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

"LAW OF THE REPUBLIC OF LITHUANIA ON PUBLIC PROCUREMENT

CHAPTER I

GENERAL PROVISIONS

Article 1. Scope of the Law

1. This Law establishes the procedure of public procurement, the rights, obligations and responsibility of participants in the procurement procedures, as well as the procedure for the control of public procurement and settling of disputes.

2. The provisions of the Law have been harmonised with the EU legal acts referred to in the annex to the Law.

Article 2. Definitions

1. "Open procedure (simplified open procedure)" means the procedure when any interested supplier may submit a tender.

2. "Tenderer" is a supplier that submitted a tender.

3. "Electronic means" means wire, fax or other telecommunication terminal equipment designed for data transmission.

4. "Usual commercial practice" means a practice when the contracting authority procures supplies, services or works following the procurement rules laid down by it and the public procurement principles set forth in this Law from a supplier that offers the lowest price or gives the most economically advantageous proposal.

5. "Candidate" is any supplier seeking an invitation to take part in a restricted or a negotiated procedure.

6. "Statement of confidentiality" is a statement made in writing by a member or expert of the public procurement commission or any other person whereby such member or expert or other person undertakes not to furnish information to third parties, where disclosure of such information would be contrary to the requirements of this Law or public interests or would harm the legitimate interests of the suppliers and contracting authority participating in the procurement procedure.

7. "Pre-qualification selection" means a procurement procedure whereby the contracting authority selects, on the basis of the qualification criteria laid down in the contract documents, candidates eligible to be invited to submit their tenders.
8. "Impeccable reputation" means individuals other than those listed below:

1) persons who were convicted of a serious offence or an offence against the civil service, or of economic or financial offences, irrespective of whether the conviction has expired or not;

2) persons who were convicted of a deliberate offence, if the conviction has not expired;

3) persons who violated the requirements of the Law of the Republic of Lithuania on Adjustment of Public and Private Interests in the Public Service;

4) persons who abuse alcohol, narcotic, toxic or psychotropic substances;

5) persons convicted by an effective court judgement of a corruption offence;

6) persons who have been convicted under the Code of Administrative Violations of Law for the violation of public procurement procedure.

9. "Negotiated procedure without publication of a contract notice (simplified negotiated procedure without publication of a contract notice)" means the procedure in which the contracting authority negotiates the contract terms and conditions with one or several invited suppliers.

10. "Declaration of impartiality" means a written statement given by a member or expert of the public procurement commission declaring his impartiality with respect to the suppliers.

11. "Request" means a document whereby the supplier expresses his willingness to take part in the procurement procedures.

12. "Tender" means a document submitted by the supplier offering to supply products, provide services or perform works under the terms fixed by the contracting authority.


14. "Contract documents" means documents describing the objective of procurement and contract terms and conditions that are published or presented by the contracting authority to the suppliers; these documents include a contract notice, an invitation to tender, technical specifications, draft contract and other documents and explanations to these documents.

15. "Design contest (simplified design contest)" means the procurement procedures which enable the jury to select a supplier/suppliers who submitted the best plan or design for area planning, building planning, architecture and engineering or data processing, with or without the award of a prize, a bonus or other award, and then invite such supplier to participate in the procurement procedures.

16. "In writing" means any expression in a form of writing. It includes information that is transmitted and stored by electronic means, provided the security of the contents is ensured and the signature is identifiable.

17. "Restricted procedure (simplified restricted procedure)" means the procedure in which tenders may be submitted only by those suppliers who were invited by the contracting authority.

18. "Negotiated procedure with publication of a contract notice (simplified negotiated procedure with publication of a contract notice)" means the procedure in
which all suppliers may submit a request to participate, and the contracting authority negotiates the terms of contract with all or only with the selected suppliers.

19. "Technical specification" means contract documents containing technical requirements to be met by the goods, services or works offered by the suppliers.

20. "Supplier (supplier, service provider, contractor)" is any economic entity who may be either a natural person, or a private legal person, or a public legal person or any group of such persons which is able to offer or is offering goods, services or works.

21. "Public procurement of works" means public procurement having as its object either the execution, or both execution and design, of works related to one of the activities referred to in Annex I of this Law, or the execution, by whatever means, of work which is sufficient of itself corresponding to the requirements specified by the contracting authority, or either the execution, or both execution and design of works which may perform an economic or a technical function. The objective of procurement is to award a public sales-purchase contract.

22. "Public procurement of services" means public procurement having as its object A- and B-type services listed in Annex II to this Law, as well as procurement having as its object the supplies and services listed in Annex II of this Law, where the value of such services exceeds that of supplies, or procurement having as its object services listed in Annex II of this Law and works listed in Annex I of this Law, where these works are incidental to the principal object of the services contract. The objective of procurement is to award a public sales-purchase contract.

23. "Public procurement" (hereinafter referred to as "procurement") means the procurement of supplies, services or works performed by the contracting authorities subject to the rules set forth in this Law. The objective of procurement is to award a public sales-purchase contract.

24. "Public procurement of supplies" means public procurement contracts involving the purchase, lease, rental or hire purchase, with or without option to buy, of supplies (raw material, products, equipment buildings and other items of any form), including siting and installation or other services necessary for preparing the supplies (products) for use. The objective of procurement is to award a public sales-purchase contract.

25. "Public sales-purchase contract" (hereinafter referred to as "public contract") means contracts for pecuniary interest concluded in writing between one or more suppliers and one contracting authority and having as their objects supplies of products, execution of works or provision of services.

Article 3. Contracting authority

1. A contracting authority shall be:

1) any state or local authority;

2) any public legal person meeting the conditions set forth in paragraph 2 of this Article;

3) any association of public legal persons referred to in paragraphs 1 and/or 2 of this Article;

4) any legal persons engaged in water, energy, transport or telecommunication activity, referred to in Article 55(1) of this Law.

2. A public legal person (with the exception of state or local authorities) shall be deemed to be a contracting authority, if it is of non-commercial and non-industrial character, has
been established for the purpose of meeting public interests and meets at least one of the following conditions:

1) the activities thereof are financed, for more than 50 %, with state or municipal budget resources, or with other resources from state or municipal monetary funds, or with the resources of other public legal persons specified in this paragraph;

2) it is subject to management (supervision) by the state or local authorities, or other public legal persons specified in this paragraph;

3) it has an administrative, management or supervisory body, more than half of whose members are appointed by the state or local authorities or by public legal persons specified in this paragraph.

3. The Government of the Republic of Lithuania or an institution authorised by it must approve the lists of contracting authorities (including military units and services of the national defence system).

4. The institution which approves the lists specified in paragraph 3 hereof must ensure that the lists are updated on a regular basis.

**Article 4. Main Principles of Public Procurement and Compliance with them**

1. Contracting authorities shall take all necessary steps to ensure compliance with the principles of equality of treatment, non-discrimination and transparency.

2. The main goal of the procurement is to acquire supplies, services or works necessary for the contracting authority by following the principles referred to in paragraph 1 above, and making a rational and economic use of the resources allocated for this purpose.

3. Where a contracting authority grants special or exclusive rights to provide public services to another body, which is not the contracting authority, the instrument granting these rights shall stipulate that the body in question must abide by the principles established in paragraph 1 of this Article when awarding contracts for supplies necessary for the provision of public services.

**Article 5. Confidentiality**

1. Except in the cases provided for in the laws, the contracting authority and suppliers may not disclose any information the confidential nature of which has been indicated by the contracting authority or supplier.

2. The contracting authority, members of the Public Procurement Commission, experts or other persons may not disclose any information in relation to the completed procurement procedures, where disclosure of such information would be contrary to the laws, would harm the legitimate commercial interests of the parties or prejudice fair competition.

**Article 6. Start and Completion of the Procurement**

1. The procurement shall commence upon receipt by the Public Procurement Office of a contract notice submitted by the contracting authority, or, in negotiated or simplified negotiated procedure without publication of a contract notice - upon sending invitations to tender to the candidate (candidates); or, in case of the usual commercial procedure - when the contracting authority approaches a supplier (suppliers) requesting to offer prices and conditions for the purchase of supplies, services or works.

2. The procurement shall be completed:
1) upon conclusion of the contract (preliminary agreement) or selection of the winner in the design contest, who is not invited to participate in the further procurement procedure;

2) when all tenders are rejected;

3) when procurement procedures are terminated;

4) when no tenders or requests to participate are filed within the specified time limits;

5) the tender validity period expires and the contract is not concluded due to the reasons that are beyond the suppliers' control.

3. At any time before the award of the contract, upon receipt of the consent from the Public Procurement Office, the contracting authorities shall have the right to terminate the simplified procurement procedure should the circumstances arise that could not have been predicted in advance (supplies, services or works are no longer needed, or there are no funds to pay for them). In cases where the value of such contract exceeds the thresholds specified in Article 10 of this Law, the contracting authority shall notify the Public Procurement Office of such termination of the procedure and request to publish a notice of termination in the Official Journal of the European Union and in the supplement “Informaciniai pranešimai” (Information notices) to the official gazette “Valstybės žinios”.

Article 7. Public Procurement Office

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

2. Public Procurement Office shall fulfil the following functions:

1) draft and submit to the Government for approval public procurement legislation;

2) draft and adopt, within the scope of its competence, public procurement legislation;

3) supervise the compliance during public procurement procedures with the Law on Public Procurement and the requirements of related implementing legislation, carry out measures to prevent violations of the above laws;

4) approve the methodology of drawing up technical requirements of contract documents;

5) collect, store and analyse information about public procurement, whether intended or in process, as well as about the awarded public contracts and the contract performance results, and communicate such information to the state or local authorities and the general public;

6) analyse and assess the procurement system and draw up proposals for its improvement;

7) organise the training of the contracting authorities’ public servants or employees responsible for procurement and train the said persons;

8) offer consultations to contracting authorities and suppliers or make arrangements for their consulting on issues of procurement;

9) when deciding the issues of procurement, maintain contacts with the relevant foreign institutions and international organisations;
10) specify the mandatory requirements for notices (pre-information notices, contract notices, invitations to tender, contract award notices, contract performance results and other procurement notices);

11) approve the methods of calculating the estimated contract value;

12) approve the methods of determining pricing rules;

13) approve standard forms of procurement reports;

14) prepare and submit to the EU Commission, within the time limits and in the form set by the Commission, annual statistics on procurement of supplies, services and works as well as any other information that may be requested;

15) forward the notices of the contracting authority for publication in the Official Journal, as well as ensure publication of the notices and other relevant information submitted by the contracting authorities;

16) notify the EU Commission of the public contracts referred to in Article 9 (4) and Article 34 (4) of this Law;

17) file with the EU Commission a request for reconciliation referred to in Article 105 of this Law;

18) engage in other activities prescribed by legislation.

3. Rights of the Public Procurement Office:

1) to be provided by the contracting authority with information relating to procurement;

2) to be provided by the contracting authority, Public Procurement Commission or its members as well as experts taking part in procurement procedures explications of procurement-related actions or decisions;

3) to present contract documents and tenders submitted by suppliers for additional expert examination;

4) upon ascertaining violations of law, to obligate the contracting authority to suspend or terminate procurement procedures, revoke or change the decisions or actions which are not in conformity with the requirements of this Law;

5) in the cases provided for in this Law give consent to the termination of procurement procedures by contracting authority;

6) to take an administrative action in the manner prescribed by law against the persons who violate this Law.

Article 8. Calculating the Value of Contracts

1. The value of public supply contracts shall be estimated at the beginning of the procurement procedure referred to in Article 6 (1) of this Law.

2. Contracting authorities may not split up the value of the contract with the intention of avoiding the application of the procurement procedure set forth in this Law. The contract maybe split up only if all parts of the contract so split will be subject to the same procurement procedure as chosen for the whole contract according to the provisions of this Law.
3. The choice of the method for calculating a contract may not be done with the intention of excluding them from the scope of this Law.

4. The value of public contracts for supplies or services shall be calculated by applying the methods of calculating the contract value of supplies or services approved by the Public Procurement Office, and in case of works account shall be taken of all works necessary to complete the object concerned.

5. In the event the public supplies or services contract is awarded once in the current fiscal year or within 12 months from the start of the procurement without the possibility of extension, then the value of the procurement shall be the estimated value of the contract intended to award.

6. In the case of supply or service contracts which are regular in nature (i.e., several contracts within 12 months) or which are to be renewed within a given period, the calculation of the estimated contract value shall be based on the following:

1) either the total actual value of the successive contracts having the same code of the nomenclature approved by the Public Procurement Office and awarded during the preceding 12 months or fiscal year, if possible, adjusted to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;

2) or the estimated aggregate value of the successive contracts awarded during the 12 months following the first delivery, or during the contract period if that is longer than 12 months.

7. Where a proposed supply contract provides for a possibility of extension (option), the basis for calculating the estimated contract value shall be the highest possible total of the purchase, inclusive of the option clauses.

8. In the case of contracts for the lease, rental or hire purchase, with or without option to buy, of goods, the estimated contract value shall be calculated as follows:

1) in the case of fixed-term contracts, if that term is less than or equal to 12 months, the total estimated value for the term of the contract or, if the term of the contract is greater than 12 months, the total value of the intended contract, including the estimated residual value (value at which the goods are bought);

2) in the case of contracts without a fixed term or whose term cannot be defined, the monthly value of the contract multiplied by 48.

9. For the purposes of calculating the estimated contract value for services, the contracting authority shall take account of the following:

1) of the premium or any other remuneration payable, in the case of insurance services,

2) as regards banking or other financial services, of fees, commissions and interest as well as other types of remuneration payable into the bank,

3) of estimated value of services, where the public services contract is awarded to the winner of the design contest;

4) of the aggregate value of prizes, premiums or other forms of remuneration payable to the winners where service contracts are awarded after design contests.

10. In the case of contracts for services not specifying the total price (i.e., specifying only pricing rules), the estimated contract value shall be calculated on the basis of:
1) in the case of fixed-term contracts, where their term is 48 months or less, the total contract value;

2) in the case of contracts of indefinite duration or with a term of more than 48 months, the monthly value of the contract multiplied by 48.

11. When calculating the value of public works contracts, account shall be taken of the estimated value both of the works, and the supplies needed to carry out the works and made available to the contractor by the contracting authorities.

12. If proposed procurement of supplies of the same type may lead to several contracts being awarded at the same time, the value of the procurement shall be the total estimated value of these several contracts.

13. Where the works and services are procured by awarding several contracts at the same time, the values of these contracts, calculated according to the provisions of this Article, shall be added. The value of procurement so calculated shall apply for all lots. Whether or not this total amount is equal to or greater than the applicable international threshold, the contracting authority may apply the provisions of the procedure in Chapter IV of this Law to any lots the total value of which is up to 20% of the total of the contract, and the estimated total value of the lots is up to LTL 276,224 (EUR 80,000) in the case of service contracts, or LTL 3,452,800 (EUR 1,000,000) in the case of works contracts.

14. The calculation of the value of a preliminary agreement shall be based on adding up the estimated value of all the contracts envisaged for the total term of the agreement.

Article 9. Excluded Contracts

1. The following contracts shall be exempt from the application of this Law:

1) public contracts related to state secrets as they are defined by laws, or official secrets established by laws if the contracts are awarded by entities engaged in operational activities, where supply of products or services or performance of works must be accompanied by special security measures in accordance with the laws or regulations adopted by the Government of the Republic of Lithuania or when the protection of the basic interests of the state security so requires. The procedure for awarding contracts of the type shall be set by the Government of Lithuania pursuant to the basic provisions of this and other Laws, which ensure protection of state or official secrets as well as other interests of the state;

2) contracts awarded by the Lithuanian Army units stationed in foreign states under international agreements, where the contracts are awarded for the benefit of the stationed army units;

3) procurement or lease of land, the buildings or other immovable property, or acquisition of the title to such property, except for the procurement of financial services related thereto - financial services are procured subject to the requirements this Law. The procedure of procurement or lease of land, buildings or other immovable property, or acquisition of the title to such property shall be established by the Government;

4) public contracts for the principal purpose of permitting the contracting authorities to provide or exploit public telecommunications networks or to provide one or more public telecommunications services;

5) contracts awarded pursuant to other rules and for other purposes according to an international agreement concluded in conformity with the EC Treaty between Lithuania and one or more third countries, which are not EU members, and covering supplies, works, services intended for the implementation or exploitation of a project by the signatory states; all agreements shall be communicated to the Commission;
6) contracts awarded pursuant to the particular procedure of an international organisation.

7) contracts awarded pursuant to Article 296 of the EC Treaty. They procedure of procedure procurement under the above provisions shall be set forth by the Government of the Republic of Lithuania.

2. In case of public services contracts, the following service contracts shall be excluded from the scope of this Law:

1) employment contracts;

2) contracts for financial services connected with monetary, exchange rate, state debt management, treasury agency, foreign stocks management policies, as well as financial services in other activities in connection with the creation, issue, purchase, sale, assignment or transfer of securities and other financial instruments;

3) contracts for services provided by the Bank of Lithuania;

4) contracts for financial services provided by international financial institutions;

5) contracts for services of arbitration and reconciliation;

6) contracts for the acquisition of time for radio and television programme development, preparation for broadcasting, broadcasting of already developed radio and television broadcasts. The above procurement procedure shall be laid down by the Government of the Republic of Lithuania;

7) contracts for public fixed telephone services;

8) contracts for research and development services, except for those research and development services the benefit from which is used solely for business needs of the contracting authority and which are fully paid for by the contracting authority;

9) public service contracts awarded by another contracting authority which enjoys the relevant exclusive rights granted under the appropriate legal act in line with the EU requirements.

3. The requirements of this Law shall not be applicable with respect to the following contracts awarded by the contracting authorities in the water, energy, transport and telecommunications sectors:

1) contracts awarded for the purposes other than those referred to in subparagraphs 1, 2 and 3 of Article 55 (2) or for such activities which are carried out in a third country and do not involve the physical use of networks and geographical area of the EU member states;

2) contracts awarded for the purpose of resale or lease of the procurement object to the third parties provided the contracting authority has no special or exclusive rights to resell or lease objects of such contracts, and other economic entities are free to resell or lease the procurement object under the same terms and conditions as the contracting authority;

3) contracts awarded for the purpose of acquiring services from affiliated undertakings or from the founder of a joint venture formed by the contracting authorities for the purpose of carrying out activities specified in paragraphs 1, 2, 3 and 4 of Article 55(2) of this Law, or to an undertaking which is affiliated with the founder, provided that at least 80% of the average turnover of that undertaking with respect to services arising within the Community for the preceding three years derives from the provision of such services to undertakings with which it is affiliated. Where more than one undertaking affiliated with the contracting authority provides the same service or similar services, the total turnover
in the Community deriving from the provision of services by those undertakings shall be taken into account;

4) contracts awarded for the purpose of delivering one or several telecommunication services, if other entities may offer the same services in the same geographical area under the same conditions;

5) contracts which contracting authorities engaged in the water management sector award for the purchase of water for production or supply of drinking water;

6) contracts which contracting authorities engaged in the energy sector award for the purchase of energy or fuel for the production of electricity or heat. The procedure for awarding contracts of this type shall be set forth by the Government.

4. The contracting authority must notify the Public Procurement Office of the contracts specified in paragraph 3 (1, 2, 4) above, provided the contracting authority regards the above contracts as excluded. The Public Procurement Office shall be responsible for communicating this information to the EU Commission upon its request.

5. An affiliated undertaking means any undertaking the annual accounts of which are consolidated with those of the contracting authority, or, where the undertaking is not a contracting authority within the meaning of this Law, any undertaking over which the contracting authority may exercise, directly or indirectly, a dominant influence or which may exercise a dominant influence over the contracting authority or which, in common with the contracting authority, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it. Direct or indirect dominant influence shall be presumed, accordingly, to mean the holding of over 50% of capital, control of the majority of the votes or authority to appoint more than half of the members of the undertaking’s managing bodies. The contracting authority shall provide it with the following information to the EU Commission:

1) company names of the affiliated undertakings;

2) the nature and value of the service contracts concerned;

3) such proof as may be deemed necessary by the Commission that the relationship between the undertaking to which the contracts are awarded and the contracting authority complies with the requirements of this Article.

Article 10. International Threshold Values

1. The international threshold values net of VAT are fixed to be as follows:

1) LTL 448,864 (EUR 130,000) for public supply and service contracts, except those referred to in this paragraph, subparagraph 4, awarded or design contest is carried out by contracting authorities which are on the list of contracting authorities belonging to the central state administration system, approved by the Government or an institution authorised by it, whereas when contracts are awarded by the national defence authorities that are on the above list, this threshold value shall apply only to contracts involving products covered by the list of products approved by the Government of the Republic of Lithuania;

2) LTL 690,560 (EUR 200,000) when contracts for procurement of goods that are not on the list of goods approved by the Government of the Republic of Lithuania are awarded by defence authorities, which are on the list of contracting authorities belonging to the state administration system, approved by the Government or an institution authorised by it;

3) LTL 690,560 (EUR 200,000) where supplies and services are procured by contracting authorities other than those listed in the list of contracting authorities belonging to the
central state administration system approved by the Government or an institution authorised by it;

4) LTL 690,560 (EUR 200,000) where the public contract concerns telecommunications services of category 5 (codes 7524, 7525 and 7526) and research and development services of category 8 as listed in the list of A-type services in Annex II, and such contracts are awarded or design contests are carried out by all types of contracting authorities;

5) LTL 17,264,000 (EUR 5,000,000) for public works contracts.

2. The international threshold values net of VAT for the contracts awarded by contracting authorities operating the water, energy, transport or telecommunications sectors shall be as follows:

1) LTL 2,071,680 (EUR 600,000) where public supplies or services contract are awarded or the design contest is carried out by the contracting authority operating in the field of telecommunications;

2) LTL 1,381,120 (EUR 400,000) where public supplies or services contracts are awarded or the design contest is carried out by the contracting authorities operating in the field of water, energy or transport;

3) LTL 17,264,000 (EUR 5,000,000) for works contracts.

Article 11. Peculiarities of Public Contracts

1. Public contracts other than those referred to in paragraph 2 of this Article, the value whereof is equal to or greater than the thresholds specified in this Law, Article 10(1), shall be subject to the procurement rules set forth in Chapter II of this Law.

2. Contracts of the value equal to or greater than the thresholds specified in Article 10(2) and awarded by the contracting authorities operating in the water, energy, transport or telecommunications sectors shall be subject to the procurement rules set forth in Chapter III of this Law.

3. Where the contracting authority subsidises directly more than 50% of a works contract falling under group 45.2 of category 45 on the list in the Annex I to this Law, or a work contract relating to construction of hospitals and other health care institutions, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes, it shall follow the provisions of this Law when procuring all works necessary for construction of the object concerned.

4. Where the contracting authority subsidises directly more than 50% of an individual contract concerning services that are procured in relation to the works contracts referred to in paragraph 3 above, then all such services contracts shall be awarded subject to the provisions of this Law.

5. Where the procurement could be subject to the provisions both in Chapter II and Chapter III of this Law, whereas the objective of procurement cannot be divided, then such procurement shall be subject to the rules set forth either in Chapter II or Chapter III of this Law, depending on which purpose of the procurement is more important.

6. Where any lot of the procurement is subject to the provisions contained in Chapter III of this Law, while it is not possible to determine, in an objective manner, the provisions of which Chapter - II or III - should apply with respect to the remaining lots of the contract, such procurement shall be subject to the rules set forth in Chapter III.
7. Public contracts the value whereof is below the international thresholds, as well as the public contracts referred to in this Law, Article 8(13) shall be subject to the procurement rules set forth in Chapter IV of this Law.

8. The peculiarities of public contracts for the procurement of B-type services listed in Annex II to this Law shall be specified in Chapter IV.

9. Where B-type services listed in Annex II to this Law are procured together with A-type services listed in the same Annex II, and the value of such services exceeds the threshold fixed for B-type services, the procurement procedure shall be chosen based on the provisions of paragraphs 1, 2, 4, 5, 6 and 7 of this Article.

10. Contracts whereby the concession is granted to the supplier shall be subject to the Law of the Republic of Lithuania on Concessions.

Article 12. Authorising another Contracting Authority to Award a Public Contract

1. The contracting authority may authorise another contracting authority (hereinafter referred to as “the authorised entity”) to organise and carry out the procurement procedures until the award of the contract. For this purpose, the contracting authority shall formulate the tasks for the authorised entity and give all the powers necessary to carry out these tasks. The authorisation shall be executed following the procedure set forth in the Civil Code of the Republic of Lithuania.

2. The responsibility for the tasks assigned to the authorised entity shall rest with the contracting authority, while the authorised entity shall be responsible for the execution of the tasks. The contracting authority shall be responsible for the conclusion and implementation of the contract.

Article 13. Procurement Commission

1. For arranging and executing procurement, the contracting authority must, or, if the usual commercial procedure is followed, may appoint the Public Procurement Commission (hereinafter - Commission), set its tasks and grant it the powers required for the fulfilment of said tasks. Should the contracting authority decide to authorise another contracting authority to perform these acts for it, these acts shall be performed by the authorised entity. The Commission shall work according to the work regulations approved by the founder, shall be responsible to the founder, and shall execute only the tasks or assignments of the founder that are given in writing. The contracting authority which forms the Commission shall be liable for its actions.

2. The Commission shall be formed on the instruction (order) of the contracting authority of at least 3 natural persons. The members of the Commission, except for the Chairperson, may also be employed on a contract basis. The Commission shall function on behalf of the contracting authority within the scope of the powers granted to it. The Commission shall function from the day of adoption of the decision concerning its formation until the fulfilment of all tasks given by the founding authority in writing, or until the decision to terminate the procurement is taken. The Commission shall adopt decisions at the meetings by a simple majority vote, voting by open ballot. In the event of a tie, the Chairperson of the Commission shall have a casting vote. The Commission's decisions shall be recorded in the minutes. The minutes shall specify the reasons of the Commission's decision, give explanations and the opinion of each Commission member. The minutes shall be signed by all the members present at the Commission meeting. The Chairperson of the Commission shall be either the head of the entity which formed the Commission or a person authorised by him. When appointing the Commission members, regard must be had to their knowledge in the area of economics, technology, and legislation as well as their cognisance of this Law and other legal acts regulating public procurement. Only persons with impeccable reputation may be appointed members or Chairperson of the Commission. The entity which forms the Commission shall have the right invite experts.
3. Except in cases prescribed by the legal acts of the Republic of Lithuania, the Commission members and the experts invited by the contracting authority shall be prohibited from providing third persons with any information concerning the contents of the tenders submitted by suppliers.

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

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

Article 14. Communication and Information Exchange

1. All communication and information exchange between the contracting authority and suppliers may be performed by letter, by fax, by electronic means in accordance with paragraph 4 of this Article, by telephone under the circumstances referred to in paragraph 5, or by a combination of those means, according to the choice of the contracting authority.

2. Communication and information exchange shall be carried out in such a way as to ensure that the integrity of data and the confidentiality of tenders and of all information supplied by economic entities are preserved, and that the contracting authorities examine the content of tenders only after the expiration of the time-limit fixed for submitting them.

3. The means of communication chosen must be generally available (i.e., all suppliers can use them) and thus not restrict economic entities' access to the procurement procedures.

4. In case electronic means are chosen for communication and information exchange purposes, the following rules shall apply:

1) the technical characteristics of the tools to be used for communicating by electronic means must be compatible with the information and communication technology products in general use, and may not unreasonably restrict the possibilities of the economic entities to take part in the procurement procedure;

2) the information so communicated, including the measures serving to protect the contents from unauthorised access, must be accessible to the interested parties (contracting authority, suppliers);

3) the receipt of requests and tenders must be confirmed by the contracting authority;

4) a candidate or tenderer must submit, before expiry of the time limit laid down for receipt of tenders, the documents in proof of his qualifications specified in the contract which may not be transmitted by electronic means of communication.

5. Requests for participation in procurement procedures may be filed in writing or submitted by telephone. Where requests for participation are submitted by telephone, a written confirmation must be sent before expiry of the time limit fixed for their submission.

6. Contracting authorities shall have the right to request that requests for participation in procurement procedures submitted by fax must be confirmed by post or by electronic means. Any such requirement, together with the deadline for sending confirmation by post or electronic means, must be stated by the contracting authority in the contract notice.

Article 15. Contract

1. The contracting authority shall offer the contract of procurement to the supplier whose tender is recognised as the successful tender in accordance with the provisions of this Law. In the event only one supplier was invited to take part in the negotiated procedure, the
contract shall be awarded to such supplier, provided that he meets qualification requirements laid down by the contracting authority. The supplier shall be invited to conclude the contract by a written notice informing him that his tender has been recognised as the successful tender, or as the acceptable tender in case of the negotiated procedure with one supplier, and be indicated the date by which he is to arrive and conclude the procurement contract.

2. If the supplier, who has been given a proposal of contract award, refuses the award in writing or fails to present security for the performance of the procurement contract prescribed by contract documents or fails to come to sign the procurement contract by the date specified by the contracting authority, or refuses to conclude the contract under the conditions laid down in the contract documents, he shall be considered to have refused the award of the procurement contract. In such event the contracting authority shall propose awarding the contract to the supplier whose tender in the descending order of tenders is next after that of the successful tenderer who refused the contract award.

3. When awarding the procurement contract, the price given in the successful tender, as well as the contract terms and conditions specified the contract documents may not be altered.

4. If the contract is awarded to a group of economic entities who submitted a tender under the joint activity contract, the contracting authority shall have no right to request that such group of entities establish a legal body.

5. After the award of the contract the contracting authority shall as soon as possible, but not later than within 3 working days dispatch a notice of the results of the award procedure.

6. The contract shall cover the following items:

   1) rights and obligations of the parties;

   2) the object of the contract - supplies, services or works, and their exact quantities or scope (if possible);

   3) the price or pricing rules;

   4) price and rates adjustment for inflation, if the term of the contract exceeds 1 year;

   5) adjustment of the price and rates due to the changes in tax rates;

   6) payment procedures;

   7) deadlines for discharging obligations;

   8) security for discharging obligations;

   9) dispute settlement procedure;

   10) procedure for termination of the contract;

   11) the contract period;

   12) provisions typical to the preliminary agreements, if relevant.

**Article 16. Report on the Procurement Procedures**
1. The contracting authority shall present a report to the Public Procurement Office on any contract awarded according to Chapters II, III and IV of this Law, including the cases where a preliminary agreement is signed, but excluding contracts awarded within the framework of preliminary agreement, and contracts awarded applying the usual commercial procedure. The report shall include:

1) the name, code, address, telephone number of the contracting authority;

2) the type of procedure; when the negotiated procedure is selected - the reasons for choosing it as indicated in Articles 44 and 45;

3) short description of the contract or preliminary agreement, and the contract value;

4) the names and addresses of the suppliers who submitted tenders;

5) the names of the candidates not invited to submit tender (to negotiate) as well as the reasons for refusal to invite;

6) the names of the tenderers whose tenders were rejected and the reasons for rejection;

7) description of tender evaluation and comparison procedure, and the conclusion of the Commission regarding the successful tender, the name of the successful tenderer and motives for the selection of that tender;

8) the share of funds that the successful tenderer intends to allocate to third parties subcontracted for the purpose of implementing the contract or the preliminary agreement, should such information be available to the contracting authority;

9) if the procurement procedures were terminated or in case of failure to award the contract for any other reasons, the reasons for the failure to award the contract;

10) other information prescribed by the Public Procurement Office.

2. The report shall be drafted and delivered to the Public Procurement Office within 14 days after the date of finalising the procurement procedures. The Public Procurement Office shall forward the relevant information to the EU Commission.

3. The contracting authority shall furnish to the Public Procurement Office a report about all contracts awarded in the course of the financial year following the usual commercial procedure, and a report about all contracts awarded under preliminary agreements in one financial year. Such reports shall be submitted within 30 days after the end of the reporting financial year.

4. The contracting authority shall within 14 days submit to the Public Procurement Office a report about any executed or terminated public contract.

5. The report referred to in paragraph 1 of this Article shall be obligatory even if the public contract concerns B-type services listed in Annex II of this Law.

6. The information specified in this Article, paragraph 1, subparagraphs 1-4 shall be furnished to any person at his request.

7. The information specified in this a, paragraph 1, subparagraphs 5-9 shall be furnished to any candidate or tenderer at his request.

8. The report on the procurement procedures and the procurement reports shall be drawn up and submitted using standard forms approved by and complying with the requirements set by the Public Procurement Office.
Article 17. Preservation of Documents

The performed procurement contracts, requests, tenders, contract documents and
documents relating to examination and evaluation of requests and tenders, other
procurement related documents shall be preserved in the manner prescribed by the Law of
the Republic of Lithuania on Archives.

CHAPTER II

CONTRACTS AWARDED BY STATE OR LOCAL AUTHORITIES, OTHER PUBLIC LEGAL
PERSONS OR ONE OR SEVERAL STATE OR LOCAL AUTHORITIES OR
ASSOCIATIONS OF OTHER PUBLIC LEGAL PERSONS

SECTION ONE

Article 18. Contract Notices

1. In cases referred to in this Law, the contracting authority shall:

1) publish a prior information notice of any planned procurement in cases referred to in
this Article, paragraph 2;

2) publish a contract notice of each specific procurement, including the procurement for
which a preliminary agreement is to be awarded;

3) publish a contract or a preliminary agreement award notice, as well as the notice of the
design contest results.

2. Prior information notice about any procurement, including procurement for which a
preliminary agreement is to be awarded, shall be compulsory in the following cases:

1) where value of a supply or services contract to be awarded in the next 12 months,
estimated according to the provisions of Article 8 of this Law, is LTL 2,589,600 (EUR
750,000) or more;

2) where the estimated value of a public works contract is LTL 17,264,000 (EUR
5,000,000) or more.

3. A prior information notice about the contracts that the contracting authority intends to
award shall contain the following:

1) for public supplies contracts - the nature of products concerned, the estimated total
value and quantity of products to be procured in the next 12 months; the product CPA
reference number;

2) for public service contracts - the category of services, the estimated total value of
service contracts to be awarded in the next 12 months; CPA reference number of the
services;

3) for public works contracts - the nature and scope of work, and estimated value of works
concerned;

4) name, address, telephone and fax numbers, e-mail address of the contracting authority
and address, if different from the contracting authority’s address, at which additional
information may be obtained;

5) information on whether the procurement concerned is subject to the WTO GPA;
6) the date of dispatch of the prior information notice;

7) other information prescribed by the Public Procurement Office.

4. The contracting authority shall publish prior information notices without delay at the beginning of the financial year in case of supplies and services contracts, and, in case of public works contracts, immediately after making the decision to approve construction of objects.

5. Except in cases where the contract is awarded by way of negotiated procedure without publication of a contract notice, the contracting authority shall publish a separate contract notice of every contract containing the following information:

1) name, address, telephone and fax numbers, e-mail address of the contracting authority where the technical specification and other support documents may be obtained, as well as the address, if different, of the service from which a copy of technical specifications and other support documentation may be obtained;

2) intended procurement of products, works or services;

3) type of the contract award procedure;

4) information that suppliers must submit their requests for participation in writing, as well as the deadline for submission of such requests;

5) the fee for contract documents where such fee has been fixed and the manner of payment;

6) where applicable, prohibition of variants;

7) final date fixed for receipt of tenders and the address to which they must be sent, the language or languages in which they must be drawn up;

8) list of documents, including the proof of the supplier’s qualification, to be appended to the tender;

9) in cases specified in this Law - criteria for selection of candidates; minimum number of candidates to be selected;

10) the date of dispatch of the contract notice (the date when the notice was dispatched from the Public Procurement Office);

11) any other information requested by the Public Procurement Office.

6. The contracting authority shall publish a contract award notice, as well as a notice about the results of the design contest as prescribed by Article 19 of this Law. Such notices shall be dispatched as soon as possible, but not later than within 48 hours after the contract is awarded., or the results of the design contest are announced.

7. The contract award notice shall not contain any confidential information, where release of such information would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of suppliers, or prejudice the free competition between them. The contract award notices, nevertheless, shall contain at least the same information as in the contract notice.

8. The Public Procurement Office shall fix the standard forms and requirements for notices.

Article 19. Publication of Notices
1. Notices (prior information notices, contract notices, contract award notices or design contest reports) shall be published in the Official Journal of the European Communities, as well as in "Informacinių pranešimai" (the information supplement to the official gazette "Valstybės žinios" and the website of the official gazette.

2. In addition, contracting authorities may publish contract notices in publications or websites other than those specified in paragraph 1 above.

3. The contracting authority shall submit to the Public Procurement Office all notices to be published in the publications specified in paragraph 1 above. The Public Procurement Office shall forward all notices conforming to the requirements of this Law for publication in the journals referred to in paragraph 1 above within 3 working days after receipt thereof, and inform the contracting authority concerned about the date and means of dispatch. The date of dispatch so established shall serve as the starting date for calculation of time limits for sending notices, and as the PIN or contract notice dispatch date. The contracting authority must keep the documents confirming the dispatch of notices specified in this Article at the fixed date.

4. Notices shall be submitted in the manner specified by the Public Procurement Office.

5. The notices may not be published in other publications prior to the date of dispatch thereof to the Office of Official Publications of the European Communities. The same notices published in different publications shall contain the same information.

6. In case of urgency, the contracting authority may request that the Public Procurement Office dispatch without delay the relevant notice to the Office of Official Publications of the European Communities by electronic means.

7. Contract notices shall be published in an official language of the Community as chosen by the contracting authority (this publication of the notice shall be considered as the authentic text). A summary of the notice shall be published in any other official language of the European Union.

8. The contracting authority shall also publish notices of public contracts the value whereof at the time of publication is below the international thresholds, but it is likely that the value of the contract or contracts awarded will increase above the thresholds as a result of the procurement procedures.

**Article 20. Contract documents**

1. In contract documents the contracting authority shall give comprehensive information about the contract conditions and award procedures with the exception of the cases laid down in this Law.

2. The contract documents shall include:

   1) instructions to suppliers (how to draw up tenders);

   2) supplier qualification requirements, including qualification requirements for a group of individual suppliers who submitted one tender, or a group of suppliers acting under a joint activity agreement;

   3) supplier qualification assessment procedure and the minimum number of candidates to be invited to submit their tenders, where the contracting authority has the right to restrict the number of tenderers in cases specified in this Law;

   4) documents required to prove supplier qualifications;
5) indication of the products, services or works concerned, amounts, the nature of services incidental to the main public supplies contract, time limits for delivery of products, rendering of services and performance of works;

6) technical specifications;

7) tender evaluation criteria and conditions;

8) terms and conditions of the contract proposed to the parties by the contracting authority, and a draft contract (if available);

9) indication if variants are allowed and minimum requirements to the variants;

10) indication of the possibility of tendering for one, for several or for all the lots, as well as description of such lots;

11) information about price calculation and the manner of indication thereof in the tenders. The price shall include all relevant taxes;

12) tender security and contract performance security requirements;

13) deadline, place and manner for receipt of tenders;

14) how to request clarification of the contract documents and where to obtain information about the meeting of the contracting authority with suppliers (if any);

15) the required tender validity period;

16) place, date and time fixed for the opening of tenders;

17) tender opening and tender evaluation procedures;

18) information that the prices offered will be in Litas. If the prices are quoted in foreign currency, they will be converted into Litas at the exchange rate fixed by the Bank of Lithuania on the day of receipt of tenders;

19) names, surnames, addresses, telephone and fax numbers of the public servants or employees of the contracting authority, or members of the procurement commission (one or several) authorised to keep in touch with the suppliers (contractors) and obtain from them, without any mediators, information regarding the procurement procedures;

20) any other requirements set by the Public Procurement Office under this Law or other procurement legislation;

21) reference to the PIN published in the official gazette “Valstybės žinios” (supplement “Informacinių pranešimai”) and a special publication of the Office of Official Publications of the European Communities, other publications and the Internet in case of the publication of a prior information notice.

3. Prior information notices and contract notices shall be a constituent part of the contract documents. The contracting authority may choose not to repeat information provided in the notices, unless requested by the suppliers.

4. The contracting authority shall draft contract documents in compliance with the provisions of this Law.

5. The contracting authority may specify in the contract documents the existing legislation regulating labour protection and working conditions, and request that suppliers append to
their tenders their confirmation that they and their subcontractors will meet the specified requirements. The contracting authority may also require to provide information on subcontracting and subcontractors.

6. Contract documents shall be drawn up in Lithuanian. In addition, contract documents may also be drawn up in English, German, French or Russian.

Article 21. Technical Specification

1. Supplies, services or works in procurement shall be described in technical specifications contained in contract documents.

2. Technical specifications must ensure competition and be non-discriminatory with respect to suppliers, as well as encourage, where applicable, offering the alternative technical solutions.

3. Technical specifications shall be formulated by any of the following methods or their combination:

1) by referring to a standard, technical regulation or norm;

2) by describing functional characteristics or performance requirements; these characteristics or requirements must be precise and clear so as to allow the suppliers to draw up tenders, and the contracting authority to acquire the necessary supplies, services or works.

4. The contracting authority shall reject all tenders offering supplies, services or works that fail to meet the technical specifications.

5. Technical specifications shall be defined by reference to the Lithuanian standards implementing European standards or by reference to European technical approvals, or, when these do not exist, international standards or other national standards or national technical approvals, or any other technical reference approved by the national standardisation institution, provided that the reference is accompanied by the indication that suppliers may refer to other standards or technical references approved by national standardisation institutions of other EU member states, that are equivalent to the national standards or technical references. The contracting authority shall have no right to reject a tender on the grounds that the products, services or works tendered do not comply with the standards indicated in the technical specification, where the tenderer can show in his tender, by whatever appropriate means, that the solutions he proposes satisfy in an equivalent manner the requirements defined by the technical specifications.

6. Where a contracting authority describes the procurement object in terms of performance or functional requirements, it may not reject a tender for products, services or works which comply with a national standard transposing a European standard, with a European technical approval, a common technical specification, an international standard, a technical reference system established by a European standardisation institution, and in his tender the tenderer proves to the satisfaction of the contracting authority and by any appropriate means that the product, service or work in compliance with the standard meets the functional or performance requirements of the contracting authority.

7. Technical specifications shall not refer to goods of specific make or source, or a particular process, or to trade marks, patents, types or a specific origin or production, except where the contracting authorities are unable to give a description of the subject matter of the contract using specifications which are sufficiently precise and fully intelligible or the necessary object may be offered only by a particular supplier. In such case the contracting authority must specify that it will accept products or services that are equivalent in terms of their properties by adding the words “or equivalent”.


8. Appropriate means referred to in paragraphs 5 and 6 above might be constituted by a technical dossier of the manufacturer or a test report by a recognised body. "Recognised bodies" are test and calibration laboratories, and certification and inspection bodies which comply with applicable European standards. Contracting authorities shall accept conformity certificates from recognised bodies established in the EU member states.

**Article 22. Providing with Contract Documents**

1. The contracting authority may provide the supplier with contract documents:
   
1) upon supplier’s request;

2) together with the invitation to tender;

3) by placing on the Internet or using other electronic means.

2. The contracting authority must provided the suppliers with the contract documents within 6 days after the receipt of the request for provision with contract documents. Suppliers shall request the contract documents no later than 6 days before the deadline fixed for receipt of tenders or requests to participate. If, on the basis of Article 40 (5) or Article 48 (5) (cases of urgency), the contracting authority reduces the time limits fixed for receipt of requests and tenders, the time limit for providing with contract documents and the time limit for the suppliers’ request for contract documents shall be reduced to 4 days.

3. The time-limits for providing with contract documents referred to in this Article, paragraph 2, shall not apply if the contracting authority immediately after the date of despatch of a contract notice or invitation to tender provides the suppliers with the contract documents by electronic means directly and free of charge.

4. The contracting authority may not provide the contract documents before the contract notice is published as specified in Article 19 (3). When providing the contract documents, the contracting authority shall observe the principles of equality and non-discrimination of suppliers.

5. The contracting authority may fix for all suppliers a single rate fee payable for the contract documents. The fee shall consist of the actual costs of copying and sending of the documents to the suppliers. An additional fee may be charged for translation of documents into a foreign language; this fee shall consist of the translation costs.

**Article 23. Submission of Requests and Tenders**

1. The contracting authority shall specify the deadline for submission of requests or tenders by indicating in the contract documents the date and the hour. In the event a tender is received after the specified date and hour, it shall be returned to the supplier unopened.

2. The minimum time limits for the receipt of requests or tenders shall be counted from the date when the contract notice was dispatched from the Public Procurement Office to a special publication of the Office of Official Publications of the European Communities or to the official gazette “Valstybės žinios” (supplement “Informaciniai pranešimai”) or the date of dispatch of the invitations to candidates.

3. All minimum time-limits for the receipt of requests or tenders fixed by the contracting authority may not be shorter than those set in Articles 38, 40, 48 or 60 of this Law, and shall be sufficiently long to give interested parties reasonable time for drawing up and submitting their tenders. When fixing these time limits, the contracting authority shall take account of the complexity of the public procurement and the time required for drawing up requests and tenders.
4. If, for whatever reason, the contract documents or parts thereof, although requested in good time, have not been supplied within the fixed time-limits, or where it transpires after the submission of contract documents that tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time-limits for the receipt of tenders shall be extended so that they only apply once all suppliers concerned are aware of all the information needed to produce a tender.

5. Joint requests or tenders may be submitted by individual economic entities as well as by groups of economic entities. These groups shall not be required to establish a new legal person in order to submit an request or tender.

6. The contracting authority shall indicate in the contract documents, that the request or tender has to be submitted in writing and duly signed by the supplier or a person authorised by the supplier. It shall also request to submit the tenders in sealed and stamped envelopes. If the contracting authority intends to choose the most economically advantageous tender, in the contract documents it shall request the suppliers to submit two sealed and stamped envelopes: one with the price offer, the other with the remaining parts of the tender (technical data and other information and documents). The two envelopes shall be put into another sealed and stamped envelope. The pages of the tender (with supplements) must be numbered and bound, and endorsed by the supplier's signature and seal on the backside of the last page. Only the tender security documents may be presented loose and not numbered. The requirement to submit the tender or parts thereof in envelopes and to submit the tender bound shall not be applicable if the contracting authority accepts tenders transmitted using the electronic means.

7. The tenders may be submitted by electronic means only on the condition that:

1) the electronic means employed ensure that the contracting authority or other suppliers will access the contents of the tenders only after the expiry of the period fixed for receipt of tenders;

2) the tender contains all information requested in the contract documents;

3) upon submission of the tender by electronic means, the supplier immediately forwards a confirmation of the submitted tender by non-electronic means, or provides the contracting authority, by non-electronic means, with a certified copy of the tender.

8. Upon the supplier's request, the contracting authority shall furnish a confirmation of the receipt of the tender by specifying the date and time of receipt.

**Article 24. Tender Validity Period. Modifying and Revoking Tenders**

1. A tender shall be valid for a period of time specified by the supplier. The period may not be shorter than that set in the contract documents. If the tender does not specify the period of its validity, it shall be considered to be valid for the period indicated in the contract documents.

2. As long as the tender validity period has not expired, the contracting authority may request suppliers to extending the validity period until the specified date. Any supplier may reject such a request without loosing his right to the tender security.

3. A supplier who agrees to extend the tender validity period and notifies the contracting authority thereof in writing, shall extend the validity period of the tender or provide a new tender security. If the supplier fails to respond to the request made by the contracting authority as regards extension of the tender validity period, or does not extend the validity period or fails to provide a new guarantee to secure the tender, then it shall be deemed that such supplier rejected the request of the contracting authority.

4. At any time before the deadline for receipt of tenders the supplier may modify or revoke his tender without loosing the right to the security of his tender. Any such modification or
Article 25. Tender Security and Security for the Performance of the Contract

1. The contracting authority may request that the effectiveness of tenders, and the performance of the contract be guaranteed by the security for the performance of obligations, established by the Civil Code of the Republic of Lithuania.

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

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

Article 26. Opening of Tenders

1. Tenders shall be opened at the meeting of the Procurement Commission. The meeting shall be held at the place and tenders shall be opened on the day, at the hour specified in the contract documents. As used in this Law, the initial examination of the tenders received by electronic means shall be equivalent to the opening of tenders. The day and the hour must coincide with the deadline for receipt of tenders. The change of the deadline for receipt of tenders shall result in the change of the date for opening tenders. At the fixed time, the Commission shall open all tenders received within the time limits fixed for their submission. All suppliers who submitted tenders or their representatives shall have the right to be present during the tender opening procedure.

2. If the contracting authority chose to evaluate tenders as the most economically advantageous tenders, the tenders shall be opened at two meetings of the Procurement Commission. The envelopes containing technical offer shall be opened during the first, and envelopes with the price offers - during the second meeting of the Commission. The second meeting may take place only after the contracting authority verifies the compliance with the technical and qualification requirements against the levels fixed in the contract documents, and assesses the technical merits of the tenders and, in cases specified in this Law, the qualification of suppliers. The contracting authority shall communicate in writing the results of such verification and assessment to all suppliers concerned, indicating the time and place of the second meeting Commission.

3. Envelopes shall be opened by one member of the Commission in the presence of the suppliers who submitted their tenders or their representatives. Envelopes shall be opened even if the supplier or its representative is not present at the meeting.

4. After opening of the envelope, all members of the Commission present at the meeting shall sign on the backside of the last page of the tender.

5. The outcomes of the opening procedure shall be recorded into the minutes of the meeting, the compulsory prerequisites whereof shall be defined by the Public Procurement Office.

6. During the procedure of opening envelopes with technical data of the tender, the Commission shall announce the company name of the supplier and the main technical data of the tender to all the suppliers or their representatives present in the meeting. Should at
least one supplier or its representative request so, the Commission shall announce all technical data of the tender that will be taken into account when evaluating the tenders.

7. During the procedure of opening of envelopes with price offers, the Commission shall announce the company name of the supplier and the price offered to all the suppliers or their representatives present in the meeting.

8. The information announced during the envelope opening procedures shall be communicated in writing to all suppliers concerned who were not present, if they request so. Each supplier or its representative taking part in the envelope opening procedure shall have the right to examine the publicly announced information; however, when communicating such information, the contracting authority may not disclose the confidential information provided in the tender.

9. The subsequent tender analysis, evaluation and comparison procedures shall be conducted by the Commission alone, not in the presence of the suppliers.

**Article 27. Variants**

1. The contracting authority shall indicate in the contract notice whether or not it authorises variants (i.e., tenders offering contract conditions or characteristics of the contract object other than those specified in the contract documents). Variants shall be allowed only where the criterion for the award of the contract is that of the most economically advantageous tender. Only variants meeting the minimum requirements laid down by the contracting authority shall be taken into consideration.

2. The contracting authority shall state in the contract documents the minimum specifications to be respected by the variants and any specific requirements for their presentation.

3. In the procedures for awarding public supplies or services contracts, the contracting authority which has admitted variants, may not reject a variant on the sole ground that it would lead to a service contract rather than a public supplies contract or vice versa.

**Article 28. Verifying Suppliers’ Qualification**

1. The contracting authority must verify whether a supplier is competent, reliable and capable of executing the contract. Therefore the contracting authority may define in the contract documents the minimum requirements for the qualification of candidates or suppliers (right to engage in a certain activity, financial, economic, technical and production capacity) and request that candidates or suppliers provide the information and documents proving their qualification as specified in the contract documents.

2. The minimum levels of qualification requirements for candidates or tenderers fixed by the contracting authority may not have the restrictive effect on competition, and must be reasonable, clear and precise. The contracting authority may request from the suppliers only such information that is necessary to identify whether the supplier meets the financial, economic and technical requirements. The requirements may not prejudice the supplier’s right to protect intellectual property, production or trade secrets. Requirements to the qualification, as well as to the information and documents to be supplied by the candidates or tenderers shall be set following the provisions of Article 29, 30, 31 and 32 of this Law. Upon request of the competent state or local authorities, the contracting authority must furnish the justification of the qualification requirements.

3. If a candidate or tenderer can prove to the contracting authority that it will have at its disposal the resources of other economic entities for the execution of the contract, it shall have the right to rely on the capacities of such other economic entities.
4. Where a supplier for any valid reason may not provide the documents requested by the contracting authority, he may prove his economic or financial standing by any other documents or proof to the satisfaction of the contracting authority.

5. The contracting authority may not reject the request to participate or tender on the sole ground that it was submitted either by a legal or natural person.

6. In the event the candidate or tenderer provided incomplete and imprecise qualification information, the contracting authority shall request, without prejudice to the public procurement principles, that the candidate or tenderer remove such shortcomings.

7. The contracting authority shall reject the request to participate or the tender of the candidate or supplier, if his qualification is below the minimum level of qualification established in the contract documents, or if the candidate or supplier failed to respond to the request of the contracting authority to revise the imprecise or incomplete information about its qualification.

8. The qualification of candidates or tenderers shall be assessed on the basis of the criteria and procedures set forth in the contract documents. The Commission shall verify qualification of each candidate or tenderer, and communicate in writing the results of verification to each candidate or tenderer. Only those candidates or tenderers shall be allowed to continue in the procurement procedure, the qualification whereof meets the qualification requirements of the contracting authority.

**ARTICLE 29. LIMITATIONS ON SUPPLIERS’ PARTICIPATION IN PROCUREMENT PROCEDURE**

1. The contracting authority may establish in the contract documents that a request or tender shall be rejected if the candidate or tenderer:

1) is bankrupt or is being wound up or has entered into an arrangement with creditors or has suspended or limited business activities or who is in any analogous situation arising from a similar procedure under national laws and regulations;  

2) is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or for an arrangement with creditors or of any other similar proceedings under national laws and regulations;  

3) has been convicted by a court judgement of any offence concerning his professional conduct;  

4) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;  

5) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or the country in which the contracting authority is established;  

6) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country in which he is established or the country in which the contracting authority is established;  

7) is guilty of serious misrepresentation in supplying the information required under this Article or failure to supply the information.

2. Where the contracting authority requests the economic entity to provide proof that none of the cases quoted in paragraph 1(1, 2, 3, 5, 6) of this Article applies to him, it shall accept as sufficient evidence:
1) in cases referred to in paragraph 1 (1, 2, 3) of this Article, the production of an extract from the “judicial record” or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the country of origin in the country whence that person comes showing that the requirements have been met;

2) in cases referred to of paragraph 1 (5, 6) of this Article, a certificate issued by the competent authority of the Republic of Lithuania or other EU member-state concerned.

3. Where the country in question does not issue the documents or certificates referred to in paragraph 2 of this Article, or where these do not cover all the cases quoted in paragraph 1 (1, 2, 3) of this Article, they may be replaced by any other documents and information acceptable to the contracting authority.

4. The Public Procurement Office shall compile a list of the authorities of the Republic of Lithuania, competent to issue the documents referred to in paragraph 2, and furnish the list to the EU member-states, the EU Commission, and, if requested, to the contracting authorities and suppliers.

Article 30. Suitability to Pursue Professional Activity

A contracting authority in contract documents may request the candidates or tenderers to prove being listed in the relevant professional or activity registers of the country in which they are registered, or to provide a special statement or reference evidencing their right to pursue the relevant professional activity or to provide a declaration on oath or certificate.

Article 31. Economic and Financial Standing of Candidates or Tenderers

1. The contracting authority shall have the right to specify the requirements for the economic and financial standing of the candidates or tenderers, and request to provide one or more of the following references:

   1) appropriate statements from banks or evidence of relevant professional risk indemnity insurance;

   2) balance-sheets or extracts from the balance-sheets, where publication of the balance-sheet is required under the law of the country in which the economic entity is established;

   3) a statement of the overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last 3 financial years available or since the date of registration or commencing the activity in the area concerned, where the company was registered or commenced activity less than 3 years ago.

2. In the contract documents contracting authorities shall specify which reference or references the candidates or tenderers have to provide in order to prove their financial and economic standing.

3. If, for any valid reason, the economic entity is unable to provide the references requested by the contracting authority and specified in paragraph 1, he may prove his economic and financial standing by any other document which the contracting authority considers appropriate.

Article 32. Technical and Production Capacity

1. The contracting authority may define in the contract documents the requirements for technical and production capacity of the economic entities and request to provide one or more of the proofs referred to in paragraphs 2, 3, 4 and 5 of this Article.

2. In the procedures for awarding public supply contracts, evidence of the candidates’ or tenderers’ technical capacity may be furnished by one or more of the following means:
1) a list of the principal deliveries effected in the past three years, with the total amounts, dates and recipients involved by providing documents in the form of certificates of delivery issued by recipients, or, if such certificates can not be obtained due to the reasons outside the entities’ control - simply declared by the candidate or tenderer to have been effected;

2) a description of the candidate’s or tenderer’s technical facilities, its measures for ensuring quality and its study and research facilities;

3) indication of the technicians or technical bodies involved, whether or not belonging directly to the candidate or tenderer;

4) samples, description and/or photographs of the products to be supplied, the authenticity of which must be certified by the candidate or tenderer if the contracting authority so requests;

5) certificates drawn up by quality control agencies of recognised competence attesting the conformity of products clearly identified by references to specifications or standards;

6) where the products to be supplied are complex or, exceptionally, are required for a special purpose, a check carried out by the contracting authorities or on their behalf by a competent official body of the country, where the entity is registered, on the production capacities of the candidate or tenderer and if necessary on his study and research facilities and quality control measures, within the meaning of Article 21(8) of this Law.

3. In the procedures for awarding public service contracts, contracting authorities may request the candidates or tenderers to furnish the following means, one or several, as the evidence of their technical capacity, skill, efficiency, experience and reliability meeting the set requirements:

1) the service provider's educational and professional qualifications and/or those of the firm's managerial staff and, in particular, those of the person or persons responsible for providing the services;

2) an indication of the technicians or technical bodies involved, whether or not belonging directly to the candidate or tenderer;

3) a list of the principal services provided in the past three years, with the total amounts, dates and recipients involved by providing documents in the form of certificates of delivery issued by recipients, or, if such certificates can not be obtained due to the reasons outside the candidate's or tenderer's control - simply declared by the candidate or tenderer to have been effected;

4) a statement of the candidate's or tenderer's average annual manpower and the number of managerial staff for the last three years;

5) a statement of the tools and plants available to the candidate or tenderer for carrying out the services;

6) where the services to be provided are complex or are required for a special purpose, a check carried out by the contracting authority or on its behalf by a competent official of the country, in which the contracting authority is registered, on the technical capacities of the candidate or tenderer and, if necessary, on his study and research facilities and quality control measures, within the meaning of Article 21(8) of this Law;

7) an indication of the proportion of the contract which the service provider may intend to sub-contract.
4. In the procedure of awarding public works contracts, evidence of the candidate's or tenderer's technical capability, skill, efficiency, experience and reliability may be furnished by one or several of the statements below:

1) the contractor's educational and professional qualifications and/or those of the firm's managerial staff, and, in particular, those of the person or persons responsible for carrying out the works;

2) a list of the works carried out over the past five years, accompanied by certificates of satisfactory execution for the most important works; the certificates shall indicate the value, date and site of the works, and shall specify whether they were carried out according to the rules of the trade and properly completed; where necessary, the competent authority shall submit these certificates to the contracting authority direct;

3) a statement of the technical equipment available to the contractor for carrying out the works;

4) a statement of the firm's average annual manpower and the number of managerial staff for the last three years;

5) a statement about any intended subcontracting and scope of subcontracting.

5. Should contracting authorities require in the contract documents the production of certificates drawn up by competent bodies attesting the compliance of the economic entity with certain quality assurance standards, they shall refer to quality assurance systems based on the relevant international or European standards series certified by bodies conforming to the European standards series concerning certification. They shall recognise equivalent certificates from bodies established in the EU member states. They shall also accept other evidence of equivalent quality assurance measures from the candidates or tenderers who have no access to such certificates or no possibility of obtaining them within the relevant time limits.

**Article 33. Evaluation and Comparison of Tenders**

1. The contracting authority may request the tenderers to explain their tenders. However, the contracting authority may not request, suggest or allow changing the subject matter of the tender, including the price or any other material changes, due to which an irregular tender would become acceptable. This provision is not applicable in the process of verifying the qualification of the candidates or tenderers.

2. The contracting authority shall reject the tender, if:

1) the tenderer who submitted it fails to meet the minimum qualification requirements set out in the contract documents;

2) the tender fails to meet the requirements set forth in the contract documents;

3) all tenderers offered too high prices, which are unacceptable for the contracting authority;

4) the tenderer offered an abnormally low price in the meaning of Article 34 of this Law.

3. Where the contracting authority has to reject all tenders on the grounds specified in this Article, paragraph 2, it must obtain a consent from the Public Procurement Office to do so.

4. The criteria on which the contracting authority shall base the award of contracts shall be:
1) when award is made to the most economically advantageous tender for the contracting authority, various criteria directly linked to the subject of the public contract in question: for example, quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost-effectiveness, after-sales service and technical assistance, delivery date and delivery period or period of completion;

2) the lowest price only.

5. In the case referred to in this Article, paragraph 4, subparagraph 1, the contracting authority shall specify, in the contract documents, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender. This weighting can be expressed by providing for a range within which the value attributed to each criteria shall be stated. In exceptional cases, where the purpose of procurement does not allow technically to establish the relative weight of the criteria, the contracting authority shall specify the priority order (order of importance) of the evaluation criteria in the tender documents. The methods of establishing criteria for evaluation of the most economically advantageous tenders shall be drawn up by the Government of the Republic of Lithuania or an institution authorised by it.

6. Where the contracting authority evaluates tenders by their economic advantage, it shall first verify and assess the technical data of the tender, and, after communicating the results of such verification and assessment to the suppliers, proceed with the overall evaluation of the tenders by taking into account the price.

7. The contracting authority shall select the successful tenderer in the following sequence:

1) applying to the tender evaluation criteria and procedure set forth in the contract documents, the contracting authority shall evaluate the tenders submitted by the tenderers and produce a preliminary ranking of tenders (this does not apply in cases where only one supplier is invited to tender). The preliminary ranking shall be done in the decreasing order of economic advantage or increasing order of prices;

2) the contracting authority shall immediately inform the tenderers about the preliminary ranking and the reasons of rejecting their tenders;

3) the contracting authority may approve the preliminary ranking and make a decision regarding the successful tenderer only after all claims and complaints filed by the tenderers (if any) are settled in accordance with the procedure prescribed in this Law, but not earlier than 10 days after the date of dispatch of the preliminary ranking information to the tenderers.

Article 34. Abnormally Low Tenders

1. If, for a given contract, tenders appear to be abnormally low in relation to the supplies, works or services, the contracting authority shall request the tenderer to justify the offered price, and if the tenderer fails to produce justification to the satisfaction of the contracting authority, it shall reject the tender and immediately notify thereof the supplier who submitted it. An abnormally low price is the price offered for supplies, services or works, which is more than 15% lower than the arithmetic average of prices offered by all suppliers.

2. In cases where there are more than 2 tenders satisfying all other requirements, the abnormally low price shall always be price of a tender which is more than 15% lower than the arithmetic average price level of all other tenders, which were not rejected for other reasons.

3. In order to obtain justification of the abnormally low price, the contracting authority shall request in writing that the tenderer concerned provides details of the constituent elements of the tender which it considers relevant, price elements and calculations. The contracting authority shall take into consideration explanations relating to:
1) the efficiency of the manufacturing process, of the services provided and of the construction method;

2) the technical solutions chosen and/or the exceptionally favourable conditions available to the tenderer for the supply of the supplies and services, and the execution of the work;

3) the originality of the supplies, services or work proposed by the tenderer;

4) the possibility of the tenderer benefiting from the State aid.

4. Where the contracting authority establishes that a tender is abnormally low on grounds that the tenderer has obtained a State aid, the tender can only be rejected after consultation with the tenderer where the latter is unable to prove, within a sufficient time frame fixed by the contracting authority, that the aid in question was notified to the EU Commission or that the aid in question was granted with the consent of the EU Commission. Where the contracting authority rejects a tender in these circumstances, it shall inform the Public Procurement Office of that fact requesting to transmit the information to the Commission.

**Article 35. Informing Candidates and Tenderers about Results**

1. The contracting authority shall as soon as possible, but not later than within 5 working days inform candidates or tenderers about the decisions reached concerning the successful tenderer or termination of the procedure.

2. The contracting authority shall as soon as possible, but not later than within 15 days after receipt of the written request, inform any candidate or tenderer of the reasons for rejection of his application or his tender, and any tenderer who has made an admissible tender of the characteristics and relative advantages of the tender selected as well as the name of the successful tenderer.

3. The contracting authority may decide to withhold certain information on the contract award, referred to in this Article, paragraph 2, where release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of suppliers or might prejudice fair competition between them.

4. Where the contracting authority requested in the contract documents to provide samples of the products, it shall, after the preliminary ranking of tenders, allow all the candidates or tenderers to examine the samples presented.

5. Access to the information relating to the examination, explication, evaluation and comparison of tenders shall be granted only to the Commission members and experts invited by the Commission, representatives of the Public Procurement Office, the head of the contracting authority, persons authorised by him, other persons and institutions entitled under the laws of the Republic of Lithuania to have access to such information.

**Article 36. Types of Award Procedures**

1. The supplies, services or works contracts may be awarded by means of the following procedures:

   1) open procedure;

   2) restricted procedure;

   3) negotiated procedure with publication of a contract notice;

   4) negotiated procedure without publication of a contract notice.
2. When awarding a public contract, the contracting authority may use:

1) the open or restricted tender procedures in all cases without limitations;

2) the negotiated procedure with publication of a contract notice, if the conditions specified in Article 44 are present;

3) the negotiated procedure without publication of a contract notice, if the conditions specified in Article 45 are present.

3. In the presence of the conditions referred to in Article 52 of this Law, the contracting authority may use the design contest procedure.

SECTION TWO

OPEN PROCEDURE

Article 37. Open Procedure

1. The number of tenderers in the open procedure shall be unlimited. The contracting authority shall evaluate all regular (i.e., meeting the requirements in the contract documents) tenders of all suppliers who meet the minimum qualification requirements set forth by the contracting authority.

2. Negotiations between the contracting authority and suppliers are not allowed in the open procedure.

3. The open procedure shall occur if at least one tender meeting the requirements set forth in the contract documents is received.

Article 38. Time Limits in the Open Procedure

1. The contracting authority shall fix the final time limit for receipt of tenders by following provisions of Article 23.

2. The final time limit fixed for receipt of tenders may not be shorter than 52 days from the day of dispatch of the contract notice from the Public Procurement Office.

3. If the contracting authority published PIN at least 52 days but not more than 12 months before starting the procedures, and provided the information about the contract in the manner prescribed by Article 18(3), then the time limits specified in this Article, paragraph 2, may be reduced to 36 days.

4. In case of emergency, where the circumstances beyond the contracting authority’ control do not allow keeping to the time limits specified in this Law, the period for receipt of tenders may be reduced to up to 22 days from the day the Public Procurement Office dispatched the notice for publication.

SECTION THREE

RESTRICTED PROCEDURE

Article 39. Restricted Procedures

1. The contracting authority shall conduct the restricted procedures in two phases:
1) following the procedure set forth in Articles 18 and 19, the contracting authority shall publish the contract notice and, on the basis of the criteria specified therein, select the candidates to be invited to submit their tenders;

2) following the requirements set forth in the contract documents, the contracting authority shall analyse, evaluate and compare the tenders submitted by the invited tenderers.

2. Negotiations between the contracting authority and suppliers are not allowed in the restricted procedure.

3. The restricted procedure shall occur if at least one tender meeting the requirements set forth in the contract documents is received.

Article 40. Time Limits for Submission of Requests to Participate and Tenders

1. The contracting authority shall fix the final time limits for submission of requests to participate and tenders by following provisions of Article 23 of this Law.

2. The final time limit fixed for submission of requests to participate may not be shorter than 37 days from the day of dispatch of the notice from the Public Procurement Office.

3. The time limit for submission of tender may not be shorter than 40 days after the invitations to tender are dispatched to suppliers.

4. If the contracting authority published PIN at least 52 days but not more than 12 months before starting the procurement procedures, and provided the information about the contract in the manner prescribed by Article 18(3), then the time limits specified in this Article, paragraph 3, may be reduced to 26 days.

5. If due to the circumstance beyond the contracting authority's control it is not possible to keep to the time limits specified in this Articles, paragraphs 2 and 3, (cases of urgency), the contracting authority shall have the right to fix a time limit for submission of requests of at least 15 days, and a time limit for receipt of tenders of at least 10 days.

Article 41. Selection of candidates

1. The contracting authority may fix in the contract documents (contract notice) a minimum and maximum number of candidates to be invited to submit tenders, as well as define the selection criteria and procedure to be used.

2. When fixing the number of candidates and defining the selection criteria or procedure, the contracting authority shall follow the requirements below:

   1) the contracting authority must ensure the genuine competition;

   2) the selection criteria must be clear and non-discriminatory;

   3) the selection criteria should be based on the provisions of Articles 31 and 32.

3. The minimum number of candidates to be invited to tender and specified in the contract documents shall be not less than 5.

4. When selecting candidates, the contracting authority shall apply only those selection criteria and procedure that are specified in the contract documents. The contracting authority shall make the selection only from those candidates who meet the minimum qualification requirements set forth by the contracting authority.
5. Contracting authorities shall invite the number of candidates that is equal to the specified minimum number of candidates. Should the number of candidates meeting the minimum qualification requirements be less than the number of candidates to be invited, the contracting authority shall not proceed with selection of candidates, and invite all such candidates to submit their tenders.

6. The contracting authority must complete the selection and inform all the eliminated candidates about the reasons for rejection of their requests within 15 days after the final time limit fixed for submission of requests to participate.

**Article 42. Submission of Requests to Participate in the Selection**

1. Requests to participate may be submitted both by an individual economic entity, or a group of economic entities as defined in Article 23(5).

2. Requests to participate shall be made following the requirements outlined in Article 14(5), by enclosing the information required by the contracting authority.

3. In the accelerated form of restricted procedures referred to in Article 40(5), requests for participation shall be made by the most rapid means of communication possible.

**Article 43. Invitations to Submit Tenders**

1. The contracting authority shall invite the candidates selected according to Article 41 to submit their tenders.

2. The invitations to the selected candidates shall be made simultaneously to all candidates.

3. In the accelerated form of restricted procedures referred to in Article 40(5), invitations to submit a tender shall be made by the most rapid means of communication possible.

4. The contract documents enclosed with the invitation to submit tenders must contain the following information:

   1) address from which the remaining contract documents may be requested, and the sum payable, if any, for obtaining them, including the manner of payment;

   2) the final date for the submission of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up;

   3) a reference to the contract notice;

   4) tender evaluation procedure, evaluation criteria and their relative weighting;

   5) any other information that the contracting authority deems necessary.

5. If the contracting authority provides free and direct access to the contract documents by placing them on the internet or communicating by other electronic means, it may decide not to provide the information referred to in this Article, paragraph 4, together with the invitation; nevertheless, the contracting authority shall specify the address where such documents can be obtained.

**SECTION FOUR**

**NEGOTIATED PROCEDURE**
Article 44. Cases Justifying Use of the Negotiated Procedure with Publication of a Contract Notice

Contracting authorities may award their public contracts by negotiated procedure, after publication of a contract notice, in the following cases:

1) in the event all tenders received in the open or restricted procedure failed to meet the requirements set forth in the contract documents, and the contract conditions are not substantially altered;

2) in the event where, due to the nature of the services or works and the risks attaching thereto, the contracting authority cannot, without additional information about suppliers and possible solutions, define sufficiently detailed contract conditions allowing selection of the best tender;

3) in respect of public contracts for procurement of A-type services listed in the categories 6-12 (Annex II), when the nature of the services to be procured is such that contract specifications cannot be established with sufficient precision to permit the award of the contract by selecting the best tender according to the rules governing open or restricted procedures;

4) in respect of public works contracts, for works which are performed solely for purposes of research, testing or development and not with the aim of ensuring profitability or recovering research and development costs.

Article 45. Cases Justifying Use of the Negotiated Procedure without Publication of a Contract Notice

1. As regards public supply contracts, public service contracts and public works contracts, contracting authorities may award public contracts by a negotiated procedure without prior publication of a contract notice in the following cases:

1) when all tenders submitted in response to an open or restricted procedure fail to meet the requirements specified in the contract documents, provided that the initial conditions of contract are not substantially altered and all suppliers meeting the minimum qualification requirements are invited to negotiate;

2) when no tender or request to participate has been submitted in response to an open procedure or restricted procedure, or when all tenderers failed to meet the minimum qualification requirements, whereas the initial conditions of contract are not substantially altered. The contracting authority shall give the EU Commission a detailed report about such contract, if it so requests;

3) when, for technical or artistic reasons, or for reasons related to the exclusive rights, the supplies may be delivered, service rendered or works performed only by a particular economic entity, and there is no other alternative;

4) in so far as it is strictly necessary, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit fixed in this Law for the open, restricted or negotiated procedures with publication of a contract notice cannot be kept. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.

2. As regards public supply contracts, contracting authorities may award public contracts by a negotiated procedure without prior publication of a contract notice in the following cases:

1) when the products involved are manufactured purely for the purpose of research, experiment, study or development, this provision does not extend to quantity production to establish commercial viability or to recover research and development costs;
2) for additional deliveries by the original supplier which are intended either as a partial
replacement of normal supplies or installations or as the extension of existing supplies or
installations where previous contracts were effective, there is no substantial change in the
prices and other conditions and a change of supplier would oblige the contracting authority
to acquire material having different technical characteristics which would result in
incompatibility or disproportionate technical difficulties in operation and maintenance: the
length of such contracts as well as that of recurrent contracts may, as a general rule, not
exceed three years following the award of the initial contract.

3. As regards public service contracts, when the contract concerned follows a design
contest and shall be awarded to the successful candidate or to one of the successful
candidates: in the latter case, all successful candidates shall be invited to participate in the
negotiations.

4. As regards public service and works contracts, the negotiated procedure without
publication of a contract notice may be applied under any of the following conditions:

   1) for additional services or works not included in the project initially considered or in the
      contract first concluded but which have, through unforeseen circumstances, become
      necessary for the performance of the services or works described therein, when such
      additional services or works cannot be technically or economically separated from the main
      contract without major inconvenience to the contracting authority. However, such contract
      may only be concluded with the economic entity to whom a first contract was awarded and
      the aggregate value of contracts awarded for additional services or works may not exceed
      50% of the amount of the main contract.

   2) for new services or works consisting of the repetition of similar services or works
      entrusted to the economic entity to whom the same contracting authorities awarded an
      earlier contract, provided that such services or works conform to a basic project for which
      a first contract was awarded according to the open or restricted procedures. As soon as the
      first project is put up for tender, the option of using this procedure shall be pointed out,
      and the total estimated cost of subsequent services or works shall be taken into
      consideration by the contracting authority. This procedure may be used only during the
      three years following the conclusion of the original contract.

Article 46. Conducting the Negotiated Procedure with or without Publication of a
Contract Notice

1. The contracting authority shall conduct the negotiated procedure with publication of a
contract notice in the following phases:

   1) according to the procedure set forth in a 18(6) of this Law, invite candidates to submit
      requests to participate in the negotiated procedure

   2) verify qualification of the candidates who submitted requests against the minimum
      requirements set forth in the contract documents, and perform the selection of candidates,
      where applicable;

   3) invite candidates to submit initial tenders and negotiate according to the conditions set
      forth in a 47 of this Law, the technical, economic, legal and other aspects of the tender
      aiming at the highest economic advantage;

   4) on the basis of the tender evaluation procedure and criteria specified in the contract
      documents, and on the results of negotiations documented in the initial tenders and the
      minutes of the negotiations, identify the best tender.

2. When applying the negotiated procedure without publication of a contract notice, the
contracting authority shall:
1) where more than one candidate is invited to negotiate - verify if the qualification of candidates meets the specified criteria, negotiate the technical, economic, legal and other aspects of the tender aiming at the highest economic advantage, and, based on the results of negotiations and the criteria specified in the contract documents, identify the successful tender;

2) when only one candidate is invited to negotiate - verify if the qualification of the candidate meets the specified criteria, and negotiate the technical, economic, legal and other aspects of the tender aiming at the highest economic advantage. In case of negotiations without publication of a contract notice, when only one candidate is invited, the contracting authority shall not be obliged to give to the candidate all the information referred to in Article 20 of this Law, if the contracting authority deems that some items of information are not necessary.

3. The negotiated procedure shall be deemed to have been conducted if there is at least one supplier, whose initial tender and the results of negotiations comply with the requirements set forth in the contract documents.

**Article 47. Requirements with respect to the Negotiated Procedure with or without Publication of a Contract Notice**

1. During the negotiated procedures, the contracting authority shall comply with the following requirements:

   1) negotiations shall be held with each candidate separately;

   2) no information obtained from the supplier may be revealed to the third parties without the prior consent of the supplier; the contracting authority may not disclose any information about the solutions proposed by other suppliers;

   3) all tenderers shall be subject to the same requirements, shall be provided with equal opportunities and with the same information;

   4) the proceedings of the negotiation shall be recorded in the minutes, to be signed by the chairperson of the Commission and the authorised representative of the tenderer with whom negotiations were held.

2. The contracting authority shall negotiate separately with each tenderer who submitted a tender complying with the requirements set forth in the contract documents, and shall identify the acceptable tender following the provisions of Article 33 of this Law.

**Article 48. Time Limits for Submission of Requests to Participate and Tenders in case of the Negotiated Procedure with Publication of a Contract Notice**

1. The contracting authority shall fix the final time limits for submission of requests to participate and tenders by following provisions of Article 23.

2. The time limit for submission of requests to participate may not be shorter than 37 days from the day of dispatch of the notice from the Public Procurement Office.

3. The time limit fixed for receipt of tenders may not be shorter than 40 days from the day of dispatch of the invitation to tender.

4. If the contracting authority published PIN at least 52 days but not more than 12 months before starting the procedures, and provided the information about the contract in the manner referred to Article 18(3), then the time limits specified in this Article, paragraph 3, may be reduced to 26 days from the day of dispatch of the invitation to tender.
5. If due to the circumstance beyond the contracting authority’s control it is not possible to keep to the time limits specified in this Articles, paragraphs 2 and 3 (cases of urgency), the contracting authority shall have the right to fix an at least 15 days time limit for submitting the requests, and at least 10 days time limit for the receipt of tenders.

**Article 49. The Number of Candidates and their Selection according to Qualification Criteria in the Negotiated Procedure with Publication of the Contract Notice**

1. In cases of negotiated procedure with publication of the contract notice, the contracting authority may limit the number of candidates to be invited according to the rules set forth in Article 41. In case where the number of candidates is not limited, the minimum number of candidates to be invited to negotiate and specified in the contract documents (contract notice or invitation to tender) shall be 3

2. The contracting authority shall select the specified number of candidates to be invited according to the provisions of Article 41 of this Law.

3. The number of candidates invited by the contracting authority must be not less than their minimum number specified in the contract documents.

**Article 50. Submission of Requests to Participate in Negotiated Procedure with Publication of a Contract Notice**

1. Requests to participate may be submitted both by an individual economic entity, or a group of economic entities as defined in Article 23(5) of this Law.

2. Requests to participate in negotiated procedure with publication of a contract notice shall be submitted according to the requirements set in Article 14(5) of this Law. The contracting authority shall specify in the contract documents that requests to participate in the negotiated procedure must be accompanied by information requested in the invitation.

3. In the accelerated form of negotiated procedure with publication of a contract notice prescribed in Article 48(5), the contracting authority shall specify in the contract documents that requests for participation must be made by the most rapid means of communication possible.

**Article 51. Invitation to Negotiate**

1. In the negotiated procedure with publication of a contract notice, the contracting authority shall send invitations to negotiate in writing to all candidates selected according to the provisions in Article 49, or, if there was no pre-qualification selection, to all candidates who meet the qualification requirements.

2. The contracting authority shall send the invitations to all candidates simultaneously.

3. The contract documents not provided before the invitation to negotiate shall be send by the contracting authority to the candidates according to the rules set forth in Article 22 of this Law.

4. In the accelerated form of the negotiated procedure with publication of a contract notice referred to in Article 48(5), invitations to tender shall be made by the most rapid means of communication possible.

5. The invitation to negotiate shall contain at least the following information:

1) address from which the remaining contract documents may be requested, and the sum payable, if any, for obtaining them, as well as the manner of payment;
2) in case of the negotiated procedure with publication of a contract notice - a reference to the publication of a contract notice;

3) the final date for the receipt of consents to negotiate, the address to which the consents must be sent and the language or languages to be used in the procedures;

4) qualification requirements for suppliers and documents to prove the qualification;

5) a list of information and documents to be enclosed with the consent to negotiate

6) the course of the negotiated procedure;

7) any other information that the contracting authority deems necessary.

SECTION FIVE

DESIGN CONTESTS

Article 52. Cases Justifying the Use of the Design Contest Procedure

Design contest may be used when awarding contracts for area planning, architecture, engineering or data processing services.

Article 53. Conducting a Design Contest

1. A design contest shall be advertised following the provisions in Articles 18 and 19.

2. The design contest shall be conducted in order to determine the supplier/suppliers who submitted the best area planning, architecture, civil engineering or data processing a plan or design where it is intended:

1) to award a service contract to the winner of the contest;

2) to provide prizes to the winner or winners of the contest, or other rewards for participation. In this case the contracting authority may continue the services contract award procedure by means of the negotiated procedure without publication of a contract notice, inviting to negotiate the winner or all winners (top rated tenderers) of the contest.

3. Both legal and natural persons shall be allowed to take part in the design contest.

4. The admission of tenderers to design contests shall not be limited by reference to the specific territory or other restriction of discriminatory nature.

5. The final date fixed for receipt of tenders in the contract documents may not be shorter than 52 days after the date of dispatching the design contest notice for publication from the Public Procurement Office.

6. The contracting authority may decide to conduct pre-qualification selection of candidates to be invited to submit their designs or projects. In such event, the contracting authority shall fix non-discriminatory qualification criteria capable of ensuring the genuine competition.

7. The Government of the Republic of Lithuania or the institution authorised by it shall approve the rules for organising a design contest.

Article 54. The Jury
1. The projects and drawings of the tenderers shall be assessed by the jury, formed by the contracting authority or the authorised body. The contracting authority must fully authorise the jury to perform the assessment of the design or project and identify the winner. The jury shall be composed exclusively of natural persons who are independent of tenderers in the contest. Only natural persons of impeccable reputation who have signed a declaration of impartiality and a statement of confidentiality shall be appointed chairman and members of the jury. Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury shall have that qualification.

2. The jury shall be autonomous in its decisions or opinions. Only anonymously submitted projects shall be evaluated (the jury may find out the name of the tenderer only after the jury has taken a decision as regards the best design or project).

3. The designs and projects shall be evaluated subject to the evaluation criteria set forth in the contract documents, and these may not be necessarily based on the lowest price or the highest economic advantage.

4. The jury shall make its decision only in its meeting. The meetings of the jury shall be entered into minutes.

CHAPTER III

procurements of entities operating in water, energy, transport and telecommunication sectors

Article 55. Regulation of Procurements by Entities Operating in the Water, Energy, Transport or Telecommunications Sectors

1. This Chapter shall apply where contracting authorities operating in water, energy, transport and telecommunication sectors award public contracts necessary for one or several of the activities listed in paragraph 2 below. These contracting authorities shall include:

1) contracting authorities defined in of Article 3(1) subparagraphs 1, 2 and 3;

2) undertakings operating in the water, energy, transport and telecommunication sectors on the basis of special or exclusive rights granted by the law or by a competent authority;

3) state or municipal undertakings;

4) undertakings where the state or local authorities have an interest, and where state or local authorities are entitled to more than 50% of votes in any management body of such undertakings.

2. Activities in the water, energy, transport and telecommunication sectors include:

1) the provision to other persons of fixed networks intended to provide services to the public in connection with the production, transport or distribution of drinking water, electricity, gas or heat, where the networks are operated by the contracting authority or provided by the contacting authority to other persons, the activities of operation, maintenance or exploitation of fixed networks as well as activities pertaining to the supply of drinking water, electricity, gas or heat to such networks;

2) the provision to other persons, operation, maintenance or exploitation of networks required for providing a service to the public in the field of transport by railway, automated systems, trolley bus, bus or cable. A network shall be any existing infrastructure (equipment, signs, etc.) necessary for the transport activity, as well as the routes to be served, timetables, the capacity to be made available or any other regulation of the
conditions for the transport services laid down by a competent state or local authority, institution or an organisation authorised by it. The provision of bus transport services to the public shall not be considered an activity regulated by this Law, where any other entity is free to provide the same services as those specified by the contracting authority;

3) the operation, maintenance or exploitation of a geographical area for the purpose of exploring for or extracting oil, gas, coal or other solid fuels; as well as the provision of airport, maritime or inland port or other terminal facilities to carriers by air, sea or inland waterway;

4) the operation or maintenance of the public telecommunication networks, as well as provision of the public telecommunication services.

3. The following types of activity shall be not regarded as the activity in the water, energy, transport or telecommunication sectors:

1) the hydraulic engineering projects, irrigation or land drainage projects, provided that more than 20% of the total volume of water made available by such projects or irrigation or drainage installations shall be supplied as drinking water or used in connection with the disposal or treatment of sewage;

2) activities listed in paragraph 2 above, if they are to supply to the fixed networks intended to provide a service to the public: gas or heat, where the production of gas or heat by the entity concerned is the unavoidable consequence of carrying on an activity other than those referred to in paragraph 2, subparagraph 1, and supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20% of the entity's turnover having regard to the average for the preceding three years, including the current year; electricity, where the production of electricity by the entity concerned is the unavoidable consequence of carrying on an activity other than those referred to in paragraph 2, subparagraph 1, and supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 30% of the entity's turnover having regard to the average for the preceding three years, including the current year; drinking water, where the production of water by the entity concerned is the unavoidable consequence of carrying on an activity other than those referred to in paragraph 2, subparagraph 1, and supply to the public network depends on the entity's own consumption and amounts to not more than 30% of the entity's turnover having regard to the average for the preceding three years, including the current year.

Article 56. The General Principles of Procurement in the Water, Energy, Transport and Telecommunication Sector

1) Contracting authorities exercising activities in the water, energy, transport and telecommunication sectors shall award their procurement contracts, referred to in Article 55 above and the value of which is equal or greater than thresholds specified in Article 10(2) of this Law, in accordance with the provisions of Chapters I and II of this Law insofar they do not contradict the provisions contained in this Chapter III.

2) The contracting authority exercising activities in the water, energy, transport and telecommunication sectors shall award the procurement contracts following all the requirements referred to in Article 4 of this Law, and respect the rules of confidentiality laid down in Article 5 of this Law.

Article 57. Types of Procurement Procedures Used by Entities Operating in the Water, Energy and Transport Sectors Procedures in Utilities

1. The contracting authorities in the utilities sector may award contracts by means of the open, restricted procedures and negotiated procedure with or without publication of a contract notice.
2. The contracting authorities may use the open procedure, the restricted procedure or the negotiated procedure with publication of a contract notice in all cases without limitations.

3. In cases specified in Article 58 of this Law, the contracting authority may choose not to publish a contract notice and award the contract by means of the negotiated procedure without publication of a contract notice.

4. The contract may be awarded by using the design contest in cases referred to in Article 52.

**Article 58. Cases where Procurement by Means of Negotiated Procedure without Publication of a Contract Notice is Allowed**

1. Supply, services or works contracts may be awarded by means of negotiated procedure without publication of a contract notice if there is at least one of the conditions given below:

1) when no tenders or no suitable tenders or request to participate have been submitted in response to an open or restricted procedure or negotiated procedure with publication of a contract notice, or when all tenderers have failed to meet the minimum qualification requirements, provided that the initial conditions of contract are not substantially altered;

2) where a contract is purely for the purpose of research, experiment, study or development, and not for the purpose of securing a profit or of recovering research and development costs, and in so far as the award of such contract does not prejudice the competitive award of subsequent contracts;

3) when, for technical or artistic reasons, the supplies may be delivered, services rendered and works performed only by a particular economic entity having the exclusive rights to produce (supply, perform) these products, works or services and there is no other alternative;

4) when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for the open, restricted or negotiated procedures with publication of a contract notice cannot be kept within the time limits fixed by this Law. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;

5) when contracts are awarded on the basis of the preliminary agreement.

2. Supply contracts may also be awarded without the publication of a contract notice in the following cases:

1) where the contracting authority had previous contracts with the same supplier of goods and determined, that, from the technical compatibility point of view, it is reasonable to procure the additional supplies from the same supplier, provided that such earlier contracts were efficient, that the price and other contract conditions are not substantially altered, and that changing the supplier would result in technical incompatibility, where the new suppliers or services could not be operated together with the previously procured supplies or services, or the contracting authority could incur considerable losses;

2) for supplies quoted on a commodity market;

3) for bargain purchases, where it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices;
4) for purchases of supplies under particularly advantageous conditions from a supplier who is ceasing to trade on a permanent basis or is involved in insolvency or bankruptcy proceedings, or is in the process of restructuring.

3. In case of public service contracts, when the contract concerned follows a design contest and is awarded to the successful candidate or to one of the successful candidates: in the latter case, all successful candidates shall be invited to participate in the negotiations.

4. As regards public service contracts and public works contracts for additional services or works not included in the project initially considered or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the performance of the services or works described therein, when such additional services or works cannot be technically or economically separated from the main contract without major inconvenience to the contracting authorities, or which, even though separable from the principal contract, are necessary for the performance of the principal contract at its later stages.

5. For new services or works consisting of the repetition of similar services or works entrusted to the economic entity to whom the same contracting authorities awarded an earlier contract, provided that such services or works conform to a basic project for which a first contract was awarded according to the open or restricted procedures, where the total estimated cost of subsequent services or works has been taken into consideration, and that the possibility of additional contracts has been pointed out in the contract notice.

**Article 59. Publication of a Contract Notice**

1. In cases referred to in Article 18 of the Law, the contracting authority shall announce about its intention to award a contract in advance, as specified in Article 19.

2. The contracting authority shall publish a separate notice of each contract awarded by means of the open procedure, restricted procedure, negotiated procedure with publication of a contract notice, or design contest, as prescribed in Article 18 of this Law.

3. Drawing up of contract documents and time limits for the contract award procedures shall be subject to Articles 20 and 23 of this Law.

4. Where by publication of a prior information notice a call for competition is made, the notice shall be published at least 12 months before the date of dispatch of invitation to tender under Article 23 of this Law and shall contain an indication that there shall be no publication of a separate contract notice as well as other information specified in this Article, paragraph 5.

5. Where the contracting authority intends to conclude a preliminary agreement, it shall inform about such intention in the contract notice. The contract notice shall also specify the duration of such preliminary agreement, the expected and, if possible, the maximum number of the suppliers, the total value of supplies, services or works for the entire duration of the preliminary agreement, and, if possible, the frequency and value of the contracts to be awarded on the basis of such preliminary agreement. In the contract notice the contracting authority shall also specify the criteria to be used for identifying the successful tenderers, as well as criteria to be used by contracting authorities to determine the supplier - a party to the preliminary agreement - who will be awarded a contract in each specific case. The criteria shall be set up according to the provisions of Article 33 of this Law.

6. Having awarded the contract or preliminary agreement, the contracting authority shall, according to the provisions of Article 35, notify thereof all the candidates or tenderers, and publish the contract award notice as prescribed in Articles 18 and 19 of this Law.

7. The contracting authorities are not obligated to publish contract award notices about each contract awarded on the basis of the preliminary agreement.
8. Prior information notices, contract notices, contract award notices shall be drawn up and published according to the provisions of Article 19.

9. Contracting authority must be able to supply the proof of the date of dispatch of the notices referred to above.

Article 60. Time Limits

1. Time limits in the procedures depend on the type of procedure. The contracting authority shall fix the time limits for requests and tenders according to the provisions of Article 23 of this Law, by taking into account the complexity of the contract and the time necessary for drawing up the requests to participate and tenders.

2. In case of the open procedure, the time limits specified in Article 38 of this Law shall apply.

3. In restricted procedures and in negotiated procedures with publication of a contract notice according to the provisions of Article 59, the time limit fixed for submission of requests may not be shorter than 37 days, or, in case of urgency, when due to the circumstances outside the contracting authority’s control it is not possible to keep to the time limits fixed in this Law - not shorter than 22 days.

4. In case of restricted procedure or negotiated procedure with publication of a contract notice, the time limit for receipt of tenders may be set by mutual agreement between the contracting authority and the selected candidates, provided that all candidates have the same time to prepare and submit their tenders. Where it is not possible to reach agreement on the time limit for receipt of tenders, the contracting authority shall fix a time limit which shall be at least 24 days from the day of dispatch of the invitation to tender or, in case of urgency, when due to the circumstances outside the contracting authority’s control it is not possible to keep to the time limits fixed in this Law - not shorter than 10 days from the date of the invitation to tender.

Article 61. Rules Governing Invitations to Tender

The contracting authority shall invite the selected candidates to submit their tenders. The contents of tenders is outlined in Articles 43 and 51, and the time-limits for submission are fixed in Article 23 of this Law.

Article 62. Design Contest

Requirements to design contests shall be regulated in Section Five of Chapter II of this Law.

Article 63. Preliminary Agreements

1. Subject to the rules outlined in this Law, the contracting authorities may choose to conclude a preliminary agreement.

2. A "preliminary agreement" is an agreement between one contracting authority and several suppliers. Under this agreement the contracting authority shall be entitled throughout the period of the agreement to conclude contracts with the supplier or suppliers who offer the best conditions regarding procurement of the whole or a part of the amount of supplies, services or works needed.

3. The contracting authority may consider awarding a preliminary agreement only if one of several of the following circumstances are present:

1) the subject of the contract are consumer goods, not classified as long-term assets, as well as day-to-day services;
2) the subject of the contract are goods or services the prices and delivery conditions whereof are changing often;

3) the subject of the contract are continuous repair or maintenance works;

4) where contracting authority should award several identical contracts within 1 year, and the preliminary arrangement would enable reducing the procurement costs.

4. For the purpose of concluding a preliminary agreement, the contracting authority shall follow the rules of procedure referred to in this Law. A preliminary agreement may be awarded only by means of an open procedure or a restricted procedure, and the intention of awarding a preliminary agreement shall be made by means of a contract notice.

5. The minimum number of suppliers with whom the preliminary agreement is signed shall be 3.

6. No preliminary agreement may be concluded for a period exceeding 4 years.

7. No changes shall be allowed to the preliminary agreement once it is concluded.

8. It is not allowed to conclude a preliminary agreement, if it may result in unjustified impediment of the competition.

9. A preliminary agreement may provide for re-opening of the competition among the suppliers.

10. In cases where a preliminary agreement does not provide for reopening of the competition, the contracting authority shall turn in writing to the supplier, selected according to the rules specified in the preliminary agreement, specify its needs, and request to conclude a supplies, services or works contract according to the rules and conditions outlined in the preliminary agreement.

11. In cases where a preliminary agreement does provide for reopening of the competition, the contracting authority shall:

1) consult in writing each economic entity and invites to submit their tender within specified time limits; the contents of the tenders remain confidential until this time limit has expired;

2) award a contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the preliminary agreement.

CHAPTER IV

SIMPLIFIED PROCUREMENT PROCEDURES

SECTION ONE

GENERAL PROVISIONS

Article 64. Public Contracts subject to this Chapter, and Award Procedures

1. This Chapter regulates awarding of the following public contracts (hereinafter referred to as simplified procurement procedure):

1) contracts the value whereof is below the international thresholds referred to in Article 10 of this Law;
2) contracts for B type services (Annex 2 to this Law);

3) contracts referred to in Article 8 (13) of this Law.

2. Contracting authorities in the utilities shall award the public contracts referred to in paragraph 1 above according to the procurement rules defined and approved by the contracting authority, provided such rules meet the public procurement principles and objectives set forth in Article 4 of this Law. The contract notices, however, shall be subject to the rules established in Article 67(1,2,3).

**Article 65. Simplified Procurement Rules and Procedures**

1. Simplified procurement shall be conducted by means of the following procedures:

   1) simplified open procedure;
   2) simplified restricted procedure;
   3) simplified negotiated procedure with publication of a contract notice;
   4) simplified negotiated procedure without publication of a contract notice;
   5) usual commercial practice.

2. Contracting authorities shall be free to choose between the simplified open and simplified restricted procedures in all cases.

3. A public contract may be awarded by the means of a simplified negotiated procedure with publication of a contract notice, provided at least one of the conditions below is present:

   1) where the nature and complexity of the procurement object does not allow the contracting authority to described it in a clear and unambiguous manner (i.e., where the contracting authority can specify only the needs to be met by the procurement object, or there is more than one solution to the problems causing the need for supplies, services or works) and resort to the open or restricted procedures;

   2) where no tenders or no suitable tenders or no requests to participate were received in response to the open or restricted procedure, provided the initial conditions of contract are not substantially altered.

4. A public contract may be awarded by means of a simplified negotiated procedure without publication of a contract notice, provided at least one of the conditions referred to in paragraphs 5, 6, 7, 8 and 9 below is present.

5. In case of public supplies, services or works contracts, the simplified negotiated procedure without publication of a contract notice may be used:

   1) where the procurement procedure failed, since no tenders or no requests to participate have been submitted in response to an open or restricted procedure;

   2) where in a simplified open or simplified restricted procedure the tenders submitted are very different, or where tenders submitted are not acceptable for the contracting authority, provided the initial conditions of contract are not substantially altered and all tenderers who meet the minimum qualification requirements set by the contracting authority are invited to the simplified negotiated procedure without publication of a contract notice;
3) when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular economic entity, and there is no other alternative;

4) insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for the simplified open, restricted or negotiated procedures with publication of a contract notice cannot be complied with, and there is no other alternative. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;

5) where supplies, services or works are produced or delivered by the penitentiary institutions founded by the Ministry of Interior or the Ministry of Justice, if over 50% of the employees are inmates, or by undertakings if over 50% of their employees are disabled, or by health care institutions, if at least 50% of the employees are occupational therapy patients, and the contracting authority buys such supplies, services or works from these institutions or undertakings.

6. Supplies or services contracts may be awarded by simplified negotiated procedure without publication of a contract notice:

1) where the contracting authority had previous contracts with the same supplier of goods or services and determined, that, from the technical compatibility point of view, it is reasonable to procure the additional supplies or services from the same supplier, provided that such earlier contracts were efficient, that the price and other contract conditions are not substantially altered, and that changing the supplier would result in technical incompatibility, where the new suppliers or services could not be operated together with the previously procured supplies or services, and contracting authority could incur considerable losses. If the price of such additional public supplies or services contracts exceeds 30% of the price in the previous contract, an expert assessment of the technical compatibility of the additionally procured goods or services shall be carries out;

2) where the goods or services are procured for diplomatic representation offices abroad.

7. In case of the public supply contracts, the simplified negotiated procedure without publication of a contract notice may be used:

1) when the products involved are manufactured purely for the purpose of research, experiment, study or development, not seeking profit or recovery of research and development costs;

2) for supplies quoted and purchased on a commodity market;

3) when the object of the procurement is museum exhibits, archive or library documents, subscribed papers and magazines;

4) for the purchase of supplies on particularly advantageous terms, from either a supplier who is ceasing to trade on a permanent basis or receivers or liquidators involved in insolvency proceedings;

5) when purchases are made from the State Reserve.

8. The simplified negotiated procedure without publication of a contract notice may be used to award public services contracts, if:

1) the public service contract is awarded following the design contest to the successful candidate or to one of the successful candidates; in the latter case, all successful candidates must be invited to participate in the negotiations;
2) the subject of the contract is a licence to use library documents or data (information) bases;

3) the subject of procurement is air transport services.

9. The simplified negotiated procedure without publication of a contract notice may be used to procure services and works, where:

1) for additional services or works not included in the project initially considered or in the original contract but which have, through unforeseen circumstances, become necessary for the performance of the services or works described therein, on condition that the award is made to the same supplier performing such services or works under the original contract, and the aggregate value of contracts awarded for additional services or works does not exceed 15% of the amount of the original contract;

2) for new deliveries of services or works by the existing supplier, which are the same as procured under the previous contracts, on the condition that the previous contract was awarded by means of the open or restricted procedure, the contract notice whereof provided for the possibility of such additional contracts and included their value, and are intended for the execution of the same project. The length of such additional contracts may not exceed three years after the first additional contract is concluded.

10. Contracting authorities may resort to the simplified design contest when they are purchasing area planning, architecture, and engineering or data processing services.

11. The usual commercial procedure may be used to award a public contract where at least one of the conditions below is present:

1) the value net of VAT is below LTL 75 thousand for supplies and services, or less than LTL 300 thousand for works;

2) where it is not possible to use any other type of simplified procedures without violating the rules thereof due to the extraordinary circumstances, such as accidents, natural disaster, epidemics or similar force majeure circumstances.

**Article 66. Principles and Confidentiality in Simplified Procurement Procedures**

When awarding public contracts by means of simplified procurement procedures, the contracting authorities shall respect the principles and confidentiality requirements referred to in Articles 4 and 5.

**Article 67. Advertising Rules in Simplified Procurement Procedures**

1. Contracting authorities may publish a prior information notice about all public contracts intended to award by means of simplified procurement procedures within the coming 12 months, if the total accumulated value net of value added tax exceeds LTL 150,000 for supply and services contracts, and LTL 300,000 for works. The contracting authority shall also advertise each individual contract awarded by using the simplified open procedure, the simplified restricted procedure, the simplified negotiated procedures with publication of a contract notice or the simplified design contest.

2. Contracting authorities shall publish the relevant notices in the “Informacinių pranešimai” supplement to the official gazette “Valstybės žinios”, and on the special internet website. In addition, the notices may be published in any popular international publication.

3. The notices intended for publication, except for those to be published in the publications other than those referred to in Article 19(1), shall be delivered to the Public Procurement Office, which shall be responsible for publication of notices in the manner prescribed by
this Law. The notices may not appear on the website before they are published in the "Informacinių pranešimai" supplement to the official gazette "Valstybės žinios".

4. The Public Procurement Office shall set forth the requirements for prior information notices, also contract notices in simplified open, restricted and negotiated procedures with publication of a contract notice, and simplified design contest notices.

5. Contracting authorities shall as soon as possible, but not later than within 3 working days, inform the suppliers concerned about:

1) rejection of their requests or tenders, and the reasons of rejection;

2) preliminary ranking of tenders (if applicable);

3) awarding of the contract, by specifying the successful supplier.

Article 68. Simplified Procurement Commission

Except where the contracts are awarded following the rules of the usual commercial practice, a public procurement commission shall be formed to conduct the simplified procedures. Formation, activity and responsibility of such commission are established in Article 13.

Article 69. Simplified Procurement Contract Documents and Technical Specification

Unless provided otherwise under this Chapter, the requirements to contract documents and technical specifications in simplified procedures are set forth in Articles 20 and 21 of this Law.

Article 70. Providing with Simplified Procurement Contract Documents

1. Contract documents shall be provided to the suppliers from the date on which invitation to tender was published or dispatched to the suppliers until the final date for the receipt of tenders fixed in the contract documents. Contract documents shall be provided to any supplier who filed a request to participate or any candidate who is invited immediately upon their request.

2. Contract documents, including invitations to tender, notices, explanations, additional or other documents shall be delivered to the suppliers in person, sent by registered mail, or by registered mail and by fax. Where contracting documents are sent by mail, the date of submission shall be the date of dispatch.

3. Contracting authorities may choose to place the contract documents on a website, too. In such event the website address must be specified in the contract notice. Contract documents may not be placed on the website before the contract notice is published in the information supplement to the official gazette "Valstybės žinios". If a contracting authority chooses to place the contract documents on the website, it shall forward the printed copies of the documents to any supplier who requests so.

Article 71. Clarification of Simplified Procurement Contract Documents

1. Candidates may request a clarification of the contract documents from the contracting authority. The contracting authority shall respond to any written request by a candidate for clarification of the contract documents provided it is received not later than 6 working days before the final date fixed for the receipt of tenders. The contracting authority must respond to the request not later than within 3 days from the date of receipt of the request. When responding to a candidate, the contracting authority shall simultaneously send explanations to all candidates to whom it has presented contract documents, without
identifying the source of the request. The response should be communicated to the candidates so that they receive it not later than 3 days before the final date fixed for the receipt of tenders.

2. At any time prior to the deadline for receipt of tenders, the contracting authority may explain the contract documents on its own initiative. The clarification, however, may not have an effect of changing the information advertised, and must be communicated to all candidates to which the contracting authority has provided the contract documents not later than 3 days before the final date fixed for the receipt of tenders.

3. If the contracting authority convenes a meeting of candidates, it must prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the contract documents, and its responses to those requests. Minutes must be dispatched to all candidates taking part in the procurement procedures so that they receive it not later than 3 days before the final date fixed for the receipt of tenders.

4. If the contracting authority can not provide clarification of the contract documents or dispatch such clarifications or minutes of the meeting of candidates so that they are received not later than 3 days before the final date fixed for the receipt of tenders, it must postpone the time limit fixed for the receipt of tenders for a reasonable period enabling the candidates to take the clarification or minutes of the meetings into account in preparing their tenders.

5. Notices of the postponement of the final date fixed for the receipt of tenders must be dispatched to all candidates to whom the contract documents have been presented.

**Article 72. Qualification of Candidates for Low Value Contracts**

Contracting authority must verify whether the candidates in the simplified procedure for the award of a public contract is capable of fulfilling the contract. The verification procedure to be followed is described in this Law, Articles 28, 29, 30, 31 and 32.

**Article 73. Validity of Tenders in Simplified Procurement Procedures**

1. Contracting authority shall specify the requested period of validity in the contract documents. Such period may not exceed 90 days from the final date set for receipt of tenders. In the event the procurement procedure is suspended, the period of validity shall be extended for the period of extension.

2. In the contract documents, contracting authorities shall request the suppliers to specify the period of validity in their tenders, which may not be shorter than requested by the contracting authority.

3. The period of validity of tenders may be extended before it expires. The period may be extended by the participants of the procedure at the contracting authority’s request. In its request to extend the period of validity, the contracting authority shall specify the new period for the validity of tenders and the date until which candidates must communicate either their acceptance or refusal to extend the period of validity. If the candidate accepts to prolong the period of validity, he shall communicate his acceptance to the contracting authority and confirm the prolongation of the validity period, or provide a new security of the validity of tender, if such security has been requested. If a supplier fails to respond to the request of a contracting authority to extend the period of effectiveness of tenders or fails to extend the period of tender security or to provide new tender security until the date specified, it shall be deemed that such supplier has rejected the request and withdrawn his tender. If the supplier has withdrawn the tender under the above circumstances, he shall not lose the tender security.

**Article 74. Preparing, Submitting, Amending and Withdrawing Tenders in the Simplified Procurement Procedure**
1. In the contract documents, the contracting authority must request the candidates to submit their tenders in sealed and stamped envelopes, with the name of the procedure, name of the candidate and address written on them. If the contracting authority intends to choose the most economically advantageous tender, in the contract documents it shall request the suppliers to submit two sealed and stamped envelopes: one with the price offer, the other with the remaining parts of the tender (technical data and other information or documents). The two envelopes shall be put into another sealed and stamped envelope. The tenders (with supplements) must be numbered and bound so that it is not possible to remove, insert or change pages without injuring the binding. The requirement to submit the tender or its parts in envelopes shall not apply if the contracting authority accepts tenders submitted by electronic means. The tenders shall be endorsed by the candidate’s signature. The contract documents may also impose other requirements to prove the authenticity of tenders.

2. The tenders may be submitted by electronic means only on the condition that:

1) the electronic means employed allow ensuring that neither the contracting authority or other suppliers could access the contents of the tenders until the period fixed for receipt of tenders expires;

2) the tender contains all information requested in the contract documents;

3) upon submission of the tender by electronic means, the supplier immediately forwards a confirmation of the tender by non-electronic means, or provides the contracting authority, by non-electronic means, with a certified copy of the tender. If the tender submitted by electronic means does not correspond to the approved copy of the tender submitted by electronic means, the approved copy of the tender submitted otherwise than by electronic means shall be deemed authentic.

3. The candidates shall submit their tenders before the period for the receipt of tenders expires (day and time). Contracting authorities shall register the tenders received after the deadline for submission, and send them back to the candidates unopened.

4. The deadline fixed for receipt of tenders must be sufficiently long to allow drawing up and submitting tenders. When fixing such deadline, the contracting authority must take into account the complexity of the contract and the actual time necessary for drawing up the tenders.

5. The deadline fixed for receipt of tenders may not have the effect of an artificial restriction on suppliers to take part in the procedure, or to create favourable conditions to some specific suppliers.

6. Where a supplier requested the contract documents or any part thereof in due time, and the contracting authority failed, for any reason, to provide these within the set time limits, or where tenders can be drawn up only after a meeting with the contracting authority or a visit to the site to inspect performance or delivery conditions, and such meeting or visit originally was not planned, the contracting authority shall extend the time limits for the receipt of tenders for as many days as the contracting authority delayed the supply with contract documents, or so that all suppliers concerned may be aware of all the new information needed to produce a tender.

7. Tenders may be submitted by individual economic entities as well as by groups of economic entities. These groups may not be required to assume a specific legal form in order to submit the tender; however, the contracting authority shall have no right to request that the group selected does establish a legal person, with whom the contracting authority shall sign the contract.

8. If requested by a supplier, the contracting authority shall produce a confirmation of the receipt of the tender, by specifying the date and time of the receipt.
9. Before the time limit for the receipt of tenders expires, a participant of the procedure may modify or withdraw its tender without losing the tender security.

**Article 75. Tender Security and Security for the Performance of the Contract**

Contracting authorities may request that the validity of tender is secured, and must request that the performance of the contract be secured by the candidates. Requirements on security of tenders and contracts are outlined in Article 25 of this Law.

**Article 76. Opening Tenders; Analysis and Evaluation of Tenders in Simplified Procurement Procedures**

1. Opening of tenders shall be subject to Article 26 of this Law.

2. Assessment of tenders shall be subject to the provisions of Articles 33 and 34 of this Law.

3. Tenders shall be compared and evaluated in Litas. Where the contracting authority allows price quotations in foreign currency, the prices offered in such tenders shall be converted into Litas using the official rates of exchange fixed and published by the Bank of Lithuania on the last day fixed for receipt of tenders.

4. Not later than 10 days before deciding on the successful tender, the contracting authority shall make a list of preliminary ranking of tenders to be communicated to all candidates and participants. This requirement shall not apply in the simplified negotiated procedure without publication of a contract notice, where only one candidate is invited to negotiate.

5. The contracting authority shall decide on the successful tender only after all complaints and claims from suppliers are settled.

**Article 77. Termination of the Simplified Procurement Procedures**

At any time before the award of the contract, contracting authorities shall have the right to terminate the simplified procurement procedure should the supplies, services or works become no longer needed, or there is no funds to pay for them, or major mistakes have been detected in the procedure, or for any other reason specified in this Law.

**SECTION TWO**

**SIMPLIFIED OPEN PROCEDURE**

**Article 78. Contract Documents in Simplified Open Procedure**

Contracting authorities shall provide contract documents to all candidates who filed their requests to participate in the simplified open procedure. The contract documents shall specify the following information:

1) instructions for preparing and submitting tenders (time limits, place and means of submission);

2) the period of validity of tenders;

3) identification of supplies, services or works, requirements for their technical, aesthetic, functional characteristics and quality, plans, drawings and projects, amounts, the nature of services accidental to the supplies procured, terms of delivery or completion, running costs and other information describing the procurement object according to the requirements in Article 21 of this Law;
4) information whether the tenders for lots are allowed; description of the lots;

5) information if variants are allowed;

6) information how to determine and express the price in the tenders; the price must include all expenses and taxes;

7) requirements on qualification of suppliers;

8) documents and information to be provided by suppliers to prove their qualification and meeting the requirements;

9) the place, date and time for the opening of envelopes;

10) procedure for opening envelopes and examining tenders;

11) information about the currency in which prices should be quoted;

12) tender evaluation criteria and their relative weight in the total score, rules and procedures of evaluation;

13) terms and conditions of the contract offered to the parties for signing by the contracting authority, or a draft contract;

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

15) the means by which the candidates may seek clarification of the contract documents;

16) procedure for the modification or withdrawal of tenders;

17) full names, addresses, telephone and fax numbers of the officers and employees of the contracting authority who are authorised to communicate directly with and to receive communications directly from suppliers in connection with the procurement procedure, without the intervention of an intermediary;

18) reference to PINs published in the information supplement to the official gazette "Valstybes zinios" and/or any contract notice published in the specialised or international publication;

19) in the event the contracting authority reserves the right to terminate the simplified open procedure before the preliminary ranking of tenders is approved and proceed with simplified negotiated procedure without publication of a contract notice - information about such right.

**Article 79. Time Limits for Receipt of Tenders in Simplified Open Procedure**

The contracting authority shall fix a period for receipt of tenders of at least 14 days for public supplies and services contracts, and at least 21 day for public works contracts.

**Article 80. Failure of the Simplified Open Procedure**

The simplified open procedure shall be deemed failed, if:

1) no tenders were received;

2) all suppliers failed to meet the minimum qualification requirements;
3) all tenders failed to meet the requirements set forth in the contract documents;

4) contracting authority terminated the procedure for reasons specified in Article 77 of this Law.

Article 81. Negotiations in Simplified Open Procedure

1. In the simplified open procedure, contracting authorities may not negotiate with suppliers the terms and conditions of the contract or tenders.

2. In the event the contracting authority receives very different tenders or tenders that are not acceptable, it shall have the right to terminate, having notified all participants before the preliminary ranking of tenders, the open procedure and proceed with the simplified negotiated procedure without publication of a contract notice, to which all participants of the simplified open procedure who meet the minimum qualification requirements laid down by the contracting authority shall be invited. The contract conditions in such cases may not be substantially altered.

SECTION THREE

SIMPLIFIED RESTRICTED PROCEDURE

Article 82. Advertising and Carrying out Simplified Restricted Procedure

Simplified restricted procedure shall be carried out in two phases:

1) by means of a contract notice, suppliers are invited to submit their requests to participate in the simplified restricted procedure, and to provide information about their qualification;

2) candidates selected by the contracting authority are invited to submit their tenders.

Article 83. Contract Documents in Simplified Restricted Procedure

1. In addition to the information listed in Article 78 of this Law, the contract documents in the simplified restricted procedure shall contain the following:

   1) requirements for drawing up and submission of requests to participate (time limits, place and manner of submission);

   2) criteria and procedure for evaluation of the candidates’ qualification;

   3) the minimum number of candidates to be invited by the contracting authority to submit their tenders.

2. The documents of the simplified restricted procedure containing information about the qualification requirements for candidates, verification of qualification, evaluation, receipt of tenders, etc. shall be provided by the contracting authority in the first phase of the procedure.

Article 84. Requests to Participate

1. When drawing up and submitting requests to participate in the simplified restricted procedure, the suppliers shall follow the contract documents (i.e., the part of the contract documents specifying qualification requirements for suppliers and the rules of filing the requests to participate).
2. The time limit fixed for the receipt of requests to participate in the simplified restricted procedure shall be at least 7 days after the date of publishing the contract notice.

**Article 85. Verification and Assessment of Candidates Qualification**

1. Contracting authority shall verify the compliance of the candidates to the minimum qualification requirements according to Articles 28, 29, 30, 31 and 32 of this Law.

2. When selecting candidates for further tendering, contracting authority shall follow the criteria and procedures outlined in the contract documents and assess the qualification of all candidates meeting the minimum qualification requirements. The contracting authority may not select fewer candidates than the minimum number of candidates specified in the contract notice. The minimum number of candidates that the contracting authority may specify in the contract notice is 5. Where the number of interested suppliers or suppliers remaining after qualification procedure is less than indicated, the contracting authority shall ask all the remaining candidates to submit their tenders.

**Article 86. Invitation to Submit Tenders**

1. The contracting authority shall send the remaining contract documents and the invitation to submit tenders to the candidates selected according to the rules referred to in Article 85 of this Law.

2. The contracting authority shall fix a period for receipt of tenders of at least 14 days for public supplies and services contracts, and at least 21 day for public works contracts.

**Article 87. Failure of the Simplified Restricted Procedure**

The simplified restricted procedure shall be deemed failed, if:

1) no requests to participate were received;

2) no tenders were received;

3) all suppliers failed to meet the minimum qualification requirements;

4) all tenders were rejected;

5) contracting authority terminated the procedure on the grounds referred to in Article 77 of this Law.

**Article 88. Negotiations in Simplified Restricted Procedure**

1. In the simplified restricted procedure, contracting authorities may not negotiate with suppliers the terms and conditions of the contract or tenders.

2. In the event the contracting authority receives very different tenders or tenders that are not acceptable, it shall have the right to terminate, having notified all participants before the preliminary ranking of tenders, the restricted procedure and proceed with the simplified negotiated procedure without publication of a contract notice, to which all participants of the simplified restricted procedure who meet the minimum qualification requirements set by the contracting authority shall be invited. In such case, the contract conditions shall not be substantially altered.

**SECTION FOUR**

**SIMPLIFIED NEGOTIATED PROCEDURES WITH OR WITHOUT PUBLICATION OF A CONTRACT NOTICE**
Article 89. Advertising of the Simplified Negotiated Procedure

1. In the simplified negotiated procedure with publication of a contract notice, the contract notice shall be published following the rules set forth in Article 67 of this Law.

2. The contracting authority shall inform the candidates in writing about the simplified negotiated procedure without publication of a contract notice.

Article 90. Documents of the Simplified Negotiated Procedure

1. The documents of the simplified negotiated procedure shall include the information specified in Article 78 of this Law. In addition, the contracting authority shall specify the date and time of negotiations, and other necessary information.

2. In the event of the simplified negotiated procedure without publication of a contract notice, where only one supplier is invited to negotiate, the contracting authority may choose to provide only parts of the information referred to in this Article, paragraph 1, if it deems that the remaining information is not necessary.

3. Where the simplified negotiated procedure without publication of a contract notice is chosen on the grounds referred to in Articles 81 and 88 of this Law, the contract documents of the simplified negotiated procedure shall be the contract documents of the previous simplified open or restricted procedures, to the extent they do not prejudice the subject matter of negotiations.

Article 91. Time Limits for the Receipt of Tenders in Case of Simplified Negotiated Procedure

1. In case of the simplified negotiated procedure with publication of a contract notice, the contracting authority shall fix a period for submission of initial tenders of at least 14 days after publication of a contract notice for public supply and services contracts, and at least 21 day for public works contracts. This restriction shall not apply in case of the negotiated procedure without publication of a contract notice, where only one supplier is invited to negotiate, or when the contract is awarded under the circumstances referred to in item 4 of par. 5 in Article 65(5) subparagraph 4.

2. Where the simplified negotiated procedure without publication of a contract notice is chosen on the grounds referred to in Articles 81 and 88 of this Law, the time limit for the receipt of tenders shall not be fixed, and all tenders of the suppliers meeting the minimum qualification requirements shall be the initial tenders for the simplified negotiated procedure.

Article 92. Verifying Qualification of Participants and Invitation to Negotiate

1. Contracting authority shall verify the compliance of the candidates to the minimum qualification requirements fixed in the simplified negotiated procedure documents according to Articles 28, 29, 30, 31 and 32 of this Law.

2. The contracting authority shall invite for negotiations the suppliers who meet the minimum qualification requirements and whose initial tenders meet the fixed requirements, unless simplified negotiated procedure without publication of a contract notice is chosen in the cases specified in Articles 81 and 88 of this Law.

Article 93. Negotiations with Selected Candidates

1. The procurement commission shall have the right to negotiate the price, specifications of the products, services or works, and any other conditions of the tender.

2. During the negotiations, the following rules shall apply:
1) parties of negotiations shall not disclose any technical, commercial or price-related information to any third party;

2) the same requirements shall apply to all participants of the simplified negotiated procedure; all participants shall be provided the same conditions;

3) the procedure of negotiations shall be recorded in the minutes, to be signed by the chairperson of the Procurement Commission and representatives of the supplier (candidate) who participated in the negotiations;

4) the candidate who refuses to participate in the negotiated procedure shall lose the security of tender if candidates were requested to secure the validity of tender.

**Article 94. Final Tenders and their Evaluation in the Simplified Negotiated Procedure**

1. The final tenders in the simplified negotiation procedure shall be the minutes of negotiations signed by the two parties, as well as the initial tenders of suppliers, to the extent that they have not been changed during the process of negotiations.

2. Analysis, evaluation and comparison of final tenders in the simplified negotiated procedure shall be subject to Article 76 of this Law.

**Article 95. Failure of the Simplified Negotiated Procedure**

The simplified negotiated procedure shall be deemed failed, if:

1) no tenders were received;

2) all suppliers failed to meet the minimum qualification requirements;

3) all tenders failed to meet the requirements set forth in the contract documents;

4) contracting authority terminated the negotiations on the grounds referred to in Article 77 of this Law.

**SECTION FIVE**

**SIMPLIFIED DESIGN CONTEST**

**Article 96. Conditions for the Design Contest**

Simplified design contest shall be used when awarding public service contracts in the fields of area planning, architecture, engineering or data processing.

**Article 97. Conducting Simplified Design Contest**

1. The simplified design contest shall be advertised following the provisions of Article 67 of this Law.

2. The simplified design contest may be used to select a supplier/suppliers who submitted the best plan or design for area planning, building planning, architecture and engineering or data processing in order to achieve one of the objectives below:

1) to award the public services contract to the successful candidate;
2) to award prizes or otherwise remunerate the successful candidate, successful candidates or participants of the design contest; in such case the contracting authority may proceed with the negotiated procedure without publication of a contract notice, by inviting the successful candidate or all successful candidates to negotiate.

3. Both the legal and natural persons and groups of such persons shall be entitled to take part in the simplified design contest.

4. Participation in the design contest may not be restricted on the geographical or any other grounds of discriminating nature.

5. The final time limit for receipt of tenders fixed in the contract documents shall be at least 28 days after publishing the contract notice.

6. The contracting authority may decide to conduct a pre-qualification selection of candidates before inviting them to submit their projects and drawings. In such case the qualification criteria set forth by the contracting authority in the contract documents shall be non-discriminatory and ensure genuine competition.

7. The Government of the Republic of Lithuania or an institution authorised by it shall approve the rules for conducting simplified design contest.

Article 98. The Jury in the Simplified Design Contest

1. Drawings and projects submitted by the participants shall be evaluated by the jury formed by the contracting authority or an authorised body, to which the contracting authority shall give all the powers necessary to evaluate the drawings or plans and to determine the successful candidate. The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a simplified design contest, at least a third of the members of the jury shall have that or similar qualification.

2. The jury shall be autonomous in its decisions or opinions. The jury shall evaluate anonymous drawings or sketches (the jury may find out the name of the tenderer only after the jury has taken a decision as regards the best design or project).

3. The evaluation of the drawings and projects submitted by the candidates shall be based only on the criteria set forth in the contract documents, and these criteria may not necessarily be that of economic advantage or the lowest price.

4. Decisions shall be reached only in the meetings of the jury. The proceedings of the jury shall be entered into minutes.

SECTION SIX

USUAL COMMERCIAL PRACTICE

Article 99. Simplified Procurement by Means of the Usual Commercial Procedure

1. Procurement by means of usual commercial practice shall be conducted by the public servants or employees who must be of impeccable reputation, have signed a declaration of impartiality and a statement of confidentiality or the commission specified in a 68 of this Law shall appointed by the management of the contracting authority. The procurement shall be conducted according to the procurement rules approved by the contracting authority.

2. The decision to award the contract shall be subject to approval by the head of the administration of the contracting authority, or a public servant or employee authorised by him.
3. Procurement by means of usual commercial practice shall be conducted following the principles and objectives of procurement specified in Article 4 of this Law. Public supplies, services or works contracts shall be awarded to those tenderers, who offered the lowest price or the highest economic advantage. The contracting authority shall keep the information about price quotations from the suppliers, and provide it to the supervising authorities if requested.

4. Low value transactions (i.e., where the value is below LTL 100) may be concluded in writing or verbally.

5. The Public Procurement Office shall have the right to establish additional requirements for the use of the usual commercial practice.

CHAPTER V

REVIEWING COMPLAINTS AND CLAIMS, RECONCILIATION, ATTESTATION, PAYMENT FOR DAMAGES

Article 100. The Right to File a Claim or Lodge a Complaint about the Actions or Decisions of a Contracting Authority

Every supplier who has an interest in procurement and believes that the contracting authority has not complied with the requirements of this Law and violated or will violate his lawful interests, shall have the right to file a claim or lodge a complaint about the actions or decisions of the contacting authority in the manner and within time limits set forth in Articles 101-103 of this Law or file an application for reconciliation, prior to the adoption by the Commission of the decision on the successful tender.

Article 101. Procedure and Time Limits for Filing and Review of Claims

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

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

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

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

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

6. If the contracting authority fails to examine the claims within the time limit specified in paragraph 5 hereof, or rejects the claims, the supplier may file a complaint with the court.

Article 102. Procedure for Filing Complaints
1. The supplier shall have the right to file a complaint with the court without filing a claim with the contracting authority.

2. The claim to the general court shall be filed following the procedures established by the relevant laws.

3. The general court shall investigate the complaint following the procedures set forth in the Code of Civil Procedure of the Republic of Lithuania.

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

Article 103. Compensation for Damages

If the contracting authority or the supplier fails to discharge its obligation under this or other Laws or discharges them improperly, or performs acts prohibited by this Law, then the injured party shall have the right to claim the damages in court.

Article 104. Reviewing Complaints Regarding Violation of the EU Legislation

1. Having received an official letter from the EU Commission about the review of the infringement, the contracting authority shall immediately, but not later than within 3 working days, provide the Public Procurement Office with all information relevant to the contract concerned.

2. Having received an official letter from the EU Commission about the review of the infringement, the Public Procurement Office shall provide the EU Commission within 21 days, where the letter refers to procurement regulated under Chapter II or within 30 days, where the letter refers to procurement regulated under Chapter III of this Law, with the following:
   1) a confirmation that the infringement has been removed;
   2) a grounded explanation of failure to remove the infringement, if the removal of the infringement is refused;
   3) information about the suspension of the procurement procedure, if the Public Procurement Office, the court or any other authorised institution makes a decision to suspend it.

3. Having received an official letter from the EU Commission about the review of the infringement, the Public Procurement Office shall be entitled to file a claim with the court, if it thinks that the contracting authority violated provisions of this Law and failed to remove the violation.

Article 105. Reconciliation

1. Every candidate or participant who believes that the contracting authority has not complied with the requirements of this Law and violated or will violate his lawful interests, shall have the right to approach, prior to the adoption of the decision on the successful tender, the EU Commission and request reconciliation. The request for reconciliation may also be filed with the Public Procurement Office, which will forward this request to the EU Commission without delay.
2. Upon receipt of the proposal to reconcile, the contracting authority must immediately communicate its reply to the EU Commission and, if affirmative, inform about the contract award procedure undertaken and the actions that could result in damaging the interests of candidates or tenderers.

3. The candidate or tenderer and the contracting authority involved in the reconciliation procedure shall approve of the arbiter appointed by the EU Commission and shall additionally appoint one arbiter each. Each arbiter shall be entitled to select two experts. The parties to the reconciliation procedure shall have the right to suspend any expert selected by the arbiter.

4. The tenderer and the contracting authority involved in the reconciliation procedure, as well as other candidates or tenderers taking part in the procurement procedures may present their explanations, claims, demands or other statements to the arbiters both in writing, and verbally.

5. Unless the parties of the reconciliation procedure agree otherwise, the participation costs shall be borne by the candidate or tenderer who applied for reconciliation and the contracting authority, in addition, they shall each bear half of the costs of the procedure, excluding the costs of the intervening parties.

6. Both parties of the reconciliation procedure may request the termination of the reconciliation procedure at any time.

7. Where, during the reconciliation procedure, an interested person other than the person requesting the reconciliation procedure, is pursuing judicial review proceedings, the contracting authority shall notify the EU Commission thereof. The EU Commission shall inform that person that a request has been made to apply the reconciliation procedure and shall invite that person to indicate within a given time limit whether he agrees to participate in that procedure.

8. Actions taken during the reconciliation procedure shall be without prejudice to any action taken under Article 104 of this Law regarding investigation of infringement of the EU legislation or to the rights of the candidate or tenderer requesting the reconciliation procedure, of the contracting authority or of any other person.

Article 106. Attestation

1. Contracting authorities operating in water, energy, transport and telecommunication sectors may submit its procurement procedures to an independent assessor for assessment as to whether these procedures comply with the procurement Directives and Regulations of European Communities and this Law.

2. The costs of assessment are to be born by the contracting authority.

3. The Government of the Republic of Lithuania or the institution authorised by it shall approve the rules for conducting attestation of procurement procedures conducted by contracting authorities operating in water, energy, transport and telecommunication sectors and requirements for independent experts.

Article 107. Supervision of Public Procurement, Liability of the Executives or other Authorised Persons of the Contracting Authority

1. The public procurement shall be supervised by the Public procurement Office and the authorised state institutions within the limits of their competence.

2. The bodies supervising public procurement shall have the right to observe all contract award procedures and, in case of necessity, to video tape the meeting of the Procurement Commission and other contract award procedures.
3. The executives or other authorised persons of the contracting authority (procurement commission members and experts) who violate this Law shall be held liable in accordance with the procedure established by law.”

**Article 2. Entry into Force of the Law**

1. This Law shall enter into force as of 1 March 2003, except for the Articles, paragraphs, subparagraphs and provisions specified in the Law of the Republic of Lithuania on Public Procurement, this Article, paragraph 2.

2. The provision of Article 6(3) relating to publishing in a special publication of the Office of Official Publications of the European Communities; Article 7(2), subparagraphs 14, 15, 16 and 17; Article 9(1) subparagraphs 5 and 7; Article 9(2) subparagraph 9; the provision of Article 9(3), subparagraph 1, relating to activities which are carried out in a third country and do not involve the physical use of networks and geographical area of the EU member states; Article 9(3) subparagraph 3; the provision of Article 9(4) regarding communication of information to the EU Commission; the provision of Article 16(2) regarding communication of information to a special publication of the Office of Official Publications of the European Communities; Article 19(5,6,7); the provision of Article 20(1), subparagraph 21, relating to the publishing of the reference in a special publication of the Office of Official Publications of the European Communities; the provision of Article 23(2) regarding the counting of time limits from the date when the contract notice was dispatched from the Public Procurement Office to a special publication of the Office of Official Publications of the European Communities; the provision of Article 29(4) regarding furnishing of the list of competent authorities to the EU member states and the EU Commission; Article 34(4); the provision of Article 45(1), subparagraph 2, as regards informing the EU Commission; Article 104; Article 105; and the provision of Article 106(1) regarding compliance with Directives and Regulations of European Communities shall become effective as from the day of Lithuania's accession to the EU.

3. Following the entry into force of this Law, the procurement for which a contract notice was published or dispatched to the suppliers (contractors) prior to the entry into force of this Law shall be conducted and complaints received shall be investigated in accordance with the Law of the Republic of Lithuania on Public Procurement No. VIII-1210 of 3 June 1999.

**Article 3. Recommendation to the Government**

To recommend to the Government to approve, by 1 March 2003, the implementing legislation of this Law or to authorise other institutions to carry out the said task by the specified date.

_I promulgate this Law passed by the Seimas of the Republic of Lithuania._

PRESIDENT OF THE REPUBLIC VALDAS ADAMKUS

ANNEX II

to the Law of the Republic of Lithuania

No.IX-1217, 3 December 2002

SERVICES

A SERVICES

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<td>3</td>
<td>Passenger and freight transportation by air services, except mail transportation by air services</td>
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<td>Mail transportation by air and land(^1) services</td>
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| 8 | Research and development services\(^4\) | 85 |
| 9 | Accounting, auditing and book-keeping services | 862 |
| 10 | Market research and public opinion polling services | 864 |
| 11 | Management consulting\(^5\) and related services. | 865, 866 |
| 12 | Architectural services: engineering and integrated engineering services; urban planning and landscape architectural services; engineering related scientific and technical consulting services; technical testing and analysis services | 867 |
| 13 | Advertising services | 871 |
| 14 | Building cleaning and residential property management services on a fee or contract basis | 874, 82201-82206 |
| 15 | Publishing and printing on a fee or contract basis | 88442 |
| 16 | Sewage and refuse disposal; sanitation and other similar services | 94 |

\(^1\) Except transport services by rail.  
\(^2\) Except voice telephony, radio telephony, telex, and satellite connection services.  
\(^3\) Except financial services related to issuing, sale, acquisition or transfer of securities or other financial instruments and central bank services.
4) Except contracts for research or development services, which however are not to the advantage of only the purchasing organisation and which are paid for by the purchasing organisation.

5) Except arbitration and reconciliation services.

B SERVICES

<table>
<thead>
<tr>
<th>Categories</th>
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ANNEX

to the Law of the Republic of Lithuania

No.IX-1217, 3 December 2002

HARMONISATION OF THE LAW OF THE REPUBLIC OF LITHUANIA ON PUBLIC PROCUREMENT WITH LEGAL ACTS OF THE EU

The Law of the Republic of Lithuania on Public Procurement has been harmonised with the following legal acts of the EU:


3) COUNCIL DIRECTIVE 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts;


7) Council Directive of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (89/665/EEC);
