be calculated and expressed;

24.1.12. the language (s) in which the bids are prepared;

24.1.13. the forms, amount, issuer of the bid and guarantees of the procurement contract, confirming party (if required) and other conditions;

24.1.14. the procedure, place and deadline for submission of bids;

24.1.15. the method of providing clarification to bidders regarding the set of basic conditions of the tender, as well as whether the procuring entity intends to meet with the bidders at this stage;

24.1.16. the term of validity of bids;

- 24.1.17. the place, day and time of opening the bid package;
- 24.1.18. the currency to be used to evaluate and compare the bids;
- 24.1.19. the references to government procurement regulations;
- 24.1.20. the name and position of the coordinating person(s) of tender commission to obtain the information related to arrangement of procurements;
- 24.1.21. the right of the supplier (contractor) to appeal the decision of the tender commission, the actions (inaction) of its members;
- 24.1.22. the notes on the right of the tender commission to reject all bids;
- 24.1.23. the documents required for effectiveness of procurement contract after the acceptance of the bid, and the timing of their preparation;
- 24.1.24. the procedure and terms of insurance of goods (works and services);
- 24.1.25. the rules for resolving the disputes between the procuring entity and the winner or bidders;
- 24.1.26. the rules to amend the contract price in accordance with the requirements of Clauses 51.1 and 51.2 of this Law during the execution of the procurement contract.

Section 25. Attracting the bids

25.1. The bid issue of an open tender should be published in the state newspapers and internationally distributed mass media of the Republic no later than 30 banking days, and the second time no later than 20 banking days before the opening of tender packages.

25.1-1. The bid issue on holding an open tender through the electronic procurement must be published through the unified Internet portal of state procurements no later than 20 banking days before evaluating the bids.

25.2. the bid issue of two-stage tender should be published in state newspapers and internationally distributed mass media of the Republic no later than 60 banking days, and the second time no later than 40 banking days before the day of opening the tender packages.

25.3. Along with the publication of the open bid issue , the procuring entity may send a personal invitation to the suppliers (contractors) to participate in the tender.

25.4. In order to attract the bids, offers and quotes for other procurement methods, the tender commission compiles a list of a sufficient number (at least three) of potential suppliers (contractors) and sends them a personal invitation.

25.5. The personal invitation reflects the information specified in Article 26 of this Law.

Article 26. Contents of the bid issue (call)

26.1. the following is indicated in the bid issue (invitation) of tender:

26.1.1. information about the holder of tender;

26.1.2. time and place of the beginning of tender procedures;

26.1.3. tax and duty benefits (if any) associated with the procurement contract;

26.1.4. the documents required for participation in the tender;

26.1.5. office phone and fax number of the coordinating person for additional information;

26.1.6. terms of bid guarantee;

26.1.7. names, quantity (volume), place of delivery of the goods to be shipped, peculiarity and place of work performed, description and location of the services provided;

26.1.8. the required time for dispatch of goods and completion of works or the schedule of rendering services;

26.1.9. the criteria and procedures that preference will be given to in assessing and comparing the indicators of qualifications of suppliers (contractors) conforming to the provisions Clause 6.2. of this Law;

26.1.10. the conditions limiting the participation of suppliers (contractors) in procurement procedures by reason of state affiliation;

26.1.11. the amount of the participation fee and the procedure for its payment;

26.1.12. the language or languages in which the set of basic conditions of the tender is compiled;

26.1.13. Deadline and place for submission of bids.

Article 27. Estimated price of goods (works and services)

27.1. Prior to the commencement of tender procedures, the procuring entity shall establish and approve the estimated price of goods (work and services) to be procured. Save for the cases of applying the method of procurement from a single source, the procurement procedures can't be started without approval of estimated price of procurements by the procuring entity. The calculation methods of estimated price of goods (works, services) is approved by the authority (unit) assigned by the conforming executive power.

27.2. The procuring entity may involve the professional appraisers to establish the estimated price of goods (works and services) to be procured.

27.3. The procuring entity, until the day of opening the tender packages, keeps secret the estimated price of the goods (works and services) to be procured and uses it to evaluate the results of the tender.

27.4. If the price of a bid is higher than the estimated price of the conforming goods (works and services), the procuring entity removes that bid from the procurement procedures. authority. The procuring entity, in the cases if it reveals that the price of bid submitted by any supplier(contractor)

for executing the procuring contract is lower for 20% and more in comparison with the estimated price, such bids can be rejected after complying with the below mentioned terms and conditions:

27.4.1. by receiving a detailed information from the supplier (contractor) about its bid whose capability of performance of contract seems to be suspicious;

27.4.2. nevertheless it receives supplier's (contractor's) all information and explanations submitted on the basis of written request, there remain again some apprehensions in regard to default of the contract.

27.5. The decision of procuring entity concerning the removal of supplier's (contractor's) bid pursuant to this Article must be approved by the authority (unit) assigned by conforming executive authority. The decision on removal of bids pursuant to this Clause, the motives of that decision and all correspondence thereby are included in the report of procurement procedure. The conforming supplier (contractor) must forthwith be notified of the decision of procuring entity adopted in pursuance of this Article and as well as its motives.

Section IV

TENDER PROCEDURES

Section 28. Documents Submitted by Suppliers(contractors) to tender

28.1. A supplier (contractor) that wishes to participate in a tender as a bidder shall submit the following documents to the procuring organization:

- application for participation in the tender;
- bank document confirming the payment of participation fee;
- bid;
- Required documents about the supplier (contractor).

28.2. The words "required documents about the supplier (contractor)" should imply the following:

- full name, legal status, country of registration and details of the supplier (contractor);
- information on qualification indices (if necessary) of the supplier (contractor);
- a certificate issued by the bank on the financial state of supplier (contractor) for the last year (if it has been in business for less than a year, for its entire period of activity).

28.2-1. If it is stipulated in the set of basic tender conditions, the bidder must indicate the information about the subcontractor (by indicating the name of specific subcontractor) with whom it will conclude contract for performance of the work on bid envisaged in Clause 28-1 of this Law.

28.3. The supplier (contractor) must prepare its bid in accordance with the procedure established by this Law and submit it to the holder of bid no later than one banking day before the start of the tender

procedure. The bid submitted later than this date is returned to the supplier (contractor) without opening and his participation in the tender is not allowed.

28.4. The documents referred to in Clause 28.1. of this Law (with the exception of the bid) must be submitted to the procuring entity no later than 7 banking days before the tender procedure begins. If the procuring entity comes to conclusion that one or several documents are missing, or that one or several documents need to be changed, it must, no later than 2 banking days after the documents are submitted, offer the supplier (contractor) to prepare the missing document or make an appropriate change in these documents. At the same time, the supplier (contractor) submits the documents to the procuring entity in full and with conforming changes no later than three banking days before the start of the tender procedure.

28.5. If the documents specified in this Article are prepared properly and submitted in timely manner, the procuring entity shall register the supplier (contractor) wishing to participate in the tender as a bidder.

Article 29. Payment of fees for participation in the tender and reimbursement of tender costs

29.1. The total amount of the fee for participation in the tender is established by the procuring entity with the condition that it does not exceed 0.5 percent of the estimated price of the tender item and 1.5 times the amount of tender costs. All costs associated with the tender, including the costs associated with the bid issue , advertising, renting the tender venue, financing the tender commission, preparing and communicating the tender documents to bidders, as well as all other costs directly related to the tender, are reimbursed at the expense of participation fees.

29.2. The supplier (contractor) pays the procuring entity a fee for participating in a tender to obtain a set of basic tender conditions and be registered as a bidder. The fee for participation in the tender is not refundable.

29.3. If the funds collected from the participation fees in the tender exceed the tender costs, the difference is transferred to disposal of procuring entity, if these funds do not cover the expenses, the difference is paid from the account of procuring entity.

Article 30. Clarification of the set of basic conditions of the tender and making changes to it

30.1. The supplier (contractor) may send a request to the tender commission related to the explanation of the set of basic conditions. The request must be sent no later than 4 banking days before the deadline for submission of bids. The procurement agency shall respond to such requests no later than 2 banking days before the deadline for submission of bids. This response is sent to all suppliers

(contractors) who have received a set of basic tender conditions without specifying the address of the person who sent the request.

30.2. Before the end of the deadline for submission of bids, the procuring entity may in response to a request from a particular supplier (contractor), make changes and additions to the basic set of tender conditions. The bid issue concerning it is immediately sent to all suppliers (contractors) who received a set of basic tender conditions. Changes and additions are binding on suppliers (contractors).

30.3. The procuring entity may hold a meeting with the suppliers (contractors) to explain the set of basic conditions of the tender. The results of this meeting are recorded and immediately sent to all suppliers (contractors) who received a set of basic conditions of the tender for taking note.

Article 31. Submission of bids

31.1. Legal and natural entities can participate in each tender subject as one bidder and as a bidder can submit only one bid.

31.2. The last date, term and place of submission of bids shall be established by the tender commission in the set of basic conditions of tender.

31.3. A bid signed and sealed by the bidder, prepared in accordance with the procedure established by this Law, shall be enclosed in a double envelope. The closing side of both envelopes is signed, sealed by the bidder and presented to the procuring entity.

31.4. All numbers in the bid are also written in words.

Article 32. Duration, changes and withdrawal of bids

32.1. The validity period of bids is established in the set of basic conditions of the tender. This period must be at least 30 banking days from the date of opening the tender packages.

32.2. The validity of bids may be extended on the basis of the bid of the procuring entity with the consent of the suppliers (contractors). The supplier (contractor) may refuse such a bid to the procuring entity without losing its right to guarantee the bid.

32.3. The suppliers (contractors) who have accepted the bid to extend the validity of bids, extend the validity of the guarantee provided by them for their bids, or provide a new guarantee for the extended period.

32.4. The supplier (contractor) can change or withdraw its bid guarantee only before the deadline for submission of bids without losing the right to issue a bid guarantee.

Article 33. Bid guarantee

33.1. The procuring entity establishes a bid guarantee in the amount of 1 percent of the total value of the bid. The validity period for bid guarantee must be 30 banking days longer than the validity of the bid.

33.2. The bid guarantee is promptly returned in the following cases:

33.2.1. at the end of the validity period of bids;

33.2.2. in case of cancellation of tender procedures;

33.2.3. to the bidders after the decision on the results of the tender who have not taken one of the first three places in the tender;

33.2.4. to the bidders at the end of the validity period of the bids who have not accepted the bid to extend the validity of the bid;

33.2.5. to the winner of the tender after the signing of the procurement contract and the provision of guarantees for implementation of the contract;

33.2.6. to the bidders after the procurement contract concluded with the tender winner takes effect who took the second and third places in the tender.

33.3. The bidder, before submitting a bid, may send a request to the procuring entity to confirm (if required) the prequalification of the issuer or the confirming party of the bid guarantee. The procuring entity must immediately respond to such a request.

33.4. In the event that the issuer or confirming party, whose qualification is confirmed, subsequently for one reason or another lose its solvency or reliability, the procuring entity has the right to reject the guarantee provided by them.

33.5. The procuring entity indicates one or another requirement in relation to the issuer, as well as the type, form and other conditions of the guarantee required for the bid in the set of basic conditions of the tender. The procuring entity may apply certain requirements to the actions of the bidders related to the guarantee of bids only in the following cases:

33.5.1. at the expiration of deadline for submission of bids or withdrawal or change of bid before the expiration of the validity period of bid;

33.5.2. if the contract is not signed in the case when the procuring entity requires to sign the procurement contract;

33.5.3. if, after the bid is accepted, the guarantee required for fulfillment of procurement contract is not issued, or if any other condition specified in the set of the basic tender conditions is not fulfilled before signing the contract.

Article 34. Type of currency

34.1. Legal and natural entities of the Republic of Azerbaijan must indicate the prices in bids in manat.

34.2. When the bids of foreign legal and natural entities are expressed in freely convertible currencies, the rate established by the Central Bank of the Republic of Azerbaijan on the last day of submission of bids shall be taken as a basis.

Article 35. The procedure for commencement of tender procedures

35.1. The tender procedure is carried out in the place and at the appointed time defined and appointed by the tender commission in accordance with the procedures provided for in the set of the basic conditions of tender, and the bids are opened in the order in which they were received. Late bids are not accepted by the tender commission and are returned without opening.

35.2. The persons participating in the opening of the tender procedure shall be released with the name, address of each bidder, the price of bid and the bid guarantee. The bidders who have submitted a bid, but don't participate in the opening of the tender procedure, they will be informed of the information released for the tender procedure regarding the bids of all applicants on the basis of their request.

35.3. The bidder or the person empowered by the notarized document takes part in the opening of tender procedures and confirms the information released in relation to the bid.

35.4. The absence of the bidder or its trustee in tender procedures does not provide the procuring entity or tender commission with grounds for excluding the bidder from the tender.

Article 36. Review, evaluation and comparison of bids

36.1. In order to simplify the consideration, evaluation and comparison of bids, the procuring entity may request the suppliers (contractors) to clarify their bids. None of the request, offer or permission, which aims to change the essence of bid, including the price changes and changes aimed at bringing the bid into line with the formal requirements that does not meet those requirements, are not allowed.

36.2. Regardless of Clause 36.1. of this Law, the procuring entity shall adjust the purely arithmetic errors revealed during the consideration of bids. The procuring entity shall promptly notify the supplier (contractor) who submitted the bid of any such adjustment.

36.3. Taking into account Clause 36.2 of this Law, the procuring entity may recognize the bid as complying with the formal requirements only if the bid meets all requirements specified in the set of basic conditions of the tender.

36.4. If there are insignificant errors in the bid, which do not change its essence or do not go far beyond the limits of features, conditions and other requirements specified in the set of basic conditions of tender, or errors and shortcomings that can be eliminated without causing damage to the

essence of the bid, the procuring entity may consider this offer as meeting the requirements of the tender. Any such errors are quantified and taken into account when evaluating and comparing bids.

36.5. The procuring entity shall withdraw the bid in the following cases:

36.5.1. if the supplier (contractor) that submitted the bid does not meet the qualification requirements;

36.5.2. in case of disagreement of the supplier (contractor) who submitted the bid with correction in accordance with Clause 36.2 of this Law of an arithmetic error;

36.5.3. if the bid does not comply with the formal requirements;

36.5.4. if the facts provided for in Clauses 12 and 13 of this Law exist.

36.6. For determining the winning bid in accordance with Clause 36.7 of this Law, the tender entity evaluates and compares the accepted bids in accordance with the procedures and criteria specified in the set of basic conditions of the tender. The criteria not specified in the set of the basic conditions of the tender are not used.

36.7. The following bid is considered as a winning entry:

36.7.1. the bid with the lowest price, taking into account a favorable adjustment applied in accordance with Clause 36.9 of this Law;

36.7.2. the bid, which is considered the most advantageous on the basis of the criteria specified in the set of basic conditions of the tender and which are evaluated by quantity or the equivalent of the value of which can be assigned.

36.8. When evaluating the bid as the most profitable in accordance with Clause 36.7.2 of this Law, the procuring entity shall consider only the following:

36.8.1. the price of bid, taking into account any favorable adjustment applied in accordance with Clause 36.9 of this Law;

36.8.2. operating, repair and maintenance costs of goods (works), terms of sending goods, completion of works or rendering services, functional features of goods (works), payment terms and warranty conditions for goods (works and services);

36.8.3. defense and national security implications.

36.9. When evaluating and comparing the bids, the procuring entity may apply a favorable adjustment in favor of bids for local goods (works and services) fixed in the set of basic conditions and meeting the quality requirements in a volume up to 20 % out of the proposed price of the same goods imported from abroad.

36.10. The procedure for applying the benefits ~~and their amount~~ are established by the conforming executive authority and are governed by regulatory acts.

36.11. The applied benefits are reflected in the procurement procedures report.

36.12. When expressing the prices for bids in two or more currencies, the prices of all bids for the purpose of evaluating and comparing bids are expressed in accordance with Clause 24.1.18 of this Law in one currency at the rate specified in the set of basic conditions of the tender.

36.13. Regardless of whether the procuring entity conducts the procedure for determining the prequalification or not, it may require the supplier (contractor), whose bid won on the basis of Clause 36.7 of this Law, to reaffirm its qualification indicators in accordance with the criteria specified in Article 6 of this Law . The criteria and requirements to be applied for reconfirmation are specified in the set of basic conditions of the tender.

36.14. If the supplier (contractor) the bid of which has won, doesn't fulfill the requirements of procuring entity in regard to re-confirmation of its qualification indices in accordance with Clause 36.13, its bid is rejected and the procuring entity selects the winning bid out of the other bids pursuant to Clause 36.7 of this Law.

Article 37. Decision of the tender commission

37.1. The tender commission is independent and makes its decision in accordance with this Law completely freely.

37.2. During the tender procedures and when making a decision on the results of the tender, at least three quarters of the members of the tender commission must be present. The decision is signed by all members of the tender commission.

37.3. The tender commission, based on the evaluation and comparison of bids, makes one of the following decisions:

37.3.1. on determining the first, second and third places among the bidders;

37.3.2. on the extension of the tender when it takes more time to analyze and compare the bids;

37.3.3. if no bid ensures the full execution of the tender subject, on the division of the subject of the tender between two or more bidders;

37.3.4. that none of the bids is satisfactory.

37.4. The members of tender commission who disagree with the evaluation and comparison of bids must sign the minutes by submitting their special opinion. A dissenting opinion may be drawn up in the form of a general opinion of members remaining in the minority or as individual opinions.

37.5. The tender commission draws up a final minutes on the results of the tender, which is signed by all members of the commission. The final minutes is taken as the basis for awarding of procurement contract. A copy of the final minutes is submitted to the conforming executive authority within 3 banking days after its signing.

37.6. The sample of the final minutes of the tender commission on the results of the tender is prepared and approved by the conforming executive authority.

37.7. When the tender is realized through unified Internet portal of state procurement, the results of procurements are automatically determined through the unified Internet portal of state procurement in pursuance with the sequence of quotation forthwith after completion of the term stipulated in Clause 25.1-1 of this Law and sent to tender commission in electronic form for making a decision. The tender commission adopts a conforming decision within 1 banking day by evaluating the quotation pursuant to this Law in accordance with Clause 50-6.1 and lodges the decision in unified Internet portal of state procurements on that day.

Article 38. Responsibility of tender commission

38.1. Chairman and members of tender commission shall display objective and impartial position while fulfilling their duties defined by this Law.

38.2. If Tender Commission supports any bidder allowing non-objectivity while fulfilling its duty any of the bidders can file a suit to the conforming executive body or Court. If those bodies confirm violation of law during preparation and holding of the tender, the results of tender shall be abolished and procuring entity shall hold a new tender on that matter. In this case, chairman and members of the commission, except for the commission members who had a special opinion differing from the adopted decision, cannot be as chairman and members of any tender commission for three years.

38.3. If bidder (bidders) is subject to material damage as a result of illegal action of chairman and (member) members of tender commission and if it has been proved by Court, procuring entity pays for damage and gives information about it in the media means where the call for tender was published. Financial liability of Chairman or a member (members) of commission and the issue of paying for damage are solved in accordance with the legislation.

Article 39. Prohibition of negotiations and *unofficial meetings* with suppliers (contractors)

During tender procedures, conduct negotiations between procuring entity and suppliers (contractors) regarding the offered tender bid, *as well as request considered in Clause 30.1 of the Law* is not allowed .

39.2. It is prohibited to conduct unofficial meetings between procuring organization and supplier (contractor) participating in the tender.

Article 40. Accept of bids and entry of procurement contracts to force

40.1. The bids defined as winners in accordance with Clause 36.7 of this Law shall be accepted. Procuring entity shall send notice to the suppliers (contractors) who have submitted their bids within three banking days until the end of the period of effectiveness of the bid.

40.1-1. While holding an open tender through electronic procurement, the notice specified by Clause 40.1 of this Law shall be automatically sent to suppliers (contractors) submitted their bids through the unified internet portal of state procurements after bids are accepted

40.2. Winner of tender signs procurement contract and submits performance bond within the period indicated in the set of basic terms of tender.

40.2-1. Concerning holding an open tender through electronic procurement, procurement contract is concluded with winner of tender electronically through unified internet portal of state procurements and in the cases required in accordance with law, performance bond is presented through that portal. With the purpose to conclude electronic contract through unified internet portal of state procurements, procuring entity shall prepare a contract not later than 3 banking days, place it in that portal and sign after the acceptance of tender contract. Supplier (contractor) shall sign that contract within 5 banking days.

40.2-2. Failure to sign procurement contract in the period specified in Clause 40.2-1 of this Law is considered as refusal from this contract.

40.3. Failure of tender winner to sign procurement contract and not to provide performance bond shall be regarded as his failure to fulfil his liabilities and shall be resulted with not returning bidding guarantee.

40.4. Procurement contract shall enter into force from the moment when supplier (contractor) and procuring entity sign it. The relations between the parties sign the contract shall be regulated by this Law, the Civil Code and other normative acts of the Republic of Azerbaijan.

40.5. Commitments entrusted on winner with procurement contract cannot be increased by the provisions and conditions not indicated in the set of basic terms of tender.

40.6. Upon signing procurement contract, procuring entity can increase- reduce scope of goods (work and services) up to 15% with the consent of conforming executive bodies on the condition not to change price and criteria of each unit of goods (works and services).

40.7. The Contractors winning the tender can sign a contract with subcontractors *specified in Clause 28.2-1 of this Law* for implementation of work with the consent of procuring entity and with the condition, it is considered in the set of basic terms of tender. In all other cases, subcontractors cannot be assigned to implement the contract without a written consent of procuring entity.

The value of the subcontractor contract regarding implementation of work and provision of services shall not be more than 50% of the total price of the procuring contract. *In case subcontractors are involved in the implementation of procurement contract, implementation of not less than 20% of total*

value of subcontractor contracts shall be assigned to micro, small and medium entrepreneurship subjects registered in the Republic of Azerbaijan.

40.8. If the approval of procurement contract is to be approved by the supreme management body in the set of basic terms of tender, the contract shall not enter into force until it is approved by that body. After sending the notification regarding accept of bidder the approximate period for such approval is indicated in the set of basic terms of tender.

40.9. After a procurement contract enters into force, and if required, supplier (contractor) submits a performance bond, the other suppliers shall be sent notification regarding that contract. The name, address of supplier (contractor) signed the contract and price of the contract shall be indicated in the notification.

40.9-1. The reasons of supplier's (contractor) failure to win shall be indicated in the notification specified in Clause 40.9 of this Law.

40.9-2. The performance bond of procuring contract is defined as 2-5 % of the total price of the contract.

40.9-3. During holding an open tender it is not required to submit performance bond regarding procurement contracts of which the price is less than manat equivalent of 100 000 US dollars.

40.10. Parties' responsibilities for failure to fulfill their commitments or fulfill it incompletely, punishments, guarantees, ways of resolving of disputes (if it is considered in the set of basic terms of tender and in the normative legal acts), the cases giving ground to prolong start and end period of the work and its terms should be indicated in the contract.

40.11. Sample of procuring contract on goods (works and services) shall be developed and approved by the conforming executive body.

Article 40-1. Payments on procurement contract

40-1.1. The procuring entity can pay suppliers (contractors) advance in the amount indicated in the tender application for implementation of procurement contract but not more than 30% of the total value of the contract. For receiving advance payment supplier shall present the procuring entity bank guarantee not less than the total amount of advance payment. Supplier (contractor) shall use the advance payment only for fulfillment of obligations regarding the procurement contract.

40-1.2. Supplier (contractor) shall send request to approve guarantee of advance and availability of the approving part. Procuring entity shall respond this type of request within one banking day.

40-1.3. The payments on procurement contract (including advance payment) shall be made as defined in the set of the basic terms of tender and in the special terms of procurement contracts,

based on the documents (bill of lading, invoice, acts and other documents) submitted by the supplier in the shortest time, but not later than 15 banking days.

40-1.4. The payments on procurement contracts (excluding advance payment) shall be made to the supplier (contractor) by procuring entity as proportion to the implementation of the work considered in that contract in an established way and period specified in procurement contract. After completion of performance of the procurement contract (including technical provision) and compiling the documents approving it (considering elimination of faults) the last calculation is made between the procuring entity and supplier and during that time the final amount is paid to the supplier (contractor).

40-1.5. If payments (including advance payment) on procurement contract are not paid within the period defined in the contract the percentage shall be calculated in the amount defined in the procurement contract for each delayed day.

Article 40-2. Control over implementation of terms of procurement contract

In accordance with procuring contract and until the last calculation specified in Clause 40-1.4 of the Law, procuring entity checks conformity of the purchased goods, the work done and provided services on that contract to the requirements of the normative legal acts, as well as technical normative acts and also requirements and standards defined in the procurement contracts..

SECTION V

MAIN METHOD OF PROCUREMENT OF SERVICES

Article 41. Attracting of service bids

41.1. Procuring entity publishes the notice in the state newspaper while attracting service bids, as well as, the consulting services bids or the bids for the determination of pre-qualification in the conforming cases and *places it in the unified internet portal of the state procurements in relation to the state procurement specified in Clause 50-1 of this Law.* Name and address of procuring entity, a short description of the services to be procured, the ways of getting documents determining the bids request and pre-qualification and the amount of the fee paid (if determined) for it, and other information are indicated in the notification.

41.2. Except for the cases when only local suppliers (contractors) participate in the procurement and the total price of the services procured is not more than the amount determined by the proper executive power, the notification is published both in the internationally distributed mass media and in internet.

41.3. If direct attracting is necessary from saving and effectiveness point of view, procuring entity shall not apply the clauses of Clauses 41.1 and 41.2 of this Law in the following cases:

41.3.1. the procured services are available only in the limited service providers, with the condition the bids are attracted from all of them;

41.3.2. the time and expenses to be spend for consideration of multiple bids and their evaluation are not proportionate with the price of the service to be procured , with the condition the bids from 3 (three) service providers are attracted for provision of the efficient competition;

41.3.3. direct attracting is the only way of providing the confidentiality or is necessary in the interests of the state, with the condition that, the bids should be attracted from 3 (three) service providers for the provision of the efficient competition.

41.4. The procuring entity shall send bids request and the documents determining pre-qualification to service providers directly in accordance with procedures and requirements mentioned in the notification, as well as, in the cases when Clause 41.3 of this Law is applied. Procuring entity shall include the payment it will get it instead of these, expenses for printing of bids request and documents determining pre-qualification and delivering them to service providers.

41.5. The requirements of Clause 41.3 of this Law are not applied in relation to the procurements held according to Clause 50-1 of this Law.

Article 42 . Content of service bids request

42.1. At least the following information is included in Service bids request;

42.1.1. Name and address of procuring entity

42.1.2. Language or languages in which the bids are compiled;

42.1.3. Method, location and deadline of submitting bids request

42.1.4. the conforming statement, if the procuring entity reserves the right to refuse all bids

42.1.5. criteria and procedures pursuant to Article 6 of this Law for evaluation and reconfirmation of pre-qualification of service providers

42.1.6. requirements regarding the documented evidences or other information to be submitted by service providers for confirmation of their pre-qualification;

42.1.7. depending on the availability degree, description and necessary features of the procured services, as well as, the place where the services will be rendered, the periods intended or required for rendering services;

42.1.8. Information if procuring entity accepts the offers on different possible methods for meeting its needs;

- 42.1.9. if service providers are allowed for offering only part of the services procured, the description of that part or parts procured;
- 42.1.10. The currency or currencies on which the bid prices to be calculated or to be expressed except for the cases the price criteria are not considered;
- 42.1.11. The method on which the bid price should be calculated and expressed except for the cases the price criteria are not considered, along the information about service price if other elements (transport, residing, insurance, use of equipment, payment of fee and taxes and etc.) are included.
- 42.1.12. the criteria to be used during the determination of the won bid, at the same time, any compromising correction and the relative price to be used pursuant to Clause 44.2 of this Law;
- 42.1.13. the currency to be used for evaluation and comparison of bids, the rate of exchange to be used for transferring of the bid price to that currency or the statement on use of rate of Exchange published by certain financial organization;
- 42.1.14. if alternativeness of services, contract terms or other demands indicated in bid request are allowed, the proper instruction and its description on the method of evaluation and comparison of the alternative offers.
- 42.1.15. name, position and address of some officials or civil servants authorized to keep in direct contact and get information of procurement procedures without intervention of the intermediary with the officers of the procuring entity;
- 42.1.16. the methods of the service providers to get explanation on bids request pursuant to Article 43 of this Law and statement on intention of procuring entity to hold meetings with service providers in this stage;
- 42.1.17. the terms of the procurement contract known to the procuring entity and the form of the contract that the parties will conclude;
- 42.1.18. notification on the right to complaint pursuant to Article 55 of this Law, against the illegal actions or the decisions of the procuring entity and used procurement procedures;
- 42.1.19. any formality required after the acceptance of the offer for the entry of the procurement contract into force, as well as, in case of necessity, the written procurement contract and its confirmation by the proper executive power, and the time required for getting the certification after sending the notification on acceptance;
- 42.1.20. any other requirements on preparation and presentation of bids, as well as on other features of the procurement procedures determined by the procuring entity pursuant to this Law and other normative legal acts on procurement.

Article 43 Giving explanation to service bids request and making changes on them

43.1. Service providers can ask procuring entity to give explanation regarding service bids request. Procuring entity should respond the request of service suppliers to provide explanation regarding bids request until the expiration of the time for service providers' being able to submit their bids in time.

43.2. Procuring entity can make any additions and changes in the bids request any time because of any reason, or on his own initiative or as a response to the request of the service provider till the expiration of the deadline of submitting service bids. That addition is notified immediately to all service providers whom the bids request is given by the procuring entity, and it is compulsory for them.

43.3. Procuring entity compiles a minute when it meets with the service provider, the enquires connected with the bids request and the responses to them are included to the minute without showing the person who makes enquiry. The minute is presented immediately to all service providers participating in the tender procedures.

Article 44. Evaluation and comparison of service bids

44.1. Procuring entity determines the criteria to be applied for evaluation of service bids, determines the rule of application during evaluation of bids and relative price of each criterion. These criteria are notified to the service providers in the bids request and can belong only to the followings:

44.1.1. pre-qualification, experience, reputation, reliability, professional and management competence of the service providers and their staff;

44.1.2. efficiency of the bid submitted by service provider from view point of meeting needs of the procuring entity;

44.1.3. price of the bid taking into account the compromising corrections made pursuant to Clause 44.2 of this Law, including the additional and related expenses;

44.1.4. protective and national security discretions.

44.2. *Procuring entity applies the compromising correction pursuant to Clause 36.10 of this Law in favor of the local service providers offering the services meeting the certain demands in the service bids request while evaluating and comparing the service bids.* This correction is reflected in the report on procurement procedures.

44.3. Procuring entity determines the minimum level of the demands belonging to their quality and technical sides in comparison with the bids, and evaluates each bid based on evaluation criteria indicated in the bids request, as well as the relative price and application rule of these criteria.

44.4. in this case the following bids are considered won:

44.4.1. the lowest price offer;

44.4.2. the offer of which that total price is optimal by taking as basis the quality and technical features and price mentioned in Clause 44.3 of this Law.

Article 45. Confidentiality

Procuring entity shall consider the service bids in such a way that service providers competing with one another should not be aware of the content of the service bids. Each negotiation conducted has the confidential character and none of the parties participating in the negotiations shall disclose any information regarding price, technical or other issues without the consent of the opposite party pursuant to Article 10 of this Law.

SECTION VI OTHER METHODS OF PROCUREMENT

Article 46. Two –stage tender procedure

46.1. The provisions of III and IV sections of this Law are also applied to the two stage tender procedures excluding the cases are not related with these provisions.

46.2. All suppliers (contractors) are offered to submit the first tender bid without showing its price in the first stage of the two stage tender procedure. In this case the demands on technical, quality or other features of goods (works, services) , as well as terms of the procurement contract, and in the conforming cases the terms on professional and technical sufficiency and pre-qualification of the suppliers (contractors) may be considered in the set of basic terms of the tender.

46.3. Procuring entity may conduct negotiations with any supplier (contractor) of which the tender bid has not been refused pursuant to Clauses 11, 12 and 36.5 about any feature of tender bid.

46.4. Procuring entity shall offer the suppliers (contractors) whose bids have not been refused to submit the final bids by showing the prices on collection of the specific features of the goods (Works and services) in the second stage of two stage tender procedures.

46.5. The procuring entity has a right to exclude or change any feature of the technical and quality characteristics of the procured goods (works and services) or any criteria for evaluation, comparison and determination of the winning bid, as well as add new characteristics and criteria pursuant to this Law while preparation of the documents reflecting the peculiarities in the first stage of the tender procedures. The suppliers (contractors) are notified regarding any changes and additions along with the invitations they are sent regarding submission of final bid.

46.6. Any supplier (contractor) who is not willing to submit the final bid can exit the tender procedures not losing his right to bid guarantee.

46.7. The final tender bids are evaluated and compared for the determination of the winning bid pursuant to Clause 36.7 of this Law.

Clause 47. Tender with limited participation and closed tender

47.1. If procuring entity holds the tender with the limited participation under the basis indicated in Clause 19.2.1 of this Law, it involves the tender bids from all suppliers (contractors) who has the goods (works and services) procured.

47.2. If the procuring entity holds the tender with limited participation on the basis indicated in Clause 19.2.2. of this Law or the closed tender according to Clause 19.3, it involves not less than 3 suppliers (contractors), in the number to provide the competition holds the competition not allowing the discrimination between them.

47.3. The provisions of III and IV sections of this Law are also applied to the tender with limited participation and closed tender excluding the cases are not related with these provisions.

47.4. If the procuring entity holds the tender with the limited participation, the notification is published in the public newspaper with the purpose of raising interest for this tender in the bidders.

Article 48. Bids request procedure

48.1. Procuring entity attracts the bids from suppliers (contractors) in a practically reasonable quantity, provided that they should not be less than three.

48.2. Procuring entity publishes the notification in the local and international media with the purpose to raise interest for submitting bids.

48.3. The procuring entity determines the criteria for the evaluation of the bids, the relative price of each such criteria and rule of application while evaluation of bids. These criteria are related to the followings:

48.3.1. management and technical ability of the supplier (contractor);

48.3.2. efficiency of the supplier's (contractor) bid from the point of view meeting the needs of the procuring entity;

48.3.3. the expenses to be spent for the prices of the goods (works) offered by the supplier (contractor) and spent for the exploitation, service and repair (provision with the spare parts).

48.4. At least the followings are mentioned in the bids request submitted to the supplier (contractor) by the procuring entity:

48.4.1. the name and address of the procuring entity;

48.4.2. the description of the need on procurement including the technical and other parameters that the bid conforms, as well as the place of their execution in case of purchasing of the works, the place for rendering service in case of purchasing the services;

48.4.3. the criteria expressed in quantity and expressing the relative price for the evaluation of bids, as well as the rule of their application during the evaluation of the bids

48.4.4. The considered forms and any instructions, as well as, any proper periods to be applied connected with the certain bid.

48.5. The change or explanation of the bids request in any form, as well as, the change of the criteria mentioned in Clause 48.3 of this Law for the evaluation of the offers are notified to all suppliers (contractors) participating in the bids request.

48.6. The procuring entity reviews the offers that, it is not allowed to disclose their content to the competing suppliers (contractors).

48.7. If the following terms are followed, the procuring entity may conduct negotiations with the suppliers (contractors) about their bids, may suggest and allow to review their bids again:

48.7.1. any discussions between the procuring entity and supplier (contractor) are of confidential character;

48.7.2. Pursuant to Clause 10 of this Law, the parties conducting these discussions do not disclose to any party any price, technical or other information without the consent of other party;

48.7.3. all suppliers (contractors) who has submitted bids and whose bids are not refused are allowed to participate at the discussions.

48.8. After the discussions end the procuring entity asks all suppliers (contractors) continuing to participate at the discussions to submit the best and last offers about all features of their bids up to the certain date.

48.9. The procuring entity applies the following methods while evaluating the bids:

48.9.1. Only the criteria specified in Clause 48.3 of this Law and indicated in the bids request are taken into account;

48.9.2. the efficiency of a bid from the view point of meeting the needs of the procuring entity is considered separately from the price of the bid;

48.9.3. the procuring entity reviews the price of the bid only after the technical evaluation.

48.10. the procuring entity concludes the procurement contract with the supplier (contractor) who submits the bid developed on the basis of the criteria indicated in the bids request for evaluation of bids, also the relative price of those criteria and conforming to the application rule. .

Article 49. Quotations request procedure

49.1. The procuring entity attracts the quotations from the suppliers (contractors), provided that, their number will be not less than 3.

49.2. The procuring entity states to each supplier (contractor) through the quotations survey if other expenses are included to other expenses (transport and insurance expenses, customs fees, taxes and etc.) in addition to the price of the goods (Works and services).

49.3. Each supplier (contractor) can submit only one price quotation and it is not allowed to change his quotation. No negotiation is conducted about the quotation submitted by that supplier (contractor) between the procuring entity and the supplier (contractor).

49.4. The procurement contract is concluded with the supplier (contractor) submitted the lowest price quotation meeting the need of the procuring entity.

Article 50. Procurement procedure from one source

50.1. The procuring entity may procure the goods (works and services) from the supplier (contractor) by involving the bid and price quotation following the terms of Article 21 of this Law.

50.2. The procuring entity shall calculate the estimated price with the purpose of determining the prices of the goods (works and services) offered by the supplier pursuant to Article 27 of this law .

SECTION VI-I

Participation of micro, small and medium entrepreneurship subjects in the government procurements

Clause 50-1. The compulsoriness of the participation of micro, small and medium entrepreneurship subjects in the government procurements

50-1.1. The estimated procurement cost of the goods (works, services) in the equivalent of manat of 3,0 million USD of the procured subject or the goods (works, services) lower than that amount is carried out only through the participation micro, small and medium entrepreneurship subjects by applying open tender method through electronic procurement .

50-1.2. If the tender is considered not to be held because of cases considered in Clause 11.1 of this Law, the procuring entity can launch a tender intending the participation of other entrepreneurship subjects on procurement subject specified in Clause 50-1.1. of this Law. The decision of the procuring entity regarding this should be approved by the body (organization) determined by the conforming executive body.

50-1.3. The procuring entity shall make decision about it by stating the causes and terms grounding it if it is impossible to launch it electronically or by applying the open tender method by the procuring

entity intending in the Clause 50-1.1 of this Law. The decision of the procuring entity about it should be certified by the body (organization) determined by the proper executive body.

50-1.4. The requirements of the Clause 50-1.1 of this Law are not applied to the procurements the amount of which is lower than the minimum amount determined by the body (organization) determined by the conforming executive power.

50-1.5. The requirements of Clause 50-1.1. of this Law do not concern to the procurements connected with the confidential information.

Article 50-2. United internet portal of government procurements

50-2.1. The united internet portal of government procurement shall provide the followings:

50-2.1.1. publication of tender announcement ;

50-2.1.2. Submission of the documents specified in Article 28 of this Law to the procuring entity by the supplier (contractor) for participation in the tender (if the procuring entity can not obtain the information about those documents as specified in Clause 50-2.2 of this Law).

50-2.1.3. the payment of the participation fee in the tender;

50-2.1.4. registration of supplier (contractor) as bidder;

50-2.1.5. establishment of electronic cabinet for each supplier (contractor) registered as bidder;

50-2.1.6. Mutual exchange of information between procuring entity and supplier (contractor) and submission of documents;

50-2.1.7. submission of bids;

50-2.1.8. giving guarantee of bids ;

50-2.1.9. conducting virtual meetings of tender commission.

50-2.1.10. reviewing tender bids, their evaluation and comparison;

50-2.1.11 . electronic conclusion of procurement contracts, placing of that contract and other documents regarding the results of the tender.

50-2.1.12. sending the notifications electronically in the cases speculated in the Law;

50-2.1.13. placement of the set of basic terms of the tender, normative legal acts regulating the tender procedures, the procurement contract, as well as, its Standard terms and other documents;

50-2.1.14. getting the decision on results of filing and reviewing of complaints under the rules determined in this Law;

50-2.1.15. submission of performance bonds as specified by this law.

50-2.1.16. submission of the invoices to the procuring organization;

50-2.1.17. submission of the confirmation notification connected with the payment by the procuring entity organization;

50-2.1.18. Placing of the purchase plans.

50-2.2. The electronic information reserves (data basis, information-search systems, registry and other information resources) of the body determined by the conforming executive body with the purpose of getting information on documents specified under this Law connected with the participation in the tender by the procuring organization are integrated to the united internet portal of government procurements in the limits certified by the body (organization) determined by the proper executive power.

Article 50-3. Electronic procurement

50-3.1. The announcement (call) about the tender to be held is published (invited) in the official state newspapers and united internet portal of government procurements as specified by Clause 50-1.1. of this Law.

50-3.2. the following information is indicated in the announcement (call):

50-3.2.1. name and address of the procuring organization;

50-3.2.2. the comprehensive description of the procurement subject, as well as, the place and period of its submission;

50-3.2.3. the form and terms of the procurement contract to be signed;

50-3.2.4. the information pursuant to Article 9 of this Law;

50-3.2.5. the criteria and procedures applied for evaluation of the pre-qualification of the suppliers (contractors);

50-3.2.6. the criteria and procedures determining the conformity of the bids to the description of the procuring subject;

50-3.2.7. the criteria and procedures estimating the bids, as well as, the mathematical formula to be applied for the estimation of the bids in the electronic procurement;

50-3.2.8. the bid price includes the information on other expenses (transport and insurance expenses, taxes and fees) whether included or not, except the value of the procuring subject, the method of calculation of the offer price and its expression;

50-3.2.9. the currency (currencies) that the bid price will be calculated and expressed on;

50-3.2.10. the minimum number of the suppliers (contractors) to be registered for provision of efficient competition and for being able to hold electronic procurement.

50-3.2.11. the information on permission method, as well as, on the rule joining to the to electronic procurement.

50-3.2.12. the demands on deadline and registration in the electronic procurement of the suppliers (contractors);

- 50-3.2.13. *the date and time of opening electronic procurement, as well as, the requirements of identification of the participants in the opening of the electronic procurements;*
- 50-3.2.14. *the criteria regulating the closing of the electronic procurement;*
- 50-3.2.15. *other rules on holding electronic procurement, as well as, the information to be submitted to the participants during the electronic procurement, its language and the terms of submission of the offers by the participants;*
- 50-3.2.16. *the references to this Law, other normative legal acts and the place of getting these documents;*
- 50-3.2.17. *the method and place of getting explanation on procurement procedures by the suppliers (contractors);*
- 50-3.2.18. *the name, position and address of one or some officials of the procuring entity who provide relations and make exchange of information with suppliers without the mediator;*
- 50-3.2.19. *the right to make complaint against the decisions and actions of the procuring entity, information on dates of the waiting time, the causes of the proper decision in case of non-application of such period;*
- 50-3.2.20. *the formalities required for entry of the procuring contract into force after the electronic procurement, as well as, in case of necessity determination of its conformity to formal requirements and pre-qualification indications, as well as, development of the written contract;*
- 50-3.2.21. *other requirements determined by the procuring entity in accordance with this Law and other normative legal acts connected with procurements. .*

Article 50-4. The periods of registration of electronic procurements participants and holding of electronic procurement

- 50-4.1. *Each supplier (contractor) registered to participate at electronic procurement should be sent the notification of approval under real time regime through the united internet portal of the government procurement. .*
- 50-4.2. *If the number of the suppliers (contractors) registered to participate in the electronic procurement is less than 3 (three) participants in order to provide the efficient competition, the procuring entity terminates this procedure. The information on termination of electronic procurement is sent immediately to the registered suppliers (contractors).*
- 50-4.3. *The period between issuing publication of invitation to electronic procurement and holding the electronic procurement should be enough for the submission of the bids and making preparation of the electronic procurement by the suppliers (contractors) taking into account the needs of the procuring entity.*

Article 50-5. Requirements during Electronic Procurement

50-5.1. The electronic procurements are fulfilled taking into account the followings:

50-5.1.2. on the basis of the price and other criteria submitted to the suppliers (contractors) by guiding the most efficient offer in the result of the estimation.

50-5.2. During the electronic procurement:

50-5.2.1. the equal conditions are created for all participants for submission of bids;

50-5.2.2. the automotive evaluation of all bids is provided according to Article 50-3 of this Law depending on its application;

50-5.2.3. the equal conditions are created for each participant of the electronic procurement to observe the opening and evaluation of his bid

50-5.2.4. the participants of electronic procurement communicate with the procuring entity or among themselves only through the united internet portal of the government procurement

50-5.3. The procuring entity keeps the identification information of all participants confidential during the electronic procurement.

50-5.4. Electronic procurement is concluded on the basis of the criteria submitted to the suppliers (contractors) pursuant to Article 50-3 of this Law.

50-5.5. In case of mistakes breaching the realization of the electronic procurement in the information resources, the procuring entity stops holding the electronic procurement. In case of stopping or termination of the electronic procurement, the procuring entity keeps confidential the identification information of the participants of the procedure.

Article 50-6. Requirements after electronic procurement

50-6.1. The lowest price bid and the most efficient bid from quality and technical point of view are considered winner according to Clause 37.7 of this Law as the result of electronic procurement.

50-6.2. The procuring entity controls the conformity of the winning bid to formal requirements and suppliers' meeting the pre-qualification criteria after holding the electronic procurement. If the procuring entity determines that the bid does not meet the formal requirements and the suppliers do not meet the pre-qualification compliance that offer is removed. According to Clause 11.2 of this Law, the procuring entity chooses the next supplier (contractor) submitting the bid with the lowest or the most efficient price conforming the formal requirements and meeting the pre-qualification compliance in the moment of closing the electronic procurement without causing damage the rights to terminate the procurement.

50-6.3. If the procuring entity comes to a conclusion that, the bid considered winning for the moment of closing of the electronic procurement contract is significantly lower than the estimated price and can be resulted with lack of implementation of the procurement contract, Article 27 of this Law may be applied. In this case the procuring entity is entitled to select the next supplier (contractor) submitted the bid with the lowest or the most efficient price conforming the formal requirements and meeting the qualification compliance in the moment of closing the electronic procurement without causing damage the rights to terminate the procurement.

SECTION VII ADDITIONAL PROVISIONS

Article 51. Change in the price of procurement contract

51.1. After procurement contract enters into force, it shall not be acceptable to change terms of the contract excluding the cases specified in Article 422 of the Civil Code of the Republic of Azerbaijan.

51.2. The rule of assessment of the influence of the cases specified in Article 422 of the Republic of Azerbaijan is confirmed by the body (institution) defined by the conforming Executive Authority.

Article 52. Bankrupt of the Winner of Tender

52.1. If winner of tender makes bankrupt the procurement contract shall be considered terminated.

52.2. If legal heir of bankrupt tender winner applies in written form to the procuring entity regarding fulfillment of obligations of winner of the tender within 10 days after legal heir gets his inheritance status, a new contract is concluded between procuring entity and heir of the winner of tender taking the terms of the previous contract.

52.3. If legal heir of bankrupt tender winner does not apply in written form to the procuring entity on fulfillment of the commitments undertaken on the procurement contract of tender winner within 10 days after he gets his inheritance status, all kind of debts of procuring entity to the tender winner are considered abolished. In this case the procuring entity can hold a new tender on procurement of those goods (work and services).

Article 53. Insurance

53.1. The procurements held at state funds are insured as defined in the legislative acts and normative legal documents of the Republic of Azerbaijan.

53.2. If procuring entity considers insurance mandatory he must note that in the set of basic terms of tender or procurement contract.

Article 54. Collection of procurement documents

54.1. Procuring entity shall prepare collection of documents for each procurement. The followings shall be included in the collection of procurement documents:

54.1.1. approved decision of procuring entity regarding holding of procurement;

54.1.2. copies of the newspapers where announcement of procurement was published and if available copies of advertisement and notification type of materials;

54.1.3. Set of main terms of tender and collection of documents on attracting of bids, offers and quotations;

54.1.4. Appeals of all bidders regarding participation at procurement process, bank documents proving payment of participation fee, bids they submitted to tender.

54.1.5. Final protocol of tender commission on the results of procurement and other protocols regarding tender procedures

54.1.6. concluded procurement contracts;

54.1.7. if procuring contract is for a long term and implemented on stages, regular information on the process;

54.1.10. Joint act of procuring entity and supplier (contractor) on full implementation of procurement contract.

54.2. The collection of procurement documents are collected from the date when the decision is made and ends within 20 days after procurement contract is fully implemented and is kept at the procuring entity for 5 years and then is given to archive in the defined way.

SECTION VIII FILING A COMPLAINT

Article 55. Right to file a complaint

55.1. Supplier has a right to file a complaint as defined in the legislation claiming to be subject to loss and damage due to failure of procuring entity to fulfill his duties defined by the law.

55.2. According to this law the followings cannot be object of complaint:

55.2.1. restriction of procurement procedures for state affiliation;

55.2.2. decision of procuring entity to refuse all tender bids, offers and quotations.

Article 56. Complaint to procuring entity and approving body

56.1. Complaint is filed in written form to the head of the procuring entity (if complaint is connected with any action, decision, and the used procedure of the procuring entity and if that action, decision and procedure have been approved by anybody in accordance with the Law, the complaint will be filed to the Head of this institution until procuring contract comes to force).

56.2. If the complaint was filed after 15 banking days have passed from the date the Supplier (contractor) becomes aware or must be aware of the cases giving grounds of complaint the head of the procuring entity shall not consider the complaint.

56.3. If the complaint is not resolved on the mutual agreement between the Supplier (Contractor) who filed it and the procuring entity, the head of procuring entity (or approving body) makes a written decision within 20 days as of the date of filing the above-mentioned complaint (but within 10 banking days in regard to the procurements held pursuant to Article 50-1), its reasons are justified in the decision, if the complaint is secured fully or partially, the conforming actions are taken for adjusting the situation.

56.4. If the head of the procuring entity (or head of the approving body) does not make decision within the period defined in Clause 56.3 of this Law, the supplier (contractor) who filed a complaint, gains the right to immediately file complaints according to Clause 57 and 60 of this Law. After such complaints are filed, the head of procuring entity (or the approving entity) loses his/her power to consider the complaints.

56.5. If complaint is not filed according to Clause 57 and 60 of this Law, the decision of the head of procuring entity (or approving entity) shall be considered as binding.

Article 57. Filing a complaint in administrative way

57.1. The supplier (contractor) eligible to file a complaint in accordance with Article 55 of this Law can file a complaint to the conforming executive authority:

57.1.1. If the complaint cannot be filed or considered in accordance with Article 56 because of the entry of the contract into force (with condition that the complaint should be filed within 15 days after the supplier's (contractor are or supposed to be aware of the case giving ground to that)

57.1.2. If the head of the procuring entity does not consider the complaint due to entry of the procurement contract into force (with the condition that complaint is filed within 15 days after the decision on not consideration of complaint is made)

57.1.3. In accordance with Article 56.4 of this Law (on the condition complaint is filed within 15 bank days after the period indicated in Clause 56.3 ends);

57.1.4. If that supplier (contractor) claims that he was subject to damage as a result of the decision of the head of the procuring entity (or approving body) in accordance with Article 56 of this Law (with the condition the complaint is made within 15 days after the decision is made.

57.2. Conforming Executive Authority shall send notification to procuring entity (or approving body) about it immediately after he gets complaint.

57.3. If conforming Executive Authority does not refuse the complaint, it can recommend one or several of the following legal defense ways;

57.3.1. define legal norms and principles regulating the issues concerning the subject of complaint;

57.3.2. Prohibit the procuring entity to do illegal actions or to make illegal decisions or to apply illegal procedures ;

57.3.5. Reconsider illegal decision of procuring entity and make its own decision instead of it.

57.3.6. To claim regarding payment for compensation ;

57.3.7. Make decree on termination of procuring procedures

57.4. Conforming Executive Body makes decision in written form on the considered complaint within 20 banking days (according to Clause 50. 1.of this law 10 banking days in relation to procurements), he justifies its reason in that decision and indicates the presented legal defense means (if such defense means are presented.

57.5. If claim is not made in accordance with Article 60 of this Law such decision is considered final decision.

Article 58. Some norms applied during review of complaints filed in accordance Clauses 56 and 57 of this Law.

58.1. Immediately after filing a complaint in accordance with Clauses 56 and 57 of this law, Head of procuring entity (or approving entity) or Head of the Conforming Executive Authority send notification on filing and content of complaint to all suppliers (contractors) participating in procuring processes or related this complaint.

58.2. Any supplier (contractor) or state body of which the interest is touched upon or can be touched upon have a right to file a complaint. The supplier who does not complaint is deprived from this right later.

58.3. A copy of the decision of the procuring entity (or approving body) or conforming Head of Executive Body is sent to supplier (contractor) who complained, to procuring entity and any other supplier (contractor) or state institution participated at the consideration of the complaint until 1 one day passes after the adoption of decision. *In accordance with Clause 50.1 of this law the information regarding the conducted procurement is presented through the united internet portal of government procurements.*

Article 59 . Suspending of procurement procedures

59.1 If the complaint filed in time according to Clauses 56 and 57 substantiated the procurement procedure is suspended for the period of 7 banking days with the purpose to investigate the complaint. The complaint is considered during the period the procurement procedures are stopped.

59.2. In the case the procurement contract comes to force, in accordance to Clauses 57 and 59.1, as well as on the base of the complained filed in time the execution of the procurement contract is stopped for the period of 7 banking days with the purpose to investigate the claim.

59.3. With the purpose to defend rights of the supplier (contractor) who filed a complaint or to start procedures to consider the complaint the head of the procuring entity (or approving body) can prolong the suspending period of procurement procedures in accordance with Clause 59.1 and Head of the conforming Executive Body can prolong the suspending period until the complaint procedures ends, maximum until 15 days in accordance with Clause 59.2 of this Law.

59.4. All the decisions of procuring entity regarding this Clause, the principles and conditions of their adoption are included in the report on procurement procedures.

Article 60 . Filing complaint through Court

The courts of the Republic of Azerbaijan are responsible to consider the claims raised according to Article 55 of this Law , the complaints from the decisions of the bodies considering the complaints and decisions those bodies did not adopt in the defined period specified by Clauses 56,57 and 59.

Article 61. Responsibility for violation of this law

The ones violating this Law will be responsible according to legislation of the Republic of Azerbaijan.

Baku, December 27, 2001

№ 245-IIQ

