

LAW OF GEORGIA
ON PUBLIC PROCUREMENTS
CHAPTER I.
GENERAL PROVISIONS

Article 1. Scope of the Law

1. This Law establishes the general legal, organizational and economic principles for public procurements.
2. The rules set by this law shall apply to all types of public procurements other than the state secret-related public procurements under the Law of Georgia on State Secrets.
3. The list of the objects of the state secret-related public procurements under the Law of Georgia on State Secrets and the rule for their procurement shall be developed by the National Security Council of Georgia and approved by the President of Georgia.
- 3¹. This Law shall not apply to the following public procurements:
 - a) the public procurements related to the implementation of the monetary-credit and foreign exchange policy and providing if the national economy with the cash funds by the National Bank of Georgia under the Organic Law of Georgia On the National Bank of Georgia. The procurements of administrative and capital expenses proceeding from the budget approved by the Board of the National Bank of Georgia other than intangible assets, gold ingots, collector's or/and other GEL notes and coins as well as the public procurements related to the reproduction of GEL notes and coins are regulated by that Law;
 - b) the public procurements performed by the funds of those legal entities of public law which are considered as religious organizations under the Georgian law;
 - c) public procurements of electricity, firm capacity, natural gas and waster supply;
 - d) *(Repealed)*;
 - d¹) the public procurement of vehicles for the diplomatic missions and consular departments, Army Attaches of Georgia abroad, as well as for the Ministry of Defense of Georgia and Ministry of Internal Affairs of Georgia except for the cases provided by subparagraph "e" of paragraph 3 of Article 10¹ of this Law;
 - e) the public procurements for organizations the meetings and visits of the president of Georgia, chairperson of the Parliament of Georgia, prime-minister of Georgia, minister of Georgia, state minister of Georgia or/and Tbilisi mayor, reception of delegations in the Parliament of Georgia and visits of the delegation of the Parliament of Georgia abroad, organization of reception of delegations in the Ministry of Foreign Affairs of

- Georgia and visits of delegations of the Ministry of Foreign Affairs of Georgia abroad as well as public procurements funded by the sums allocated from the reserve funds of the President of Georgia, Government of Georgia and Tbilisi Mayor's Office;
- f) on the public procurements of the outsourcing service provided by the item "Goods and service" of the budget classification as well as the public procurements provided during the business trips;
 - g) (*Repealed*);
 - h) the public procurement of expert's service if the purchase of such service is implemented in accordance with Article 144-147 of the Criminal Procedure Code of Georgia;
 - i) the public procurement related with the state purchase of real estate as well as the obtaining the rights of disposal of real estate;
 - j) the funding of relevant service/goods of education using the voucher, health and social protection as well as the encashment of vouchers and transactions thereof;
 - k) the public procurements related to the lease of space for meetings;
 - l) the purchase of TV/radio product (program, movie, broadcast, cultural event) and/or the service thereof by the legal entity of public law – the Public Broadcaster from a nonresident person as well as transmission of TV/radio product (program, movie, broadcast, cultural event) by the satellite and/or the service thereof;
 - m) the purchase of sovereign credit-rating service and credit-rating service related to the government securities as well as compensation of the expenses accompanying the credit-rating service to the provider of such service;
 - n) the public procurement of service related to the custody of the raffle tickets by a lottery organizer or agent, sale or./and free of charge distribution of the promotion products by the lottery organizer as provided by the Law of Georgia On Organizing of Lotteries, Games of Chance and Other Winning Games;
 - o) the public procurement of the service from the persons holding the right of management of the state-owned share in the said enterprise by the lottery organizer provided by the Law of Georgia On Organizing of Lotteries, Games of Chance and Other Winning Games;
 - p) the public procurement of the informational and technological support for organization or./and conduct of lottery by the lottery organizer provided by the Law of Georgia On Organizing of Lotteries, Games of Chance and Other Winning Games;
 - q) the public procurement of the post and courier services by a purchasing entity from the Georgian Post Ltd.;

- r) the public procurement of the service of the public entity of public law – Levan Samkharauli National Bureau of Forensic Examination, by the purchasing entity.
4. The procurement procedures provided by the World Bank, United Nations Organization, European Bank for Reconstruction and Development, Asian Development Bank, Germany Reconstruction Credit Bank (KFW) and European Investment Bank (EIB) may apply in conducting public procurements, if the party to the procurement contract is any of the aforementioned organizations. If those organizations are not parties to the procurement contract, their procurement procedures as well as the procurement procedures of other organizations may apply only under the resolution of the Government of Georgia.
5. *(Repealed)*.

Article 2. Purpose of the Law

The purpose of this Law is:

- a) to ensure a rational spending of the money allocated for public procurements;
- b) to development a fair competition in the production of goods, delivery of services and performance of construction works for public needs;
- c) to ensure fair and non-discriminatory approach to those taking part in conducting public procurements;
- d) to ensure publicity of public procurements;
- e) to create the unified electronic public procurement system and to develop public trust in it.

Article 3. Definitions of the Terms Used in the Law

1. The terms used in this Law shall have the following meaning:

- a) **Public procurement** – in the cases provided by this Law, the purchase by a procuring organization of any goods, services or construction works using the electronic or other facilities with the following funds:
 - a. the funds of the State Budget of Georgia and the funds consolidated therein;
 - b. the funds of the budgets of the Autonomous Republics of Abkhazia and Ajara;
 - c. the funds of budgets of local self-governments;
 - d. the funds of the organizations and institutions financed from the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Ajara and local budgets;
 - e. the funds received by state-funded organizations, legal entities of public law, non-profit (non-commercial) legal entities – higher education institutions and the development fund

of higher education institution as well as by the entities provided by subparagraph “h” of this paragraph, from foreign states and international organizations on a contractual basis as well as from residents of other countries in kind of a grant or credit except for the case provided by paragraph 4 of Article 1 of this Law;

- f. credit and investment funds obtained under the state guarantee;
- g. the funds of non-profit (non-commercial) legal entities – higher education institutions and the development fund of higher education institution as well as legal entities of public law (other than legal entities of public law based in the membership) irrespective of the source of origin of these funds except for the case provided by subparagraphs a) and b) of paragraph 3¹ of Article 1 of this Law;
- h. the funds of a company in which a state or local self-government holds a more than 50% share or interest except for the case when such company when procuring goods and services related to the specifics of its activity, takes guidance from the special rule provided by the Government of Georgia for the purchase of those goods or services the term of validity of which cannot exceed 2 years. The special rule to be provided by the Government of Georgia shall be elaborated and submit to the Government of Georgia for approval by the Ministry of Economy and Sustainable Development of Georgia or the Ministry of Regional Development and Infrastructure of Georgia, based on the proposals of respective enterprises and local self-governments. In case the Government of Georgia fails to provide the special rule, the procurement shall be performed in accordance with this Law;
- b) **Procuring organization** – the person conducting procurement with the funds referred to in Subparagraph a) of this paragraph, which is registered in the unified public procurement electronic system under the rule provided by the regulatory normative act approved by the chairperson of the Agency;
- c) **Procurement object** – goods, services or construction works to be purchased;
- d) *(Repealed)*;
- d¹) **Homogenous procurement objects** – the procurement objects which identical as well as not identical but having similar components, technical indicators (specifications) or/and functions. The homogeneity of the procurement objects shall be determined under the rule provided by the regulatory normative act approved by the chairperson of the Agency;
- e) *(Repealed)*;
- f) **Goods** – the object of any type and description (other than real property) in both solid and liquid or gaseous conditions, as well as services accompanying delivery of goods, if the cost of the services does not exceed that of the goods;

- g) **Construction work** (hereinafter – the Work) – any work (including arranging a construction site, removal of soil, erection or construction of a building or structure, equipment installation, facing and facing works, installation of communication networks related to construction) related to the construction, reconstruction, demolition, repair or renovation of a building, structure of other object, as well as any construction accompanying service such as drilling, geodesic works, space and air photographing, seismic survey and other similar service under the public procurement contract if the cost of such service does not exceed the cost of construction work;
- h) **Service** – any procurement object other than goods and work. The matters related to the announcement of the electronic tender or consolidated tender, tender documentation, estimated cost of the procurement object and price of bid shall be determined by the regulatory normative act approved by the chairperson of the Agency;
- h¹) **Applicant** – a person who wishes to take part in the procurement procedures and applies for this;
- i) (*Repealed*);
- i¹) **Bidder** – a person who has paid the tender fee for participation in a tender;
- j) **Supplier** - a person who has signed a public procurement contract with the procuring organization;
- k) **Urgent need** – the situation that presents a real threat to the operation of a procuring organization and that could not be foreseen beforehand or/and the occurrence of which was not the result of the action of a procuring organization or that may inflict a significant damage to the national or/and public interests of Georgia or the assets of the procuring organization;
- l) **Register of dishonest participants in procurements** (hereinafter – **the Black List**) – the black list maintained electronically by the State Procurement Agency and posted by the Agency on its official website. The Black List shows the data of those dishonest persons, applicants and bidders participating in procurements who within 1 year after their entry in the Black List are not authorized to participate in the public procurement and be awarded the public procurement contract. The Black list is available for any person. The rule and conditions of maintenance of the Black List shall be determined by the regulatory normative act approved by the chairperson of the Agency (hereinafter the Executive Order);
- l¹) **Register of Qualified Suppliers** (hereinafter the **White List**) – the white list maintained electronically by the State Procurement Agency and posted by the Agency on its official website. The White List shows the data of those qualified suppliers participating in the public procurements who meet the criteria established by the executive Order for registration in the

White List. During the public procurement a qualified supplier registered in the White List shall enjoy the simplified procedures provided by the Executive Order. The rule and conditions of maintenance of the Black List shall be determined by the Executive Order;

l²) **Universal guarantee** – the guarantee which secures the supplier’s obligation in case of the advance payment before all those procuring organizations which whom the supplier signs the public procurement contract. The universal guarantee may be used as the performance bond for the public procurement contract. the term of the universal guarantee, the rule and conditions of its issue and presentation shall be determined by the Executive Order;

m) (*Repealed*);

n) **Fee** – obligatory amount payable to the account of the State Procurement Agency in the amount as prescribed under the same Law for the submission of the tender bid or competition proposal, which shall not be subject to refund, save the fee was paid in error;

b¹) **Publication fee** - obligatory amount payable to the account of the State Procurement Agency by the procuring organization for publishing electronically the competition notice and competition documentation or tender notice and tender documentation. The amount of publication fee and payment method for the cases of competition, simplified electronic tender and electronic tender shall be determined by the Executive Order ;

o) **Electronic means** – facilities that can be used for processing (including digital processing), receipt and transmission, dissemination and storage of the information by cable, optical, broadcasting or/and other electronic means;

p) **Electronic tender** – method of state procurement of homogeneous procurement objects with value GEL 200,000 and over that comprises procedures for an electronic tender stipulated in the present Law and Executive Order;

q) **Simplified electronic tender** – method of state procurement for homogeneous procurement objects with value up to GEL 200,000, which comprises procedures for a simplified electronic tender stipulated in the present Law and the Executive Order. The Tender Committee shall post a notice about conducting simplified electronic tender and tender documentation in the Unified State Procurement Electronic System no later than 3 days before the deadline for the acceptance of bids. The timeframe for accepting tender bids under a simplified electronic tender must be at least 2 days. If the deadline for acceptance of tender bids in the announced simplified electronic tender coincides with the weekend or a holiday, the deadline for acceptance of tender bids shall be the next working day;

r) (*Repealed*);

r¹) ***Simplified procurement*** – method of procurement to be conducted in the cases stipulated in Article 10¹(3) of the present Law, or state procurement of homogeneous procurement objects with value up to GEL 5,000 (in the cases of procurement of homogeneous procurement objects with up to GEL 20,000 value by Georgia’s diplomatic mission in a foreign state, as well as the state procurement of homogeneous procurement objects related to defense, security and the maintenance of public order with value up to GEL 20,000 by the procuring entities under the Ministry of Interior of Georgia system and procuring entities under the Ministry of Defense of Georgia system and by Special State Protection Service;

s) ***Electronic trade*** – procedure under electronic tender and simplified electronic tender during which within the timeframe set forth under the Georgian legislation an applicant may reduce the quoted price through an Unified State Procurement Electronic System in order to win in the procurement procedure;

s¹) ***Status*** - definite phase of an ongoing electronic tender or a simplified electronic tender.

t) (*Repealed*);

u) ***Consolidated tender*** – a procedure conducted by an authorized body stipulated under the present Law in the case set forth by the Government of Georgia for the procurement of a homogeneous procurement object, during which the best tender bid is identified;

v) ***Entertainment expenses*** – the representational expenses stipulated in the Tax Code of Georgia, considering the specificity of the present Law;

w) ***Alternative procurement*** – alternative procurement of communication services from a different supplier under a purchaser’s justified decision, to ensure stable and safe operation of relevant informational-technological system. In such case, the current supplier of communication services shall not be permitted to participate in procurement procedures. Additional conditions related to alternative procurement shall be List shall be determined by the Executive Order;

x) ***Competition*** – for the purposes of the present law, an alternative method of state procurement for design (project) services or dismantling buildings or/and removing materials and waste after dismantling buildings from the territories, applied to by the decision of a procuring organization.

y) ***Affidavit*** – for the purposes of the present Law, this is a written document, signatory to which confirms the authenticity of the information and facts provided in the document and is liable for the authenticity of mentioned information and facts according to the rule

prescribed under the legislation of Georgia;

z) ***Artificially splitting of state procurement*** – conduct of procurement of homogeneous procurement objects from the same source of funding by a procuring organization during a single budget year in artificially reduced quantity and/or volume or another action which objective is to avoid the monetary thresholds prescribed under this Law and the executive orders passed pursuant to thereof and other requirements.

2. *(Repealed)*

3. For the purposes of the present Law, the term “person” means an individual or legal entity of Georgia or a foreign state or another organization stipulated in the legislation of Georgia or that of a relevant country.

4. For the purposes of the present Law, unless an explicit indication is made for a business day, a term “day” shall mean a calendar day.

Article 4. Authorized Body

1. The body authorized to protect and perform the requirements of this Law is an independent legal person of public law established under this Law – the State Procurement Agency (hereinafter - SPA) which chairman shall be appointed and dismissed by the Prime Minister of Georgia.

2. Legal basis for SPA operations is the Constitution of Georgia, international agreements and treaties, the present Law, and the Agency regulations developed in accordance thereof.

3. The Government of Georgia shall approve the structure and regulations of SPA.

3¹. SPA may be reorganized and liquidated under the Resolution of the Government of Georgia.

4. The Government of Georgia shall exercise state control over SPA activities.

5. SPA shall be funded from:

a) targeted funds allocated from the State Budget of Georgia;

b) fee paid by applicants;

c) other revenues allowable under the legislation of Georgia.

6. Main functions of SPA shall be as follows:

a) to develop and pass orders and standard tender documents required for the operation of this Law, harmonization thereof with international standards;

- b) on the basis of reports received from procuring organizations to perform study, analysis of situation in the field of procurement within the country on a regular basis and submit suggestions to the Government of Georgia for decision-making;
- c) to develop special training programs, training-methodological materials and standard forms of documentation, to hold workshops and trainings for central authorities and local self-government bodies, mass media representatives and other interested persons;
- d) to develop, refine and exercise oversight over the unified procurement information base;
- e) to provide advisory-counselling services to procuring organizations;
- f) to provide support in the introduction of modern information and communication technologies within the procurement system;
- g) to ensure availability of relevant orders and special reference bulletin for publicity of procurement;
- h) to consider disputes arising during procurement;
- i) to conduct oversight over the legitimacy of procurement procedures and establish the policy for regulation of procurement process;
- j) to maintain the Black List;
- j¹) to maintain the White List;
- k) (*Repealed*);
- l) in special cases, under a written request by a procuring organization or at own decision, under an individual administrative-legal act perform the identification of a procurement object and/or integration in the classification;
- m) identification of the facts of artificial splitting of state procurement and taking relevant response measures.

7. To support the functioning of the Unified State Procurement Electronic System and ensure electronic documentation turnover throughout the procurement process, SPA shall be authorized to:

- a) keep an electronic copy of and issue any document created or stored thereof;
- b) receive, publish or issue any information and/or document through unified computer-aided control facilities.

8. Electronic copies and printouts of documents stipulated in Paragraph 7 of the present Article

shall have the legal force equal to that as these documents.

9. SPA shall have a banking account. Amounts of interest charged to the banking account belong to SPA and shall be used towards its goals and objectives.
10. SPA makes the annual report on its activities and each subsequent year until May 15 submits it to the Government of Georgia. The report shall be posted to the SPA official website.
11. By means of the Unified Public Procurement Electronic System the procurements may be conducted also by a person who is not a procuring organization provided by this Law. The use by of this person of the Unified Public Procurement Electronic System automatically means accepting the rules prescribed for the use of the system. The rule and conditions of conduct of the public procurement and the use of the Unified Public Procurement Electronic System by this person are determined by the executive order.

Article 5. Rights and Obligations of SPA Chairman

1. The SPA Chairman:
 - a) under the rule set forth in the legislation of Georgia issues orders which adherence shall be compulsory for procuring organizations and other persons participating in procurement;
 - b) issues directives related to internal organizational matters;
 - c) handles the issues assigned under SPA administration;
 - d) keeps an eye on the performance of their duties by SPA structural units, exercises control over employee performance according to the established rule;
 - e) within its competence appoints and dismisses SPA employees;
 - f) administers SPA funds and controls use thereof;
 - g) according to the established rule submits to the Government of Georgia recommendations with regard to the matters assigned within SPA administration for decision-making;
2. The SPA chairman shall be liable for SPA performance according to the rule prescribed by the Law.

Article 6. (Repealed)

Article 7. Rights and Obligations of Procuring Organization

1. A procuring organization shall be authorized to:
 - a) in compliance with the rules set forth by the present Law and relevant normative acts select a supplier and award a contract on public procurement (hereinafter – the Contract) thereof;
 - b) undertake disqualification of bidders under the rule set forth by this Law;
 - c) *(Repealed)*;
 - c¹) in cases of simplified procurement, simplified electronic tender and electronic tender, cancel procurement procedure at any time before the awarding of the Contract, provided this is necessitated due to the reasons beyond its control and objective reasons that could not have been foreseen, as well as based on Georgia's state and/or public interests;
 - d) exercise control and oversight over performance of the Contract terms by the supplier;
 - e) pursuant to the legislation of Georgia suspend or terminate the Contract in case the qualification data submitted by the supplier appear to be false, as well in other cases envisaged by the legislation of Georgia.

2. A procuring organization shall:
 - a) conduct procurement in a rational manner and by respecting Georgia's state interests within the limits of allocations thereof, in compliance with the rules set forth in this law and relevant normative acts;
 - b) *(Repealed)*;
 - c) submit to SPA reports on performed procurements pursuant to the rule set forth in Article 22 of the present Law;
 - d) reimburse a supplier for the value of goods, works, and services upon the supply of goods, performance of works and the rendering of services, unless stipulated otherwise in the Contract;
 - d¹) *(Repealed)*;
 - d¹.a) *(Repealed)*;
 - d¹.b) *(Repealed)*;
 - d²) suspend a procurement procedure in case an action of a procuring organization is appealed under the rule prescribed by the present Law prior to the awarding of a Contract:

d².a) only after the completion of electronic trade – immediately upon receiving information on appealing;

d².b) in the case of a consolidated procurement or competition, in the cases envisaged under an executive order – immediately upon receiving information on appealing;

e) (*Repealed*);

f) when suspending or cancelling procurement procedures in cases stipulated in the present Article, inform the Agency and all bidders about this decision and basis thereof within no later than 3 working days from the taking of such decision. Moreover, when cancelling procurement procedures a procuring organization shall not be obligated to present to the bidders specific evidence or detailed information on which it based this decision. When suspending or cancelling procurement procedures a procuring organization shall not be obligated to reimburse costs related to the participation in procurement.

2¹. The rule for resuming suspended state procurement procedures shall be determined under an executive order.

3. Responsibility for compliance with the rules and norms set forth in the present Law and relevant normative acts, and rational conduction of procurement fully rests with the procuring organization.

Article 8. Conditions to Avoid Conflict of Interests

1. The conditions and rules for the avoidance of the conflict of interests apply to the following activities related to the conduct of public procurement:

a) review, selection and evaluation of qualification data and tender bids;

b) holding negotiations in cases envisaged under the present Law and the executive order;

c) control and oversight over the performance of the Contract;

d) (*Repealed*);

e) selection of a supplier in case of a simplified procurement;

f) review of competition proposal and selection of a supplier through competition;

g) review disputes related to state procurement.

2. An individual performing an activity set forth in paragraph 1 of the present Article shall be in

the conflict of interest with a bidder or a supplier in case they are related as stipulated under the Article 19 of the Tax Code of Georgia. If an applicant or supplier is a procuring organization defined by subparagraph “b” of paragraph 1 of Article 3 of this Law, the issues related to the conflict of interests because of Article 19 of the Tax Code of Georgia, shall be determined by the executive order, in consideration of the public procurement peculiarities.

3. It shall be inadmissible for an applicant or a supplier to exert a direct or indirect influence over a person performing activities set forth in Paragraph 1 of this Article towards the taking a decision favorable thereof.
4. After a person performing activities set forth in Paragraph 1 of the present Article learns about the identity of a bidder or supplier, he/she shall certify in writing that his involvement in the conduction of this procurement does not cause the conflict of interest.
5. If a person performing activities stipulated in Paragraph 1 of this Article turns out to be in the conflict of interest, he/she should immediately declare on the above-mentioned and cease any involvement in the performance of state procurement procedures.

Article 9. Planning Procurement

1. A procuring organization shall conduct procurement in accordance with a pre-established and approved annual plan, which format and the rule of development shall be stipulated in an executive order. The matter of implementing long-term procurement using the funds stipulated under subparagraphs “a-d” of paragraph 1 of Article 3 of this Law (except for the procurement of such continuous service which is conducted until February 1 of this year), after obtaining the consent of the Ministry of Finance of Georgia and/or a financial office of a relevant local self-government body shall be informed in kind of a notice to SPA. Long-term procurement shall be reflected annually in the procurement plan for a relevant year. Procurement shall not be treated as long-term procurement if it is conducted only using the allocations stipulated in the current budget years, and the supply is performed during the following budget year. The National Bank of Georgia performs long-term procurement without agreeing with the Ministry of Finance of Georgia.

1¹. Subject to the agreement among procuring organizations public procurement can be conducted jointly according to the rule set forth under an executive order.

2. *(Repealed)*;

3. Procurement of homogeneous goods, services or works during a budget (fiscal) year by a procuring organization shall be regarded as a single procurement if it is funded under a single

source, with the exception of the cases stipulated under Paragraph (3¹) (a) and (b) of this Article. It shall be inadmissible to artificially split state procurement to avoid monetary thresholds which are set forth in the present Law.

- 3¹. Artificially splitting of state procurement implies the reduction and/or splitting the quantity or volume of homogeneous procurement objects when a procuring organization knows in advance that during the same budget year it will become necessary to procure additionally the same or homogenous procurement object and the funds for additional procurement have been projected in advance in the state procurement plan for the same budget year. The following cases shall not be treated as artificial splitting of state procurement:
 - a) conducting of procurement through separate procedures is driven by a geographical factor and/or is justified in terms of a rational expenditure of funds;
 - b) conducting of procurement through separate procedures is due to objective conditions that a procuring organization could not have envisaged in advance.
4. Annual procurement plan shall be approved by the head of a procuring organization and submitted to SPA no later than November 20 of the current year whereupon the procuring organization can commence to conduct procurement necessary for a current year(s). Before the effective date of the relevant normative act on the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Adjara and budgets of local self-governments, the annual procurement plan of persons performing procurement using the funds set forth under subparagraphs “a-d” of paragraph 1 of Article 3 of the present Law, shall conform to the draft state budget of Georgia, draft republican budgets of Autonomous Republics of Abkhazia and Adjara and draft budgets of local self-governments submitted to the respective representative authority by the moment of drafting the annual procurement plan.
- 4¹. If as a result of the effect of the relevant normative act on the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Adjara and budgets of local self-governments it becomes necessary to bring the annual procurement plan submitted to SPA under this paragraph, in conformity with those budget acts, the persons conducting public procurements using the funds set forth under subparagraphs “a-d” of paragraph 1 of Article 3 of the present Law shall, within 10 calendar days after the effective date of the relevant normative act on the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Adjara and budgets of local self-governments, ensure amendments in the annual procurement plan and submit the adjusted annual procurement plan to SPA.
5. If a procuring organization is established (founded) or receives an additional funding source

from the funds stipulated under subparagraphs “e” and “f” of paragraph 1 of Article 3 of the present Law, the head of a procuring organization shall approve annual procurement plan and submit thereof to SPA by no later than the 20th day of a month following the month of establishing (founding) or following the receipt of this additional funding.

6. The following shall be taken into account when drafting an annual procurement plan:
 - a) necessity to conduct procurement;
 - b) homogeneity of the objects;
 - c) experience in conducting similar procurement;
 - d) a type of the procurement object (goods, works, services), their technical and qualitative features/specifications, such as quality, operation, safety, dimensions, packaging, labeling and marking, production methods and processes, symbols, terms, conformity requirements set by a procuring organization, etc;) as well as the timeframes and place of delivery;
 - e) results of a market survey aimed at the identification of potential suppliers and defining the terms and conditions of a Contract acceptable to a procuring organization;
 - e¹) procurement object (if applicable), which procuring organization agrees to purchase under a consolidated tender;
 - f) basis for the selection of a method of procurement, estimated timeframe of procurement procedures;
 - g) quantity of goods to be supplied, volume of works to be performed or of services to be rendered considering the existing supplies;
 - h) estimated value of procurement objects;
 - i) costs associated with the conduction of procurement;
 - j) current year’s financial commitments stipulated under long-term Contracts or Contracts awarded in a previous year;
 - k) estimated timeframe of performance of the concerned Contract;
 - l) other circumstances related to procurement.
7. The provisions of the present Article shall not apply to the cases stipulated in Article 1(4) of the present Law.

CHAPTER II.

METHODS OF PROCUREMENT

Article 10. *(Repealed)*;

Article 10¹. Electronic Method of Public Procurement

1. Electronic public procurement shall be conducted through a simplified electronic tender or electronic tender.
2. At the decision of a procuring organization, simplified procurement may be performed electronically.
3. State procurement may be conducted through simplified procurement, provided that:
 - a) supply of goods, performance of works, or the rendering of services is an exclusive right of only one entity and there is no reasonable alternative to substitute a procurement object. The following shall not be treated as an exclusive right:
 1. if estimated value of the goods or services subject to procurement is over GEL 2,000,000 and is over GEL 4,000,000 in case of the works and within reasonable territorial boundaries outside the country another entity is able to perform the supply of the same goods, rendering of the same services, the performance of the same works;
 2. if estimated value of goods or services subject to procurement is not higher than GEL 2,000,000 and it is under GEL 4,000,000 in case of works and within the country another entity can effect the supply of the same goods, the provision of the same services, performance of the same works.
 - b) in case of urgent necessity; in such case the quantity of goods, volume of works or services to be procured should not go beyond the timeframes necessary for resolving the problems caused by urgent necessity;
 - c) at the decision of a procuring organization in order to prevent the deterioration of the quality of an object procured from the supplier and/or to ensure further operation thereof it is necessary to conduct procurement from the same supplier or from a subcontractor stipulated under a Contract awarded with the same supplier with the exception of the case when estimated value of the procurement object of the scheduled procurement is higher than the value an object procured originally;

- d) conducting of procurement was prescribed under the President of Georgia and/or the Government of Georgia legal act in order to implement an event of state and public importance without hindrance within the restricted timeframes in the case of conducting public procurement using the funds of the republican budgets of autonomous republics or/and the budgets of local self-governments within the autonomous republics as well as in the case of conducting the public procurements with other funds of organizations and institutions funded from the republican budgets of autonomous republics or/and the budgets of relevant local self-governments – also under the legislative acts of the government of autonomous republics, and in the case of the necessity of unhindered implementation of activities of the national and public importance by the National Bank of Georgia – under the legislative act of the Board of the National Bank of Georgia;
- e) one or more motor vehicle, computer equipment, as well as electric installation set forth under a relevant normative act is replaced with one or more motor vehicle, computer equipment and/or electric installation that is new, has the same or improved features; in such case part of the value of a new motor vehicle, computer equipment and/or electric installation shall be reimbursed by returning a motor vehicle, computer equipment and/or electric installation subject to replacement to the provider or by way of handover to another natural or legal entity that performs the sale of similar products (goods);
- f) state procurement related to entertainment expenses is conducted;
- g) procurement is conducted through the payment of charges set forth under a normative act of Georgia;
- h) state procurement of maintenance services and/or spare and/or grease and lubricants necessary for the maintenance of a motor vehicle that has a guarantee for the period and/or the conditions set forth under the resolution of the Government of Georgia;
- i) a legal entity of public law – higher education institution conducts the procurement of literature (printed, on electronic or audio-visual carriers), reagents, software, pharmacy products (medicines), laboratory equipment and database;
- j) a legal non-profit (non-commercial) legal entity implementing the higher education activity and founded by the state – a higher education institution and higher education institutions development fund conduct the public procurement under the consent of the regency council. In this case the consent of the regency council will be provided under the reasoned request of the procuring organization.

3¹. With the purpose of performance an event of state and public importance within limited

timeframes the conduction of procurement of homogenous procurement objects with value GEL 200,000 or over GEL 200,000 through simplified electronic tender during one budget year can be determined under a legal act of the President of Georgia and/or the Government of Georgia.

- 3². The Government of Georgia is entitled to delegate to the governments of autonomous republics the powers provided by paragraph 3¹ of this Article for no more than 1 year (with respect of the public procurements conducted budgets of local self-governments within the autonomous republics as well as in the case of conducting the public procurements with other funds of organizations and institutions funded from the republican budgets of autonomous republics or/and the budgets of relevant local self-governments).
4. It shall be inadmissible to artificially split procurement to avoid the monetary thresholds of methods of procurement set forth under the present Law.
5. At the decision of a procuring organization, the procurement of homogeneous procurement objects may be conducted in phases during one budget (fiscal) year, by applying several times a state procurement method relevant to the monetary limits set forth under this Law for total cost of procurement objects.
6. At the decision of a procuring organization, simplified procurement may be conducted by using procedures established for simplified electronic tender or electronic tender, and simplified electronic tender may be conducted by using procedures established for e-tender.
7. *(Repealed)*;
8. *(Repealed)*;

Article 10². Competition

1. Upon the decision of a procuring organization state procurement of design (project) services or dismantling buildings or/and removing materials and waste of dismantling from the territories may be conducted through the competition - the method of state procurement different from simplified procurement, simplified electronic tender and electronic tender.
2. Competition notice and competition documentation shall be placed on the official website of SPA, thereof competition notice is granted a unique number and competition notice and competition documentation are regarded to be officially published. A procuring organization pays a publication fee for publishing competition notice and competition documentation. In case of necessity, a procuring organization is eligible to use other additional methods for

disseminating competition notice and competition documentation.

3. Rule and terms for publishing competition notice and competition documentation are prescribed under an executive order.
4. State procurement rule and terms of design (project) services through competition are prescribed under an executive order.
5. State procurement rule and terms for dismantling buildings or/and removing materials and waste of dismantling from the territories are determined by a resolution of the Government of Georgia and prescribed under an executive order.

CHAPTER III.

ELECTRONIC TENDER

Article 11. Rule of Formation and Operation of a Tender Committee

1. *(Repealed)*;
- 1¹. An electronic tender is held by a tender committee of at least 3 members that is formed by a head of a procuring organization.
2. Head of a procuring organization and/or deputies thereof, heads of structural units of this entity shall be designated as members of the tender committee. In case the number of relevant candidates is not sufficient, other employees of the procuring organization may also be designated as members of the committee.
3. Tender committee shall be chaired by the head of a procuring organization or a person designated thereof.
4. *(Repealed)*.
5. Under the tender committee decision the specialists of respective fields may be invited to the committee as experts and consultants with a consultative vote.
- 5¹. *(Repealed)*;
6. To provide technical and organizational support to the operation of the tender committee under the decision of a head of procuring organization a secretariat of the tender committee shall be set up from among the employees of this organization, which shall be headed by the chairman of the tender committee.
7. *(Repealed)*;
- 7¹. In case of a simplified electronic tender or electronic tender, a tender committee shall take

decision with the majority of the committee members on the list. A member of a tender committee who disagrees with the decision of the committee shall have the right to submit opinion thereof in writing, which shall be attached to the decision of the tender committee. In case the votes are distributed evenly, the vote of a tender committee chairman shall be decisive. The tender committee shall take a decision on a winning bidder of a simplified electronic tender and electronic tender according to the rule prescribed under an executive order.

8. The minutes shall be drawn up about tender committee sitting which shall be signed by members of the committee attended.

Article 12. *(Repealed)* .

Article 12¹. Electronic Tender Notice and Tender Documentation

1. When conducting an electronic tender a tender committee on behalf of procuring organization places tender notice and tender documentation in the Georgian language onto the Unified State Procurement Electronic System. Upon the decision of a procuring organization, a tender notice may also be posted in the Unified State Procurement Electronic System in the English language. In case the estimated value of the goods or services to be procured exceeds GEL 2 000 000, while of the work- GEL 4 000 000, the placement of electronic tender notice in the Unified State Procurement Electronic System in the English language is obligatory.
2. In cases of electronic tender and simplified electronic tender, tender notice and tender documentation must be posted in the Unified State Procurement Electronic System, thereof tender notice is granted a unique number and tender notice and tender documentation are regarded to be officially published. A procuring organization pays a publication fee for publishing tender notice and tender documentation through the Unified State Procurement Electronic System. In case of necessity, a procuring organization is eligible to use other additional methods for disseminating tender notice and tender documentation.
3. Tender notice form, data to be indicated in the notice, the rule of publishing and posting thereof in the Unified State Procurement Electronic System shall be prescribed under the executive order.
- 3¹. When conducting state procurement through the Unified State Procurement Electronic System a bid security guarantee must be submitted to SPA through the Unified State Procurement Electronic System. The rule and conditions of submission of the guarantee to SPA, types and

amount of the guarantee shall be prescribed under the executive order.

4. The tender committee shall approve tender documentation.
5. Tender documentation shall contain:
 - a) the qualification requirements a bidder is to meet;
 - b) *(Repealed)*;
 - c) *(Repealed)*;
 - d) quantity of goods, volume of works or services, timeframe, place and type of the supply of goods, performance of works or rendering of services subject to procurement;
 - e) full description of technical and qualitative characteristics of a procurement object including technical specifications relevant, plans, drawings and sketches;
 - f) those necessary terms and conditions of a Contract that the procuring organization is aware of in advance as well the reference to the Contract type and the performance bond (if applicable);
 - g) the methods that must be used to estimate the value of a bid, by indicating whether it must also be comprised of the costs (transportation, insurance, taxes, etc.) other than the value of goods, works or services;
 - h) *(Repealed)*;
 - i) ways and procedure of requesting additional information and clarifications about tender documentation;
 - j) the name and contact details of a member of the tender committee secretariat that is authorized to give out information and provide clarifications about procurement procedures;
 - k) *(Repealed)*;
 - l) indication about alternative procurement of communication services (if applicable).

5¹. Tender documentation shall be drawn up in accordance with a rule set forth under an executive order.

6. A procuring organization while describing technical and quality characteristics of a procurement object, is obligated to ensure the conformity of used narrative materials, technical specifications, designs, drawings, sketches and other materials with the standards, technical indicators, terminology and symbols recognized in Georgia and internationally. A procurement entity is obliged to make a reference to a relevant applied standard, if applicable.

In the description of a procurement object it is not admissible to indicate trademark, patent, model, source of origin or producer. In these cases, while describing a procurement object the terms like “similar” “equivalent” and others must be necessarily used.

7. The qualification documents may be submitted in Georgian, as well as in foreign languages, at the decision of a procuring organization. In case the documents are submitted in a foreign language, translations thereof performed under the rule prescribed by Georgian legislation shall be attached. When resolving disputable matters related to documents the procuring organization shall decide on assigning priority to a foreign language document or Georgian translation thereof.
8. Tender committee shall post tender notice and tender documents in the Unified State Procurement Electronic System at least 20 days prior to the deadline for submission of tender bids. If the deadline for acceptance of tender bids in the announced simplified electronic tender coincides with the weekend or a holiday, the deadline for acceptance of tender bids shall be the next working day.
9. Tender committee shall be authorized to modify the information indicated in tender notice and tender documentation, with the exception of homogeneous procurement objects and electronic means of state procurement. These modifications must be posted in the Unified State Procurement Electronic System , no later than 20 days before the expiration of deadline for the submission of tender bids.
10. *(Repealed)*

Article 13. Qualification Data

A procuring organization shall set qualification details the bidders will be required to meet in order to be eligible to participate in procurement, for each specific procurement. The rule of selection of qualification data shall be established under the executive order. Requirements for qualification data must be fair and non-discriminatory and be conducive to the promotion of healthy competition.

Article 14. *(Repealed).*

Article 15. *(Repealed)*

Article 15¹. Rule of Conducting Electronic Tender

1. Electronic tender procedures to be effected from the submission of tender bid until the awarding of Contract with a winning bidder shall be set forth in the present Article and executive order.
2. An affidavit, tender bids and supporting documentation thereof, a sample (if applicable) and supplier qualification documents shall be submitted to the tender committee pursuant to the rule prescribed under the executive order.
3. The timeframe for familiarization electronic tender notice and electronic tender documentation shall be at least 15 days from posting thereof in the Unified State Procurement Electronic System. Within 5 days from the deadline a bidder shall be authorized to submit a tender bid through the Unified State Procurement Electronic System and alter the price of the submitted tender bid through electronic trade. If the deadline for acceptance of tender bids in the announced simplified electronic tender coincides with the weekend or a holiday, the deadline for acceptance of tender bids shall be the next working day.
4. Matters related to the access to information and documentation posted by a bidder in the Unified State Procurement Electronic System shall be set forth in the executive order.
5. *(Repealed)*.
6. *(Repealed)*.
7. *(Repealed)*.
8. *(Repealed)*.
9. *(Repealed)*.
10. Tender committee shall take a decision as to a winning bidder of a tender through an evaluation procedure set forth under the executive order.
11. *(Repealed)*.
12. *(Repealed)*.
13. *(Repealed)*.
14. Tender committee shall publish through the Unified State Procurement Electronic System a Contract awarded with the winning bidder and the documentation related to electronic tender determined under the executive order within the timeframe set forth under the executive order and according to the prescribed rule.

Article 16. *(Repealed)*.

Article 16¹. Awarding Contract to Winning Bidder

1. On the basis of the conditions set forth in a tender bid of a winning bidder a Contract on state procurement shall be made between a winning bidder and a procuring organization.
- 1¹. In case of unilateral termination of the Contract by a procuring organization it is not responsible for any loss resulted from termination of the contract except for the cases provided by the Georgian legislation as well as in the case when the Contract is terminated under paragraph 4¹ of Article 9 of this Law when there is a necessity of bringing the annual procurement plan of a procuring organization in conformity with the relevant normative act on the State Budget of Georgia, budgets of the Autonomous Republics of Abkhazia and Adjara and budgets of local self-governments and as a result of this the contract cannot be prolonged.
2. At the decision of a procuring organization a Contract may be made in Georgian as well as foreign languages. In case a Contract is made in a foreign language it shall be translated into Georgian according to a rule prescribed by Georgian legislation.
3. *(Repealed)*.
4. *(Repealed)*.
5. In case a winning bidder is disqualified or it refuses to sign a Contract, a procuring organization shall hold negotiations with a bidder next in position to negotiate Contract terms and conditions, tender or cancel procurement procedure in the cases provided by the executive order.
6. *(Repealed)*.
7. In case of procurement of large volume of works, if a construction object is located on Georgian territory, additional terms and conditions related to the Contract may be set forth under the relevant legislative act of the Government of Georgia. .
8. Mandatory provisions of a Contract to be awarded to a winning bidder in electronic tender and simplified electronic tender procedures and a supplier selected through competition and simplified procurement shall be set forth under the executive order.

Article 17. *(Repealed)*.

Article 18. *(Repealed)*.

Article 18¹. Inadmissibility to hold negotiations during the electronic tender process

A tender committee shall not be authorized to hold negotiation with an applicant or a bidder in an electronic tender, except as stipulated under the executive order.

Article 19. (Repealed).

Article 19¹. Fee rate

1. A fee of GEL 50 shall be set for the submission of tender bid or competition proposal in the case of a competition or electronic tender and simplified electronic tender procedures, while in case of a consolidated tender procedures a fee of GEL 5,000 shall be set for the submission of a tender bid. Under an executive order may be set the fee different from the fee determined for a bidding in this paragraph, and under the resolution of the Government of Georgia - the fee different from the fee determined for a consolidated bidding in this paragraph.
2. The rule and conditions of the payment of a fee, refund of a fee paid in error shall be established under the executive order.

Article 20. (Repealed).

Article 20¹. (Repealed).

Article 20². Consolidated tender

1. At the decision of the Government of Georgia the conducting of a consolidated tender may be determined for the procurement of homogeneous procurement objects.
2. In the case envisaged under Paragraph 1 of the present Article on the basis of documents supplied by the Government of Georgia, SPA shall provide for the conducting a consolidated tender and the identification of the best tender bid pursuant to the rule and conditions set forth under the executive order.
3. SPA shall ensure that the data for the conducted consolidated tender stipulated in the executive order are posted in the Unified State Procurement Electronic System.

4. A procuring organization may, while the procuring organization which, pursuant to Article 9(6) (e¹) of the present Law has indicated in the annual procurement plan for state procurement the conduct of state procurement through a consolidated tender shall be obligated to, award Contract to a supplier identified pursuant to the rule set forth under the executive order.
5. In the case envisaged under the present Article the composition of tender committee shall be determined by the Government of Georgia.

Article 20³. Two-phase State Procurement

1. Two-phase state procurement of procurement objects determined under an executive order may be conducted through two-phase electronic tender or two-phase simplified electronic tender.
2. Rule and terms for conducting two-phase electronic tender or two-phase simplified electronic tender are set forth in an executive order.
3. Rule and terms for conducting two-phase electronic tender or two-phase simplified electronic tender considering the mentioned peculiarities of state procurement methods, may include the regulations for electronic tender or/and simplified electronic tender different from the ones prescribed under the present law.

CHAPTER IV.

TERMS AND CONDITIONS OF PUBLIC PROCUREMENT CONTRACT AND RULE OF REVISION THEREOF

Article 21. Terms and Conditions of Public Procurement Contract and Rule of Revision Thereof

1. *(Repealed)*

1¹. A public procurement contract shall be made in writing, considering the provisions set forth under the present Law and the executive order. The execution of a public procurement contract is not obligatory in the following cases:

- a) in case of public procurement conducted by Georgia's diplomatic missions and consulates abroad, as well as by the defense attaché, representatives of the Ministry of Defense of Georgia and the Ministry of Internal Affairs of Georgia via simplified public procurement, as well as in cases stipulated in the executive order;

- b) in case of public procurement conducted via the Internet through simplified procurement;
- c) in case of conducted public procurement related to entertainment expenses;
- d) in case of public procurement conducted by way of payment of the charges set forth under a normative act of Georgia;

2. To secure the performance of a Contract, based on the specificity of procurement object, the performance bond or insurance requirement may be applied, save the cases stipulated in paragraph 3¹ of the present Article.

2¹. In case a procurement object is petroleum products (fuel) which value due to its specificity depends on a variable price on a foreign commodities exchange and/or official exchange rate of the national currency prior to awarding a Contract on public procurement a supplier shall be obligated to submit to a procuring organization the final unit price of goods subject to supply calculated under the rule prescribed in the executive order. This requirement shall not be applicable to the procurement of petroleum products (fuel) by a diplomatic mission and a consulate of Georgia in a foreign state, as well as by a defense attaché, Ministry of Defense of Georgia and the Ministry of Internal Affairs representative.

3. *(Repealed)*.

3¹. State procurement performance bond or insurance shall be obligatory in case the total value of a Contract is equal to or is over GEL 200,000. At the decision of a procuring organization a bidder or potential supplier may be exempted from the submission of the guarantee stipulated under the present Paragraph considering its business reputation and the quality and brand of services and works produced thereof.

3². If a procuring organization requires a performance bond or insurance, the supplier who has provided the universal guarantee stipulated by this Law, is entitled not to present the performance bond or insurance. In such case the state will use the universal guarantee for security of the contract performance.

3³. Any procuring organization before which the universal guarantee holder (the principal) accrues the liability provided by the guarantee may be an universal guarantee beneficiary. That fact shall be informed by the procuring organization – universal guarantee beneficiary, to the guarantee provider (guarantor) under the procedure prescribed by an executive order.

4. The mandatory terms and conditions of a Contract and the rule of application of a guarantee and insurance shall be set forth in the executive order.

5. The terms and conditions of a Contract awarded to the supplier may not be modified in case such modification increases the value of a Contract for a procuring organization or the terms and conditions of the Contract are rendered less favorable, save the cases stipulated in Article 398 of the Civil Code of Georgia.

5¹. The conditions for the modification of a Contract in accordance with Article 398 of the Civil Code of Georgia shall be set forth under the executive order.

5². (Repealed).

5³. In cases envisaged under Paragraph (1¹) (a)-(d) of the present Article a public procurement shall be conducted on the basis of a document (e.g., cheque, or receipt) containing information proving the payment of the cost of the procurement object, envisaged under the executive order or Contract (if applicable).

6. (Repealed).

Article 21¹. Advance Payment Conditions

1. In case of the advance payment the supplier shall submit to the procuring organization the guarantee of the amount identical to the amount of advance payment except for the cases stipulated by paragraph 2 of this Article and executive order.

2. Under the decision of procuring organization the supplier may be exempted from the guarantee of the amount identical to the amount payable in advance by the procuring organization, if:

a) the amount payable in advance to the supplier will be placed on the escrow account of the supplier and will be used under the control of the procuring organization during the total period of the term of the public procurement contract;

b) the total amount of a specific public procurement contract exceeds the limit established by an executive order. In this case, the supplier may be exempted from the guarantee of the amount identical to the sum payable in advance by the procuring organization subject to his business reputation, quality and brand of goods, services and work produced by him;

c) the supplier's liability before the procuring organization shall be permanently secured by the universal guarantee under the procedure prescribed by an executive order.

3. The specificity of extension of the provisions of paragraph 2 of this Article to the qualified suppliers registered in the White List shall be determined by an executive order.

4. The supplier shall reimburse the sums received as a result of the advance payment only for performance of obligations related to the public procurement contract.
5. The rule and conditions of submission of the guarantee on the advance payment and exemption thereof provided by paragraphs 1-3 of this Article shall be determined by an executive order.

CHAPTER V.

MONITORING AND CONTROL OVER PROCUREMENT

Article 22. Procurement Report

1. *(Repealed)*
2. *(Repealed)*
- 2¹. When an electronic tender is conducted, conclusions of experts and consultants (if applicable) involved in the tender, minutes of tender committee sittings, as well as other documentation stipulated in the executive order shall be attached to the procurement report.
3. *(Repealed)*.
- 3¹. Procuring Organization shall submit reports on the progress of discharge of a Contract following a simplified rule set forth under the executive order, by no later than 30 January of the following year, provided the cumulative value of an annual plan is below GEL 50,000.
4. Procurement reports shall be made available to all interested parties upon request.
5. Procurement report for an object with value over GEL 2,000,000 shall be submitted to the Prime Minister of Georgia by the head of the procuring organization in writing, within 20 days period from the awarding of a Contract. The provisions of this paragraph do not apply to the National Bank of Georgia, which, pursuant to the Organic Law of Georgia on the National Bank of Georgia shall submit a procurement report to the board of the National Bank of Georgia.
6. The Ministry of Finance of Georgia, Ministries of Autonomous Republics of Abkhazia and Adjara in Finance and the financial bodies of local self-government authorities shall be obligated to on a quarterly basis provide to SPA information on the actual allocated funds to budgetary organizations and institutions.
7. SPA shall be authorized to at any stage of implementation of procurement require procuring organizations and participants of procurement to provide any document and information related to procurement, including information about the performance of the Contract.

8. To ensure transparency of the procurement process SPA shall conduct monitoring of the adherence to the principles in the process of procurement such as publicity, fairness and non-discrimination, rigorous adherence to established procedures and reporting, ensuring open and efficient competition, possibility of rational and free choice.
9. *(Repealed)*.
10. The format of reports, rule of drawing up, submission and storing thereof, timeframe and conditions for the report on the progress of conduction of state procurement stipulated under simplified procurement, simplified electronic tender, electronic tender, design competition and Contracts and in Article 21(1¹) of the present Law shall be set forth in the executive order.

Article 22¹. Control of Procurement by the State Audit Office of Georgia

1. The State Audit Office of Georgia shall control procurement through auditing a procuring organization.
2. A procuring organization shall be obligated to submit to the State Audit Office of Georgia, upon request, any document and/or information related to procurement.
3. Participant of procurement shall be obligated to provide to the procuring organization, subject to its request, relevant document and/or information related to procurement.
4. *(Repealed)*.

CHAPTER VI.

PROCEDURE OF CHALLENGING AN ACTION RELATED TO PROCUREMENT AND REVIEW OF DISPUTES

Article 23. Rule of Appeal and Dispute Review

1. An applicant for procurement or a bidder prior to granting the status prescribed under an executive order for simplified electronic tender or electronic tender, may appeal actions of a procuring organization or a tender committee, to the procuring organization or SPA, if it regards that during the procurement the rules set forth in the present law and relevant normative acts were violated and/or its rights infringed.
2. An applicant, bidder or supplier at any stage may appeal actions of the procuring organization or tender committee to the court if it regards that during procurement rules set

forth under the present Law and relevant normative acts were violated and/or its rights were infringed.

2¹. *(Repealed)*.

2². In case an applicant for in procurement or a bidder appeals action of a procuring organization, a procuring organization may not be required to suspend procurement procedures, save:

- a) the period following the completion of electronic trade;
- b) procurement through consolidated tender or competition, in the cases established under the executive order.

3. *(Repealed)*.

4. *(Repealed)*

4¹. A board for the review of procurement-related disputes shall be set up at SPA, which composition shall include representatives of SPA and the NGO sector under the parity principle. The composition of the dispute review board and rule of operation thereof shall be prescribed under an executive order.

5. A procuring organization or SPA makes a grounded written decision and informs it to the complainant in no later than 10 working days after the receipt of the complaint. The decision of SPA published on an official website shall be regarded as the notification on the decision made.

6. *(Repealed)*.

7. If the legitimacy of the complaint is confirmed by SPA as a result of detailed study of the complaint and related circumstances, the SPA shall be authorized to:

- a) point out the erroneous action thereof to the procuring organization and require the conduct of the procurement procedures in compliance with the legislation;
- b) require a procuring organization to revise or cancel the taken decisions;
- c) in case of violation of the provisions of this Law bring up before relevant bodies envisaged under the legislation of Georgia the issue of responsibility of the participants of the procurement.

8. *(Repealed)*.

9. An action shall not be subject to appealing, provided the complaint is about:

- a) selection of a method of procurement in compliance with the rules set forth under the

present Law and relevant normative acts;

- b) decision of a procuring organization on the suspension or cancellation of procurement normative acts.

10. A compliant must have a legal basis. The form of a compliant to be submitted to SPA, the rule for its completion and submission shall be set forth under an executive order. SPA shall not review a complaint that has been submitted in violation of the provisions of this paragraph.
11. If a complaint is filed at procuring organization or SPA, the procuring organization shall suspend procurement according to the period of the complaint review procedures.
12. An applicant, a bidder or supplier may appeal to the court the decisions taken by a procuring organization and the SPA related the complaint.
13. The damages reimbursable to the complainant as a result of the resolution of the dispute stipulated in the present Article must be limited to the reimbursement of costs related to the participation in the procurement and must not envisage the reimbursement for estimated profit.
14. The appealing of an administrative-legal act of an authorized body shall not result in suspension thereof.

CHAPTER VI.

TRANSITIONAL AND FINAL PROVISIONS

Article 24. Activities to be taken for the bringing this Law into operation

1. *(Repealed)*.
2. Within a 1 month period from the effective date of this Law the State Procurement Agency pursuant to the legislation of Georgia shall approve the Regulations on the Rule on Conducting State Procurement.
- 2¹. *(Repealed)*.
- 2². *(Repealed)*.
- 2³. *(Repealed)*..
3. Until January 1, 2008 this Law shall not apply to the procurement to be effected by electricity and natural gas entities for procurement to be conducted for rehabilitation or repair of the property that is directly related to the generation, transmission, dispatching, distribution of electricity, transportation, distribution of natural gas, as well as regulating electricity and natural

gas metering.

4. The provisions of the present Law do not apply to the procurement of cellular telephone service until January 1, 2013.
5. To ensure the conformity of the Law of Georgia on Broadcasting with Article 1(3¹) (l) of this Law, legal entity of public law – Public Broadcaster and the Government of Georgia jointly shall ensure the drafting of a relevant law and submission to the Parliament of Georgia before December 20, 2009.
6. From March 1, 2010 to December 1, 2010 procuring organizations shall conduct state procurement at their own discretion, by means of electronic procurement or otherwise.
- 6¹. The Government of Georgia shall ensure passing a decree stipulated under Article 10¹(3) (h) of this Law by February 1, 2011.
7. Towards identification of homogeneous procurement objects, the Agency shall ensure the introduction of a relevant classifier adopted by international organizations by May 1, 2011.
8. The identification of a winning bidder of the public procurement procedures that have commenced before December 1, 2010 and the awarding of public procurement contract thereof shall be made according to a rule in effect prior to December 1, 2010.
- 8¹. Until December 31, 2010 the matters related to the homogeneity of procurement objects and inclusion in annual procurement plans in case of state procurement performed through simplified procurement, simplified electronic tender and electronic tender shall be set forth under a executive order.
- 8². Until the methodology for detection of artificial splitting of state procurement is developed SPA shall be authorized to additionally regulate under an individual administrative-legal act the matters related to artificial splitting of state procurement.
9. When conducting state procurement of international telephone services and internet services, to promote state security defense activities, additional requirements related to the termination of telephone calls of international companies providing telecommunication services and the route of data exchange in a global internet network shall be set forth under a normative act of the Minister of Internal Affairs of Georgia.
10. The State Procurement Agency shall ensure:
 - a) by December 30, 2010 – approving the provisional rule for the conduct of state procurement electronically;

- b) by May 1, 2011 – approving the rules for conducting simplified procurement, simplified electronic tender and electronic tender;
 - c) by April 1, 2011 – approving the conditions and rules for state procurement of design (project) services through a competition;
 - d) May 1, 2012 – approving the conditions and rules for conducting a consolidated tender;
 - e) by December 1, 2012 – developing the methodology for detection of artificial splitting of state procurement;
 - f) by January 1, 2012 - approving of the rule for conducting two-phase electronic tender and two-phase simplified electronic tender;
 - g) by May 1, 2013 – developing the provisions regarding the maintenance of the White List and advance payment conditions.
11. By April 1, 2011 the Ministry of Economy and Sustainable Development of Georgia and the State Procurement Agency shall jointly ensure the approval of a normative act (order) stipulated under Article 10¹(3) (e) of this Law.
12. By April 15, 2014 the Government of Georgia shall ensure the approval of the Regulations of legal entity of public law – State Procurement Agency.
13. The Regulations approved under Resolution N497 of the Government of Georgia dated December 27, 2011 “On Approval of the Regulations of Legal Entity of Public Law – Competition and State Procurement Agency, shall stay in force before the approval of the Regulations of legal entity of public law – State Procurement Agency provided in paragraph 12 above.
14. From March 31, 2014 be null and void the Resolution N166 of the Government of Georgia dated February 18, 2014 “On Determination of Legal Entity of Public Law – Competition and State Procurement Agency as Authorized Body”.

Article 25. Abrogated Normative Acts

The following shall be regarded abrogated upon effective date of this Law:

- a) Law of Georgia on State Procurement of December 9, 1998 (Georgia’s Legislative Bulletin, No 7, 1998, Article 52);
- b) Order N1 of the Chairman of the State Procurement Agency dated October 15, 2001 on Approving Regulations on the Rule of Conducting State Procurement.

Article 26. Effective Date of the Law

The present Law shall enter into force from January 1, 2006.

Mikheil Saakashvili, President of Georgia

Tbilisi

April 20, 2005

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