

WORLD TRADE ORGANIZATION

GPA/28/Add.2
22 November 2001

(01-5933)

Committee on Government Procurement

Original: English

NOTIFICATION OF NATIONAL IMPLEMENTING LEGISLATION

Communication from Latvia

Addendum

The following communication has been received from the Permanent Mission of the Republic of Latvia with the request that it be circulated to the Committee on Government Procurement.

I refer to the accession process of Latvia to the WTO Agreement on Government Procurement (GPA) and would like to ask you to circulate the *Law on Procurement for State or Local Government Needs of 5 July 2001** to the Parties to the GPA.

* In English only.

The *Saeima*¹ has adopted
and the President has proclaimed the following Law:

ON PROCUREMENT FOR STATE OR LOCAL GOVERNMENT NEEDS²

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

- 1) **procurement** – purchases, or lease or services received, or construction performed for the needs of the contracting authority;
- 2) **candidate** – person or group of persons invited to participate in a restricted competition or a negotiated procedure;
- 3) **contracting authority**:
 - a) State or local government institution or local government;
 - b) a merchant (except a public services undertaking) who receives credit the guarantor of which with respect to repayment and utilisation is the State or a local government;
 - c) a commercial company established by the State or a local government and which the State budget or a local government budget finances;
 - d) a concessionaire (with respect to construction work) if the concession is entered into regarding use of the structure but payment for the concession is construction work;
 - e) a person carrying out a project which is financed also from the State budget or a local government budget with respect to acquisitions for the project;
 - f) a non-profit-making organization established by the State or a local government and which the State budget or a local government budget finances;
 - g) a commercial company established by the State or a local government and which manages immovable property of the State or a local government and performs civil legal transactions with respect to such property on behalf of a State institution or a local government; or
 - h) a State or local government agency;

¹ The Parliament of the Republic of Latvia.

² Disclaimer: The English language text below is provided by the Translation and Terminology Centre for information only; it confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published. Only the latter is authentic. The original Latvian text uses masculine pronouns in the singular. The Translation and Terminology Centre uses the principle of gender-neutral language in its English translations. In addition, gender-specific Latvian nouns have been translated as gender-neutral terms, e.g. *chairperson*.

- 4) **tenderer** – a person or group of persons who have submitted a tender to participate in the selection of a candidate in a restricted competition, or a tender to sell or lease goods, provide services or perform construction work in accordance with the requirements of the contracting authority;
- 5) **tender of abnormally low cost** – tender of a tenderer to sell or lease goods, provide services or perform construction work for a price substantially lower than that tendered by other tenderers if:
 - a) the contracting authority upon checking the price calculations has found errors there that were the reason for specifying such a low price; or
 - b) the tenderer is unable to prove that it has access to special technology or market conditions that would allow such a low price to be specified;
- 6) **goods** – any tangible or intangible property that satisfies some need and for which a value may be specified when purchasing or selling it on the market;
- 7) **services** – transport operations; design work, also construction design; drafting; technology development; research; training; provision of consultations; testing; diagnostics; monitoring of structures and constructions; work and process management, also construction management; and other work that is not construction work or supply of goods.
- 8) **construction work** – work which is performed in a building or at a construction site (on a parcel of land) during construction, reconstruction, renovation, restoration, demolition and territory development with the use of construction materials and construction equipment;
- 9) **economically most advantageous tender** – the tender selected taking into account various criteria: regular payments, rentability, quality offered, aesthetic and functional characteristics, technical maintenance possibilities, technical assistance, price and others;
- 10) **tender security** – sum of money as provided for by the competition regulations, or a guarantee of such sum, which is submitted to the contracting authority by a tenderer together with the tender as security for the validity of the tender; and
- 11) **security for a contract (obligation)** – reinforcement of obligations provided for in a contract entered into by the contracting authority and the tenderer who has won the competition or the selected candidate.

Section 2. Purpose of this Law

The purpose of this Law is to ensure:

- 1) transparency of the procurement process;
- 2) free competition for sellers of goods, lessors, providers of services and performers of construction work, as well as equal and fair treatment of such; and
- 3) effective utilisation of State or local government resources.

Section 3. Basic Procurement Regulations

- (1) A contracting authority and a tenderer shall exchange information in writing.
- (2) A tenderer shall sign his or her tender and submit it for the competition in writing, and shall ensure that the information contained in the tender is not accessible until the moment of opening of the tender. When the term for submission of tenders has expired, a tenderer may no longer correct or supplement his or her tender.
- (3) A procurement contract shall be concluded in a written form. If the value of a procurement does not exceed LVL 1,000, an accounting corroborative document on the basis of which the contracting authority shall pay money for the supply of goods or the provision of services in accordance with the Law On Accounting may serve as a written contract.
- (4) A contracting authority may divide procurement into parts (lots) in order to enable several tenderers to participate in the procurement or to submit a tender for separate parts (lots) of the procurement. Several subject-matters of a contract may be combined into a single procurement if there is technical justification therefor.
- (5) A contracting authority may not set any requirements for tenderers or candidates that provide more advantageous conditions for a particular tenderer or candidate than for the others, or which otherwise restrict competition.

Section 4. Exceptions for the Application of this Law

- (1) A contracting authority shall not apply this Law if a contract is being entered for:
 - 1) the services of an arbitration board;
 - 2) financial services for the realisation of monetary policy, currency exchange policy, management of the State debt, reserves, and other financial management policies that include transactions with securities and other financial instruments, as well as for the services of the Bank of Latvia and the State Treasury;
 - 3) services of natural persons in accordance with employment contracts;
 - 4) official travel expenditures in accordance with Cabinet regulations;
 - 5) services of public services undertakings for the provision of which such undertakings have exclusive rights in accordance with the Law On Construction Work, Supply, Leasing and Services for the Needs of Public Services Undertakings;
 - 6) services by such institutions as have been established to ensure the functions of the contracting authority and which fully observe the requirements of this Law;
 - 7) research services, except those services as are fully paid for by the contracting authority and are utilised for its own needs only.
- (2) A contracting authority may not apply the sections of Chapters IV, V, VI and VII if a procurement contract is being entered into for:
 - 1) a procurement for which the estimated contract price is less than LVL 1,000;

- 2) design work, research, consultation, management and drafting services the estimated contract price of which exceeds LVL 1,000, but does not exceed LVL 5,000;
- 3) procurement in the case where, as a result of unforeseen circumstances (fire, natural disaster, war, epidemic, accident or other emergency circumstances which the contracting authority could not have foreseen), an emergency situation has arisen and it is necessary to rectify it in order to restore or ensure the activities of the contracting authority, and the estimated price of the contract does not exceed LVL 5,000.

Section 5. Cases when Other Procurement Procedures may be Applied

If a procurement is financed by an international financial institution in the amount of more than 50 per cent or the procurement is a program financed by foreign technical assistance or the European Commission and a condition for the granting of such financing is the application of such procurement procedure that differs from the procedures referred to in this Law, the contracting authority may utilise the procedure referred to in the conditions for the granting of the financing.

Chapter II

Determination of Estimated Procurement Contract Price

Section 6. Estimated Contract Price

- (1) The estimated contract price is the sum of money, economically substantiated, that the contracting authority has made provision for regarding the purchase or lease of goods or services, or construction work, including all taxes.
- (2) The estimated contract price shall be determined in order to select the method of procurement.
- (3) It is not permitted to divide the estimated contract price into parts (lots) in order to avoid the application of this Law. If the total amount of a procurement is divided into parts in accordance with Section 3, Paragraph four of this Law and it is provided that separate procurement contracts will be entered into for each part, the estimated contract price shall be determined by taking into account the total value of all the parts.

Section 7. Estimated Contract Price for Goods

- (1) The estimated contract price for goods shall be determined by considering the planned sum for the purchase of specific goods.
- (2) If the expected purchase of one type of goods is expressed in such form that for equivalent contract subject-matter several procurement contracts shall be entered into within a time-period of not less than one month, the estimated contract price shall be determined by summing the estimated contract prices of all such procurement contracts.

Section 8. Estimated Contract Price for the Lease of Goods

If goods are leased with or without rights of pre-emption, the estimated contract price shall be determined as the same as the total sum of the estimated monthly payments:

- 1) if the procurement contract is entered into for 12 months or a shorter period of time;

- 2) in which the planned residual value of the leased goods shall be included if the procurement contract is entered into for a time-period which is longer than 12 months; and
- 3) which is multiplied by 48 if the procurement contract is entered into for an unspecified period of time.

Section 9. Estimated Contract Price for Services

- (1) The estimated contract price for services shall be determined by taking into account all payments that will be received by the provider of services, as well as the conditions referred to in this Section.
- (2) The estimated contract price for insurance shall be determined by taking into account the amount of insurance premiums to be paid.
- (3) The estimated contract price for bank services and other financial services shall be determined by taking into account payments for the services, as well as commissions and interest payments received by the provider of services.
- (4) The estimated contract price for design, also for construction design, shall be determined by taking into account the total payment that the provider of services will receive.
- (5) If the services are regular and a contract price is determined for such services, the estimated total contract price shall be determined based on the payment for services provided in one month, multiplied by:
 - 1) the number of months in the time-period for which the procurement contract will be entered into if such time-period does not exceed 48 months; or
 - 2) by 48 if the procurement contract will be entered into for an unspecified period of time, or a specified time longer than 48 months.

Section 10. Estimated Contract Price for Construction Work

- (1) The estimated contract price for construction work shall be the estimated contract price for the construction or a stage thereof that is to be put into service.
- (2) The estimated contract price for construction work shall include the contract price of all goods, lease or services thereof, except construction design that is necessary in order to perform the relevant construction work, as well as the contract price for such goods or services as will be supplied or provided to the performer of construction work by the contracting authority.

Section 11. Estimated Contract Price for Mixed Contracts

- (1) If a procurement contract refers to the purchase or lease of specific goods, specific services or parts thereof, specific construction work or parts thereof, then the total estimated contract price of the goods, services and construction work shall be taken into account.
- (2) If a contract provides for the purchase or lease of both goods and services, such contract shall be considered either as a purchase of goods contract or a provision of services contract depending on what constitutes the larger part of the estimated contract price. These conditions shall not apply to construction work.

Chapter III

Description of Work and Technical Specifications

Section 12. Description of Work

(1) The description of work is a document prepared by the contracting authority or – in the case of construction design – a description of design work prepared by the contracting authority and the designer, in which the set requirements for the necessary services, the purpose of such services and, if necessary, the methods and resources to be utilised are specified, as well as the final result. The tenderer for construction work shall determine the costs of the positions referred to in the list of quantities that is included in the components of the construction design prepared by the designer in relation to the work to be performed, construction material and construction equipment. The description of work and list of the amounts shall be clear so that the tenderer, without additional preparation and unjustified risk, may calculate the cost of services or construction work, and the contracting authority can compare tenders.

(2) A description of work shall be included in the procurement procedure regulations and in the contract.

(3) The description of work may not mention specific materials or processes, nor indicate trade marks, patents and specific origin unless such conditions are crucial for the existence of the subject-matter of the contract. In such case, the specific references shall be used together with the words "vai ekvivalents" [or equivalent].

Section 13. Technical Specifications

(1) Technical specifications are:

- 1) description of goods that includes requirements with respect to quality, quantity, operation, safety, dimensions, terminology, symbols, tests, methods of testing, packaging, marking, labels and other substantiated and objective requirements so that the goods conform to the procurement purpose; and
- 2) a description (list) of standards and quality requirements specified for the intended work and constructions in the construction project.

(2) By means of technical specifications, the contracting authority shall specify the level of requirements that the goods or construction work have to conform to. The technical specifications shall be included in the procurement procedure regulations and the contract. The contracting authority shall give priority to those technical specifications that focus on the result of the operation (function) of the procurement object. If the contracting authority considers that such technical specifications do not conform to the purpose of the contract, the contracting authority may also develop such technical specifications characterizing the appearance of the procurement subject-matter.

(3) The technical specifications may not mention specific materials or processes, nor indicate trademarks, patents and specific origin unless such conditions are crucial for the existence of the procurement subject-matter. In such case, the specific references shall be used together with the words "vai ekvivalents" [or equivalent].

(4) If the procurement object conforms to the relevant standards, the technical specifications shall be prepared in accordance with:

- 1) adapted European standards with the status of Latvian national standards;
- 2) Latvian national standards; and
- 3) other standards of international or regional standardization organizations.

(5) Paragraph four of this Section shall not apply to cases when:

- 1) it is technically not possible to achieve conformity of goods to the standards mentioned therein; or
- 2) to incorporate the standards mentioned therein the contracting authority would have to acquire goods which are incompatible with the goods at their disposal and which the contracting authority is expecting to use together with the goods to be acquired.

Chapter IV

Requirements to be Met by the Tenderers

Section 14. Selection of Tenderers

The contracting authority shall examine tenders submitted by tenderers, which conform to the requirements stipulated in this Chapter and which have been selected in accordance with the procedures indicated in this Law.

Section 15. Provision of Equal Opportunity for Tenderers

(1) The contracting authority shall provide for all tenderers an equal opportunity to acquire rights to enter into a procurement contract.

(2) Tenderers may join together in groups irrespective of their type of commercial activity and submit a single joint tender if such is provided for in the competition regulations. If the contracting authority has selected such a group and a type of commercial activity has been specified as desired to fulfil a procurement contract, the contracting authority may require the tendering group to form a partnership.

(3) Transparency shall be observed throughout the procurement procedure. If the contracting authority provides additional information, such information shall be sent to all the tenderers as well as to all who have received the competition regulations or the regulations for selection of qualifications in a restricted competition.

(4) Participation of a tenderer in the procurement procedure may not be hindered.

(5) It is prohibited for persons, who themselves or their representatives have participated in the preparation of the competition regulations or parts of such regulations or a request for a price quotation, to participate in the relevant competition or request for a price quotation.

(6) From the time of submission of tenders to the opening thereof and the period of the evaluation of the tenders and the notification of the results, the contracting authority is prohibited to provide information on the existence of other tenders and the process of evaluating tenders.

(7) The contracting authority may require payment for the competition regulations. State institutions shall transfer such payment into the State base budget, local governments and local government institutions – into the budget of the local government that holds the competition. Payment may not exceed:

- 1) LVL 20 if the estimated contract price is up to LVL 50,000;
- 2) LVL 50 if the estimated contract price is up to LVL 120,000;
- 3) LVL 100 if the estimated contract price is higher than LVL 120,000; or
- 4) LVL 200 if the estimated contract price is higher than LVL 4,500,000.

Section 16. Conditions for Excluding Tenderers

(1) A contracting authority shall not examine a tender and shall exclude the tenderer from future participation at any stage of tender evaluations if:

- 1) a tenderer is declared insolvent, is in the process of liquidation, its business activity has been suspended or interrupted, or legal proceedings have been initiated with respect to termination of the activities of the tenderer, insolvency or bankruptcy;
- 2) a tenderer has tax debts or debts with respect to mandatory payments of State social insurance in Latvia or another State in which the tenderer is registered;
- 3) violations of the professional activities of the tenderer have been determined in accordance with procedures prescribed by law;
- 4) the tenderer is not registered in cases prescribed by law and in accordance with procedures prescribed by law;
- 5) the tenderer does not have a certificate of origin of goods, nor a licence for the sale or lease of goods specified in the certificate nor for the provision of services or performance of construction work if such certificates or licences are necessary in accordance with other regulatory enactments;
- 6) the tenderer, in accordance with Paragraph two of this Section, in providing the information required has provided false information or no information at all;
- 7) the tenderer is included in the special list of the Procurement Monitoring Bureau, and which list the Bureau has placed on the Internet. The Internet address shall be published in the newspaper "*Latvijas Vēstnesis*" [official Gazette of the Government of Latvia]. The procedure for establishing the special list shall be regulated by the Cabinet.

(2) In order to evaluate a tenderer in accordance with Paragraph one of this Section, the contracting authority may request:

- 1) a declaration by the tenderer that no violations by the tenderer in its professional activities have been determined in accordance with procedures prescribed by law;

- 2) a statement issued, not earlier than one month prior to the submission of the tender, by the State Revenue Service or other tax administration institution in Latvia or an equivalent tax administration institution in another state in which the tenderer is registered, certifying that the tenderer does not have tax debts or debts with respect to mandatory payments of State social insurance;
- 3) a copy of the registration certificate or a statement which certifies that the tenderer is registered in accordance with procedures prescribed by law, has not been declared insolvent, is not in the process of liquidation, or the tenderer's economic activity has not been suspended or terminated;
- 4) a licence or certificate for the sale or lease of particular goods, for the provision of services or performance of construction work if such certificate or licence is necessary in accordance with other regulatory enactments; and
- 5) information in accordance with Section 19, Paragraph two of this Law.

Section 17. Information regarding the Economic and Financial Standing of a Tenderer

(1) If an open or restricted competition or negotiated procedure is provided for, the contracting authority shall determine the level of requirements or the minimal requirements with respect to the economic and financial standing of tenderers and may, in order to evaluate such standing, require the tenderer to present or submit one or more of the following documents:

- 1) the annual accounts of the tenderer or a certified excerpt from the annual accounts regarding that part of the commercial activity of the tenderer which relates to the expected procurement, but for not more than the previous three years; and
- 2) a statement regarding the tenderer's total financial turnover or financial turnover in respect of the relevant procurement, but for not more than the previous three years;

(2) If in the case of a particular procurement the information referred to in Paragraph one of this Section does not characterise the economic and financial standing of the tenderer, the contracting authority may request other information for characterizing such standing.

Section 18. Information on a Tenderer's Capabilities

(1) In the regulations for an open competition or regulations for selection of candidates in a restricted competition the contracting authority shall indicate how the tenderer will have to confirm their capability to sell or lease goods, provide services or perform construction work.

(2) The contracting authority, or a competent authority in the name of the contracting authority in the state where the tenderer is registered, may carry out an examination in order to determine the tenderer's production capabilities and measures to ensure quality control.

(3) If the expected contract is related to the purchase or lease of goods, the contracting authority may request the tenderer to present or submit one or more of the following supporting documents:

- 1) a list of relevant or similar goods sold where the quantity of goods sold is mentioned, the recipient and the date, and to which copies of approved waybills or equivalent documents or references are attached, but for not more than the previous three years;
- 2) a description of technical equipment owned by the tenderer and a document that confirms the tenderer's capability to ensure the quality of the goods;

- 3) information regarding personnel involved in the sale or lease of goods, especially personnel responsible for quality control;
- 4) samples, descriptions or photographs of the goods to be sold; or
- 5) copy of a certificate, issued by an official quality control institution or other competent body, which certifies the conformity of the goods to standards.

(4) If the expected contract relates to the provision of services, the contracting authority may, taking into consideration the specifics of the services, request the tenderer to present or submit one or more of the following supporting documents:

- 1) information regarding the qualifications of the tenderer or of the education and qualification of the person who is the actual provider of the services;
- 2) a list of services provided, approved by the recipient of the services or the provider of the services, which indicates the amount of services, the recipient and the date of provision of the services, or references from the recipient of such services, but for not more than the previous three years;
- 3) information regarding personnel involved in the provision of services, especially personnel responsible for quality control;
- 4) information regarding the tools necessary for the provision of services, production equipment, and premises owned by or accessible to the tenderer;
- 5) a description of the measures to ensure the quality of the services to be provided; or
- 6) a statement regarding which parts of the contract the tenderer plans to give to subcontractors in accordance with a subcontract.

(5) If the expected contract relates to the performance of construction work, the contracting authority may request the tenderer to present or submit one or more of the following supporting documents:

- 1) information regarding the education and professional qualifications of the persons responsible for the performance of construction work;
- 2) information regarding construction work performed, supplemented with statements and references regarding performance of the more significant work, but for not more than the previous five years. Such statements shall include information regarding the amount of the relevant construction work, the types of constructions, the time-period for performance and location, whether all work has been completed, as well as the name, location, amount and expected date of completion of unfinished objects shall be indicated;
- 3) information regarding the technology and production equipment necessary to perform the construction work and which is owned by or is accessible to the tenderer; or
- 4) information regarding the technical personnel which the tenderer will utilise for the construction work.

(6) If the tenderer indicates that subcontractors will be involved, information shall be requested also regarding such subcontractors.

Section 19. Additional Information

(1) The contracting authority may request the tenderer to explain the information provided in accordance with Sections 16, 17 and 18 of this Law, but such additional information may be requested only within the scope specified in the Sections referred to.

(2) In order to determine whether the cost of a tender received is abnormally low, the contracting authority shall request the tenderer who has submitted the tender with the lowest price to submit a description of the technology necessary for the performance of the procurement, and a description of the specific market factors available only to this tenderer that substantiates the price reduction.

Section 20. Tender Security

(1) The contracting authority may request a tender security from tenderers, observing the following provisions:

- 1) the requirement shall apply to all tenderers equally and without exceptions;
- 2) the competition regulations shall specify what types of tender security and the time-periods that are acceptable to the contracting authority and which institutions or organizations may provide security for tenders;
- 3) the contracting authority does not have the right to refuse a tender security if the security and the tenderer conform to the requirements of the competition regulations and the security is not in conflict with the laws;
- 4) prior to submitting a tender, the tenderer may request from the contracting authority confirmation that the security for tender tendered is acceptable. The contracting authority shall respond to each such request without delay; and
- 5) confirmation that the security for tender tendered is acceptable does not exclude the possibility that the contracting authority may thereafter reject a guarantor who has been declared insolvent.

(2) A tender security shall be in effect for the shortest of the following time-periods:

- 1) the period of validity referred to in the competition regulations for the tender commencing from the day of the opening the tenders, or to any extension of the period of validity of a tender regarding which the tenderer and guarantor have notified the contracting authority in writing; or
- 2) if the contracting authority declares a tenderer as having won the competition, until the day that the winning tenderer submits a contract (obligation) security (if such is provided for in the competition regulations and in the contract).

(3) A tender security shall be in effect and the contracting authority shall not repay the tenderer, or the guarantor shall pay the contracting authority the tender security amount if:

- 1) the tenderer retracts his or her tender during the period while the tender security is in effect;

- 2) the winning tenderer has not submitted to the contracting authority the contract (obligation) security in accordance with the provisions of the mutual agreement, which is in effect at the moment of acceptance of the tender.

Section 21. Exclusion from Participation in the Procurement Process

(1) If the conditions referred to in Section 16, Paragraph one of this Law apply to the tenderer or the tenderer's economic and financial standing and capabilities do not conform to the conditions of Sections 17 and 18 of this Law and the conditions specified in the competition regulations, the contracting authority shall take a decision not to examine the tenderer's tender and to exclude the tenderer from further participation in the procurement procedure.

(2) If a tenderer has submitted a tender of abnormally low cost, the contracting authority shall take a decision regarding exclusion of the tenderer from further participation in the procurement process.

(3) If a tenderer requests the contracting authority to explain the decision that has been taken in accordance with Paragraph one or two of this Section, the contracting authority shall, within a period of three days from receipt of the request, provide a written substantiation of the decision.

Chapter V Procurement Methods

Section 22. Selection of Procurement Method

(1) The procurement method may be an open competition, a restricted competition, a request for a price quotation, or a negotiated procedure.

(2) The contracting authority shall choose the request for price quotation if the expected procurement contract will be entered into for:

- 1) purchase or lease of goods if the estimated contract price is from LVL 1,000 to 5,000;
- 2) provision of services, except the services mentioned in Section 4, Paragraph two, Clause 2 of this Law, if the estimated contract price is from LVL 1,000 to 5,000; or
- 3) performance of construction work if the estimated contract price is from LVL 1,000 to 50,000.

(3) The contracting authority shall choose open competition or the negotiated procedure if the expected procurement contract will be entered into for:

- 1) purchase or lease of goods if the estimated contract price is higher than LVL 5,000; or
- 2) performance of construction work if the estimated contract price is higher than LVL 50,000.

(4) The contracting authority shall choose an open competition, restricted competition or negotiated procedure if the expected procurement contract will be entered into for the provision of services and the contract price is higher than LVL 5,000.

(5) The procedures of an open or restricted competition with respect to the purchase or lease of goods, provision of services or performance of construction work shall be regulated by Cabinet regulations separately for each of the types mentioned.

Section 23. Procurement Commission

(1) The contracting authority shall form a procurement commission for the conduct of the procurement. It shall be comprised of officials of the contracting authority and other institutions (if other institutions are also interested in the procurement or it is prescribed by regulatory enactments). A procurement commission shall be formed separately for each procurement or for a specified time-period, or it can be a body functioning on an ongoing basis that can conduct procurement for the needs of one or more contracting authorities. When applying the request for price quotation, the contracting authority may authorize a competent official for the conduct of procurement with respect to the relevant procurement, which official shall have the same rights and duties as the procurement commission.

(2) In forming a procurement commission, all the members thereof shall have sufficient knowledge in the field of the procurement, but at least three members shall have in-depth knowledge with respect to the procurement for which a contract will be entered into. The procurement commission shall be headed by the chairperson of the commission. If the procurement contract will be entered into for construction work and in the case of a request for a price quotation the estimated contract price is higher than LVL 5,000, the commission shall consist of at least three members of whom at least one is a certified construction specialist, but in the case of an open or restricted competition or a negotiated procedure the commission shall consist of at least five members of whom at least one is a certified construction specialist.

(3) Members of a procurement commission or the authorized official for conduct of the procurement shall not at the same time represent the interests of the contracting authority and the tenderer, and shall not be associated with the tenderer.

(4) A procurement commission shall ensure the preparation of competition regulations, candidate selection regulations or requests for price quotations, record the course of the procurement process, and shall be responsible for course of the procurement procedure.

(5) The procurement commission shall select candidates in accordance with the candidate selection regulations and evaluate tenderers and the tenders submitted thereof in accordance with this Law and other regulatory enactments and the competition regulations. Each member of the commission shall provide an evaluation in writing and the evaluation shall be appended to the minutes of the commission meeting. The decision regarding the results of the procurement procedure shall be taken depending on these evaluations. Remuneration for work performed may be provided for invited procurement commission members and experts.

(6) A decision of a procurement commission is binding on the contracting authority upon the entering into of a procurement contract.

Section 24. Competition Regulations

(1) Prior to announcing an open or restricted competition, competition regulations shall be prepared and approved by the procurement commission and shall contain the following information:

- 1) general information:

- a) procurement identification number that includes the full name of the contracting authority or an abbreviation – first capital letters, the year and increasing sequential number,
 - b) name, address and other prerequisites of the contracting authority,
 - c) subject-matter of the procurement,
 - d) contract performance time and location,
 - e) location, date, time and procedure for submission and opening of tenders,
 - f) period of tender being in effect,
 - g) tender security, if such is provided for, and the procedure for payment,
 - h) requirements with respect to documentation and submission of tenders, and
 - i) other general information;
- 2) information regarding the subject-matter of the contract:
- a) description of the subject-matter of the contract,
 - b) technical specifications or description of work, and
 - c) other information with respect to the subject-matter of the contract;
- 3) requirements regarding information necessary for evaluation of the tenderer in conformity with Section 16 of this Law;
- 4) requirements with respect to the economic and financial standing and technical capabilities of the tenderer for an open competition, and with respect to information to be submitted in accordance with Sections 17 and 18 of this Law;
- 5) criteria for the evaluation and selection of tenders in accordance with Section 30 of this Law. If the economically most advantageous tender is selected, the relevant criteria shall be indicated in sequence of significance thereof, together with the numerical weighting of these criteria, description of the methods of evaluation and formulae utilised in evaluating the tenders, and a statement on whether the tenderer may submit tender variants and how such variants will be evaluated;
- 6) method by which arithmetic errors (except abnormally low cost tenders) allowed by the tenderer shall be evaluated and considered;
- 7) draft procurement contract;
- 8) rights and obligation of the procurement commission; and
- 9) rights and obligations of tenderers.
- (2) Prior to announcing a restricted competition, the contracting authority shall prepare the candidate selection regulations in accordance with Sections 16, 17 and 18 of this Law and it shall indicate:
- 1) name, address and other prerequisites of the contracting authority;
 - 2) identification number of the procurement;
 - 3) subject-matter of the procurement;
 - 4) the location, date and time of tender submission and opening;

- 5) requirements with respect to the economic and financial standing and technical capabilities of the candidate, as well as the criteria for selection of candidates;
 - 6) conditions for the exclusion of a candidate from participation in the procurement procedure;
 - 7) information to be submitted with respect to the economic and financial standing and technical capabilities of the candidate; and
 - 8) other information regarding the selection of candidates.
- (3) All persons interested may become acquainted with the competition regulations and the candidate selection regulations.
- (4) The contracting authority may amend the competition regulations and candidate selection regulations, but not later than five working days before the end of the time-period for the selection of tenders or applications. All tenderers, candidates and other persons who have expressed interest in participating in the competition by obtaining the competition regulations or candidate selection regulations shall be informed of such changes.

Section 25. Open Competition

- (1) If the contracting authority has announced an open competition, all persons interested may submit tenders.
- (2) The contracting authority shall send a notice to the Procurement Monitoring Bureau regarding the expected procurement and shall invite possible tenderers to submit tenders.
- (3) The notice shall indicate:
- 1) name and address of the contracting authority, the contact person and telephone number;
 - 2) identification number of the procurement;
 - 3) the procurement procedure selected;
 - 4) the subject-matter and amount of the expected contract, as well as the condition that tenderers may submit tenders for a part of the amount (if such is provided for by the regulations);
 - 5) the location and time period for performance of the expected contract;
 - 6) the location and time for receipt of the competition regulations;
 - 7) the time-period for submitting requests for additional information; and
 - 8) the location and time-period for submission of tenders, and the location, date and time of opening tenders. Tenders shall be opened immediately after the end of the time-period for tender submission;
 - 9) all necessary payments and guarantees; and
 - 10) other information that the contracting authority considers necessary.

(4) The Procurement Monitoring Bureau shall place a notice on the Internet within three working days after receiving the notice. The Internet address shall be published in the newspaper *Latvijas Vēstnesis*.

(5) The contracting authority shall publish a notice in the newspaper *Latvijas Vēstnesis* and at least in one other newspaper not less than three working days after sending the notice to the Procurement Monitoring Bureau, or the next day after placement of the notice on the Internet.

(6) If the contracting authority has made amendments to the competition regulations after the notice has been placed on the Internet and published, the contracting authority shall send another notice to the Procurement Monitoring Bureau and it shall be placed on the Internet and published in accordance with the procedure specified in Paragraphs four and five of this Section. The notice shall include information regarding what has been changed compared to the previous notice regarding the competition, as well as the changed time period for submission of tenders.

(7) The contracting authority or the procurement commission shall register to whom and when competition regulations have been issued. The tenderer, upon submitting a tender, may request confirmation that the tender has been received, including an indication regarding the time of receipt of the tender.

(8) The procurement commission upon request by a possible tenderer shall provide additional information regarding the competition regulations if the request is submitted not later than six working days before the end of the time-period for submission of tenders. The procurement commission shall prepare such information within three working days of the receipt of the request. The prepared additional information shall be sent to those possible tenderers who have received the competition regulations, as well as to those tenderers who have already submitted tenders.

(9) The time-period for submission of tenders, after a notice regarding the expected procurement or amendments made to the regulations has been sent to the Procurement Monitoring Bureau, may not be shorter than 52 working days if the estimated contract price for goods and services is higher than LVL 120,000 and for construction work – than LVL 4,500,000. If the estimated contract price for goods and services is less than LVL 120,000 and for construction work – than LVL 4,500,000, the time-period for submission of tenders may not be shorter than 40 working days. If the estimated contract price for goods and services is less than LVL 50,000 and for construction work – than LVL 500,000, the term for submission of tenders may not be shorter than 30 working days.

(10) The procurement commission shall open the submitted tenders immediately after the end of the time-period for submission of tenders, at the location and time specified in the regulations. If a tender is submitted after the specified time-period for the submission of tenders, it shall be returned to the tenderer unopened. All tenderers or representatives thereof may participate at the opening of tenders. The process of opening tenders shall be documented in a report which shall include the given names, surnames, and position held of those present, name of the tenderer, time of submission of the tender, the price tendered and other information that characterizes the tender.

(11) The procurement commission shall select tenderers in accordance with Sections 16, 17 and 18 of this Law, check the conformity of the tenders with the description of work, technical specifications and other requirements specified by the regulations, and after that shall evaluate the tenders which conform to the requirements in accordance with the evaluation criteria and regulations provided in this Law, in other regulatory enactments and the competition regulations.

(12) The procurement commission shall take a decision to enter into a procurement agreement with the tenderer who has appropriate qualifications, whose tender conforms to the description of work and technical specifications and who has been evaluated as the most advantageous in conformity

with the evaluation criteria and procedure specified by the regulations. If no tenders have been submitted for an open competition or the tenders submitted do not conform to the requirements of the regulations, the procurement commission shall take a decision to terminate the competition without selecting a tender.

(13) The procurement commission shall notify the decision in accordance with Section 32 of this Law.

(14) The procurement commission shall document in a report the procedure of the open competition in accordance with Section 34 of this Law.

Section 26. Restricted Competition

(1) If a restricted competition is being organized, all interested persons may submit applications for the selection of candidates. The procurement commission shall select candidates who shall be invited to submit tenders to the notified competition.

(2) The contracting authority shall send a notice to the Procurement Monitoring Bureau regarding the expected procurement and shall invite possible candidates to submit tenders applications for the selection of candidates.

(3) The notice shall include:

- 1) the name and address of the contracting authority;
- 2) identification number of the procurement;
- 3) the expected subject-matter of the contract and amount;
- 4) the location and time period for performance of the expected contract;
- 5) the location and time-period for receipt of candidate selection regulations; and
- 6) the location, date and time-period for submission of applications.

(4) The term for submission of applications after the notice has been sent to the Procurement Monitoring Bureau may not be shorter than 37 working days if the estimated price of the contract is higher than LVL 120,000. If the estimated contract price is less than LVL 120,000, the time-period for submission of applications may not be shorter than 25 working days. If the estimated contract price is less than LVL 50,000, the time-period for submission of applications may not be shorter than 15 working days.

(5) If the notice conforms to Paragraphs three and four of this Section, the Procurement Monitoring Bureau shall place the notice on the Internet within three working days. The contracting authority shall publish a notice in the newspaper *Latvijas Vēstnesis* and in at least one other newspaper not less than three working days after sending the notice to the Procurement Monitoring Bureau, or the next day after placement of the notice on the Internet.

(6) If the contracting authority has made amendments to the candidate selection regulations after the notice has been placed on the Internet and published, it shall send another notice to the Procurement Monitoring Bureau and the notice shall be placed on the Internet and published in accordance with the procedures specified in Paragraph five of this Section. The notice shall include information regarding what has been changed compared to the previous notice on the selection of candidates, as well as the changed time-period for submission of applications. After sending the

notice, the time-period for the submission of applications shall be determined in accordance with Paragraph four of this Section.

(7) The procurement commission shall, within 10 working days of the end of the time-period for the submission of applications, perform a selection of candidates in accordance with the criteria specified in the candidate selection regulations. All interested persons or groups of persons interested may submit applications for the selection of candidates.

(8) The contracting authority or procurement commission shall send, concurrently to all selected candidates, an invitation to submit a tender. The competition regulations or the address where the regulations can be obtained shall be attached to the invitation. The contracting authority or procurement commission shall register to whom and when an invitation was sent and the competition regulations sent or issued. To those who have applied for the selection of candidates but have not been selected in accordance with the candidate selection regulations the procurement commission shall within three days of taking the relevant decision send a notice regarding the decision and substantiation thereof.

(9) An invitation to submit a tender shall include the following information:

- 1) address and time-period during which the competition regulations (if those were not sent together with the invitation) or additional information may be requested;
- 2) conditions and charge for the provision of the competition regulations or additional information if such is requested regarding the provision of the regulations;
- 3) the location, date and time for the submission and opening of tenders. The time-period, after an invitation to submit tenders or a notice of amendments made if such exist in the regulations has been sent to the selected candidates, may not be shorter than 40 working days if the estimated contract price is higher than LVL 120,000. If the estimated contract price is less than LVL 120,000, the time-period for submission of tenders may not be shorter than 25 working days. If the estimated contract price is less than LVL 50,000, the time-period for submission of tenders may not be shorter than 15 working days. The tenders shall be opened immediately after the end of the time-period for the submission of tenders at a location, date and time specified by the regulations; and
- 4) the date when the notice regarding the selection of candidates was placed on the Internet.

(10) The procurement commission pursuant to a request by a candidate shall provide additional information regarding the competition regulations if the request is submitted not later than six working days before the end of the time-period for submission of tenders. The procurement commission shall prepare such information within two working days of the receipt of a request. The prepared additional information shall be sent to those candidates who received the competition regulations, as well as to those tenderers who have already submitted tenders.

(11) Tenders shall be opened at the location and time specified by the regulations. If a tender is submitted after the specified end of the time-period for submission of tenders, it shall be returned to the tenderer unopened. All tenderers or representatives thereof may participate in the opening of tenders. The process of opening tenders shall be documented in a report which shall include the given names, surnames, and positions held of the persons present, name of the tenderer, time of submission of the tenders, the price tendered and other information that characterizes the tenders.

(12) The procurement commission shall examine the conformity of tenders to the description of work, technical specification and other requirements referred to in the regulations and after that shall evaluate the tenders that conform to the requirements in accordance with the evaluation criteria and provisions indicated in this Law, in other regulatory enactments and in the competition regulations. The procurement commission shall take a decision regarding selection of the most suitable tender. If no tenders have been submitted for a restricted competition or the tenders submitted do not conform to the requirements of the competition regulations, the procurement commission shall take a decision to terminate the competition without selecting a tender.

(13) The procurement commission shall notify the decision in accordance with Section 32 of this Law.

(14) The procurement commission shall document in a report the procedures of the restricted competition in accordance with Section 34 of this Law.

Section 27. Conditions for Selecting the Negotiated Procedure

The procurement commission may apply the negotiated procedure if:

- 1) in the previously published open or restricted competition no tenders were submitted or the tenders did not conform to the requirements of the competition regulations, or for the previously published restricted competition no applications were submitted for the selection of candidates. All tenderers who submitted tenders for the open or restricted competition shall be invited for negotiations. The regulations for the expected procurement contract shall not differ from the expected procurement contract regulations in the previously published open or restricted competition;
- 2) due to unforeseen circumstances (fire, natural disaster, war, epidemic, accident, or other extraordinary circumstances which the contracting authority could not have foreseen) that are unrelated to the procurement, a situation has arisen where as a result of time restrictions it is not possible to conduct an open or restricted competition;
- 3) the contracting authority needs to partially exchange or to supplement goods already at the disposal of the contracting authority. In purchasing goods from other than the original supplier, the contracting authority would have to purchase goods with different technical characteristics. Such goods would then be technically incompatible with the goods already at the disposal of the contracting authority or also difficulties would result in the use or maintenance of goods at their disposal. The time-period for such procurement contract may not exceed three years;
- 4) the contracting authority needs to receive additional services or to perform additional construction work that were not previously foreseen but which are essential for the performance of an open or restricted competition procurement contract entered into. If such additional services or construction work may not be technically or economically separated from the services or construction work specified in a procurement contract already entered into or are necessary to perform the procurement contract already entered into, such services shall be provided or construction work shall be performed by the performer of the procurement contract already entered into. The total value of a supplementary procurement contract may not be higher than 10 per cent of the value of the procurement contract already entered into; or

- 5) the contracting authority needs to continue receiving services that are already being provided in accordance with a procurement contract entered into as a result of an open or restricted competition. Such a procedure may be applied for not longer than three years from entering into of the first procurement contract. The conditions of the procurement contract shall not differ from the conditions of the previous procurement contract and the total value of the procurement contract may not be higher than 50 per cent larger than the value of the previously signed procurement contract.

Section 28. Negotiated Procedure

(1) If the negotiated procedure is chosen, the procurement commission shall send a notice to the Procurement Monitoring Bureau accompanied with a substantiation for choosing the negotiated procedure.

(2) The notice shall include:

- 1) identification number of the procurement;
- 2) description of the expected subject-matter of the contract and amount thereof;
- 3) the location and time-period for performance of the expected contract;
- 4) candidates; and
- 5) location and time-period for submission of tenders.

(3) The time-period for submitting applications may not be shorter than 37 working days from the date of sending the notice to the Procurement Monitoring Bureau if the estimated contract price for goods and services is higher than LVL 120,000 and for construction work – than LVL 4,500,000. If the estimated contract price for goods and services is less than LVL 120,000 and for construction work – than LVL 4,500,000, the time-period for submission of tenders shall may not be shorter than 25 working days. If the estimated contract price for goods and services is less than LVL 50,000 and for construction work – than LVL 500,000, the time-period for submission of tenders may not be shorter than 15 working days.

(4) The Procurement Monitoring Bureau shall evaluate within a period of three working days the substantiation for selecting the negotiated procedure. If the substantiation for the selection conforms to the conditions of Section 27 of this Law, the Procurement Monitoring Bureau shall place the notice on the Internet. If it does not conform to the conditions of Section 27 of this Law, the Procurement Monitoring Bureau shall notify the procurement commission thereof and the commission shall choose another procedure referred to in this Law.

(5) If the negotiated procedure is used in accordance with Section 27, Clauses 1 and 2 of this Law, the procurement commission shall commence negotiations with the tenderers immediately after the notice is placed on the Internet without observing the time-periods specified in Paragraph three of this Section.

(6) If the Procurement Monitoring Bureau has permitted the application of the negotiated procedure, the procurement commission shall send an invitation for candidates to participate in negotiations, as well as the draft of the expected procurement contract.

(7) The procurement commission shall conduct negotiations with candidates who have submitted applications to participate in the negotiated procedure, and shall take a decision regarding selection of the most suitable tender.

(8) The procurement commission shall notify the decision in accordance with Section 32 of this Law.

(9) The procurement commission shall document in a report the negotiated procedure in accordance with Section 34 of this Law.

Section 29. Request for a Price Quotation

(1) If a request for a price quotation is selected, the procurement commission shall select such possible candidates regarding whose qualifications and reliability the commission has no reservations.

(2) The procurement commission shall send to at least three possible tenderers an invitation to submit a tender to sell or lease goods, provide services or perform construction work in accordance with the requirements, technical specifications and description of work referred to in the invitation. The price of goods, services or construction work may include expenditures after the expiry of the guarantee time-period, the cost of delivery and installation, cost of training personnel and other expenditures.

(3) In the invitation, the procurement commission shall indicate the time-period for submission of a tender, which may not be shorter than five working days after the sending the invitation.

(4) The procurement commission shall examine the conformity of a tender with the invitation requirements, technical specifications and description of work, and evaluate the conforming tenders in accordance with the requirements of, Section 30, Paragraph six of this Law and take a decision regarding the selection of a tender.

(5) The procurement commission shall make a report of the procedure of the request for a price quotation. The report shall include the following information:

- 1) identification number of the procurement and the date of the report;
- 2) the name of the contracting authority;
- 3) the name and amount of required goods, services or construction work, technical specifications or description of work;
- 4) the names of tenderers, the tenders and the prices thereof;
- 5) other information that the commission considers necessary; and
- 6) decision regarding the selection of a tender.

Chapter VI Selection of Tenders

Section 30. Criteria for Selection of Tenders

(1) The contracting authority shall indicate the criteria for selection of tenders in the regulations of an open or restricted competition or in an invitation for a price quotation.

- (2) In the case of a competition, if the contracting authority expects to enter into a contract for the receipt of services or a joint contract for construction design and construction work, the procurement commission shall select the economically most advantageous tender which conforms to the description of work provided in the regulations.
- (3) In the case of a competition where the contracting authority expects to enter into a contract for the purchase or lease of goods, the procurement commission shall select the tender with the lowest price that conforms to the requirements and technical specifications referred to in the regulations. The lowest price shall be determined in accordance with the provisions of Section 31, Paragraphs three and four of this Law.
- (4) In the case of a competition where the contracting authority expects to enter into a contract for construction work and the estimated contract price exceeds LVL one million, the procurement commission shall select the tender with the lowest price.
- (5) In the case of a competition where the contracting authority expects to enter into a contract for construction work and the estimated contract price is from LVL 50,000 to one million, the procurement commission shall select the tender with the lowest price or the relatively lowest price.
- (6) In the case of a request for a price quotation the procurement commission shall select the tender with the lowest price that conforms to the requirements and technical specifications indicated in the invitation.
- (7) The tender with the relatively lowest price shall be determined by calculating the average price of all tenders, then rejecting tenders the price of which is lower than the average price that has been reduced by the percentage difference from the average price, and selecting from the remaining tenders the tender with the lowest price. The percentage difference from the average price shall be specified in the competition regulations and it may not be less than 10 per cent of the average price.

Section 31. Additional Provisions for the Selection of Tenders

- (1) If the contracting authority expects to enter into agreement for construction work and the contract price exceeds LVL one million, the procurement commission shall examine the price structure of the tender. If the lowest price tendered or the two lowest prices differ significantly from the next lowest price tendered, the procurement commission may ascertain whether one or two tenders respectively may not be abnormally low priced. Differences shall be considered significant if the prices differ by more than eight per cent.
- (2) If the contracting authority expects to enter into agreement for construction work and the estimated contract price is from LVL 50,000 to one million, in selecting the tender with the lowest price the procurement commission shall examine the price structure of the tender with the lowest price and ascertain whether a tender has been received with an abnormally low price.
- (3) If the contracting authority expects to enter into agreement for the purchase or lease of goods, in evaluating the prices of the tenders the procurement commission may take into account one or more of the following indicators:
- 1) the price of goods that conform to the level of requirements indicated in the technical specifications;
 - 2) the possible expenditures that will arise in using the goods for the duration of expected useful life thereof, but not more than four years after the goods are put into use. The planned expenditures for reserve parts, post-guarantee maintenance costs

and personnel training costs, as well as other expenditures associated with the utilisation of the goods shall be added to these expenditures; and

- 3) the value of the goods or their possible alienation value at the end of the expected utilisation period of the goods, but not later than four years after the goods are put in use.
- (4) The indicators referred to in Paragraph three of this Section and the procedure for their utilisation shall be determined in the competition regulations.

Section 32. Notice regarding Taking of a Decision

(1) The contracting authority, when utilising an open or restricted competition or the negotiated procedure, shall, within three working days after a decision has been taken, enter into a procurement contract or terminate the competition without selecting a tender, send a notice to the Procurement Monitoring Bureau and to all the tenderers.

(2) The notice to enter into a procurement contract or to terminate a competition without selecting any tender, shall include the following information:

- 1) the name and address of the contracting authority;
- 2) identification number of the procurement;
- 3) date when the procurement was notified on the Internet;
- 4) date of the decision;
- 5) method of procurement;
- 6) subject-matter of the contract and short description thereof;
- 7) number of tenders received;
- 8) name and address of the tenderer with whom a contract will be entered into;
- 9) substantiation for the decision if a decision has been taken to terminate a competition without selecting a tender;
- 10) reasons for rejecting the tenders of the rejected tenderers;
- 11) contract price tendered;
- 12) date of sending the notice; and
- 13) other information that the contracting authority wishes to notify.

(3) The Procurement Monitoring Bureau shall within three working days put a notice on the Internet.

(4) The contracting authority shall publish a notice in the newspaper *Latvijas Vēstnesis* not earlier than after six working days from sending the notice to the Procurement Monitoring Bureau or the next working day after such notice is placed on the Internet.

Section 33. Procurement Contract

- (1) A procurement contract shall determine all legal relations between the contracting authority and the seller or lessor of goods, the provider of services or performer of construction work.
- (2) The contracting authority shall prepare a procurement contract which shall specify:
 - 1) name of the contracting party;
 - 2) name of the performer (seller or lessor of goods, the provider of services or performer of construction work);
 - 3) subject-matter of the contract, amount thereof, quality requirements and other necessary information;
 - 4) procedures for payment;
 - 5) time-period for performance of the contract, the location and conditions;
 - 6) liability of the contracting parties for failure to perform the contract;
 - 7) procedures for amending the contract and procedures to permit withdrawal from the contract; and
 - 8) other conditions.
- (3) A procurement contract for construction design and construction work shall be prepared in accordance with Latvian national standards.
- (4) A procurement contract for receipt of services and leasing of good shall be entered into for a period of time not longer than four years. A procurement contract shall not be entered into earlier than 10 working days from the taking of a decision and not later than the period of validity of the tender.

Chapter VII Documentation and Reports

Section 34. Procurement Procedure Final Report

- (1) The final report on the procedures of an open or restricted competition shall have two separate parts, and shall be accompanied by the competition regulations and the tenders of tenderers. The report shall be signed by all members of the procurement commission.
- (2) The first part of the final report of an open or restricted competition shall include such basic information as is publicly accessible only after the contracting authority has entered into a contract with the tenderer or after the competition has been terminated without selecting a tender.
- (3) The first part of the final report of an open or restricted competition shall include the following information:
 - 1) the identification number of the procurement;

- 2) the date when the notice was placed on the Internet;
- 3) the name of the contracting authority;
- 4) the composition and substantiation for the formation of the procurement commission;
- 5) the subject-matter of the contract and short description thereof;
- 6) the criteria for the selection of candidates;
- 7) the criteria for the selection of tenders;
- 8) the location and time-period for submission of tenders and period of validity of the tender;
- 9) the location, date and time of opening tenders;
- 10) the substantiation for the application of the restricted competition procedure;
- 11) the location and time-period for submission of applications;
- 12) the names of persons who applied for the selection of candidates;
- 13) the names of persons who were selected, in accordance with the selection conditions, and invited to submit tenders;
- 14) the given names, surnames and positions held of persons present at the opening of tenders;
- 15) list of submitted tenders, which list shall indicate the name of each tenderer, date and time of submission of tender, price tendered and other information that characterizes the tender;
- 16) name of the tenderer who was awarded the right to perform the procurement;
- 17) substantiation for the decision if the contracting authority has rejected all tenders and has taken a decision to terminate the competition without selecting any tender;
- 18) substantiation for the decision if the tenderer who was awarded the right to perform the procurement no longer participates in the competition or has not signed the procurement contract and the contracting authority has taken a decision to award the right to perform the procurement to the tenderer whose tender is the next economically most advantageous tender or the tender with the lowest price;
- 19) the formula for evaluating tenders if the regulations provide for accepting the economically most advantageous tender;
- 20) requests received to explain the competition regulations or the tenderer selection regulations, the answers provided, as well as evidence that all tenderers or candidates were informed about the questions and answers;
- 21) if a tender has been declared as not conforming with the requirements referred to in the regulations or the tenderer has been refused participation in the competition, – the cause and substantiation for such decision; and

- 22) if a decision has been taken to enter into a procurement contract or to terminate a competition without selecting a tender, – a more detailed substantiation for such decision.
- (4) Information included in the second part of the final report of an open or restricted competition with respect to the procurement and the procurement evaluation process shall be accessible as restricted information in accordance with the Freedom of Information Law.
- (5) The second part of the final report of an open or restricted competition shall also include information regarding the economic and financial standing of the tenderer and the capability of the tenderer to perform the procurement, and an evaluation of such information.
- (6) A report of a negotiated procedure shall be publicly accessible after the contracting authority has entered into a procurement contract with the candidate who was awarded the right to perform the procurement, or when the contracting authority has taken a decision to terminate the negotiated procedure without selecting any tender. A report of a negotiated procedure shall include the following information:
- 1) the identification number of the procurement;
 - 2) the date when the notice was placed on the Internet;
 - 3) the composition and substantiation for the formation of the procurement commission;
 - 4) the name of the contracting authority;
 - 5) the subject-matter of the contract and short description thereof;
 - 6) the substantiation for using the negotiated procedure;
 - 7) the names of the candidates;
 - 8) the location and time-period for the submission of tenders;
 - 9) the names of those candidates who submitted an application to participate in the negotiated procedure;
 - 10) the criteria for the selection of tenders;
 - 11) a short description of the negotiations, indicating the tenders and prices thereof;
 - 12) the name of the candidate who was awarded the right to perform the procurement; and
 - 13) if the candidate who was awarded the right to perform the procurement has not signed the procurement contract or the contracting authority has taken a decision to terminate the negotiated procedure without selecting a tender, – a description of this course.
- (7) Contracting authorities after entering into a procurement contract shall keep reports of negotiated procedures, final reports of competitions, reports on requests for price quotations, the competition regulations and tenders of tenderers for 10 years.

Section 35. Statistical Reports

The contracting authority shall submit to the Procurement Monitoring Bureau a report regarding the number of contracts entered into, amounts thereof, the performers of construction work, suppliers of goods, lessors or providers of services and the procurement procedures utilised. The report shall be submitted each calendar half year within a period of three months after the end of the reporting period.

Chapter VIII Monitoring and Control

Section 36. Monitoring

Monitoring of the observance of regulatory enactments in the area of procurements shall be performed by the Procurement Monitoring Bureau and other authorities in accordance with regulatory enactments.

Section 37. Liability of the Contracting Authority

For the implementation of this Law in accordance with their competence the contracting authority, procurement commission, or authorized official who responsible for the performance of the procurement shall be liable.

Chapter IX Procurement Monitoring Bureau

Section 38. Legal Status of the Procurement Monitoring Bureau

- (1) The Procurement Monitoring Bureau is a State administrative authority supervised by the Ministry of Finance and operating in accordance with this Law, with the by-laws of the Procurement Monitoring Bureau and with other regulatory enactments.
- (2) The Procurement Monitoring Bureau is a legal person. It shall have a seal with the image of the supplemented lesser State coat of arms and the full name of the Bureau.
- (3) The operations of the Procurement Monitoring Bureau shall be financed from the State budget.

Section 39. Rights and Duties of the Procurement Monitoring Bureau

- (1) The Procurement Monitoring Bureau shall have the following rights:
 - 1) to monitor the conformity of the procurement procedures with the requirements of the Law;
 - 2) in conformity with its competence to cooperate with relevant foreign authorities;
 - 3) to publish its decisions, views and recommendations;

- 4) to request and receive without hindrance at any stage of a procurement procedure and free of charge information necessary for the implementation of this Law;
 - 5) to invite independent experts;
 - 6) to compile and analyse the statistical information on procurement in the State;
 - 7) to provide methodological assistance and consultations, and to organize training for institutions that are parties to contracts, for sellers of goods, lessors, providers of services and performers of construction work; and
 - 8) to conduct other activities permitted by regulatory enactments in order to fulfil the tasks provided for by this Law;
- (2) The Procurement Monitoring Bureau shall have the following duties:
- 1) to make sure that complaints with respect to violations of procurement procedures are examined;
 - 2) to prepare reports of procurements in the State; and
 - 3) to develop a special list of undertakings.

Section 40. Complaints Examination Commission

(1) In order to examine complaints, the Procurement Monitoring Bureau shall form a complaints examination commission (hereinafter — commission) consisting of not less than three members. At least one member of the commission shall have higher legal education, and one shall be an invited procurement expert or an authorized public organization representative from the sector.

(2) Members of such commission may not be persons who have previously provided consultations with respect to the procurement mentioned in the complaint or be interested in obtaining the right to perform the procurement.

(3) The work of the commission shall be led by a chairperson appointed by the Procurement Monitoring Bureau from among the commission members. The commission shall have a quorum if at least one half of the commission members participates in the examination of a relevant question. The commission shall take decisions by voting. A decision shall be considered taken if a majority of the commission votes for it. In the event of a tied vote, the vote of the committee chairperson shall be decisive.

Chapter X **Procedure for Examination of Complaints**

Section 41. Right to Submit a Complaint

(1) Tenderers, candidates, sellers of goods, lessors, providers of services or performers of construction work (hereinafter – submitter of a complaint) shall have the right to submit to the Procurement Monitoring Bureau complaints regarding the actions of the contracting authority with respect to the legality of the procedures of open or restricted competition or negotiated procedure (hereinafter – procurement procedures) if the submitter considers that the contracting authority or the procurement commission has not observed the requirements of regulatory enactments which regulate

procurement and in so doing have violated the lawful rights and interests of the submitter of the complaint.

(2) Complaints regarding the questions referred to in Paragraph one of this Section may be submitted up to the time of entering into a procurement contract. After a procurement contract has been entered into, the submitter of a complaint may appeal decisions of the contracting authority to a court only in accordance with procedures prescribed by law.

(3) If a complaint has been submitted to the Procurement Monitoring Bureau prior the entering into a procurement contract, the Procurement Monitoring Bureau shall notify the contracting authority thereof and the contracting authority shall not enter into a procurement contract without a decision of the complaints examination commission that permits to enter into such contract.

(4) The Procurement Monitoring Bureau shall not accept a complaint if:

- 1) during the period of the procurement procedures the complainant has known about the violation of the procurement procedures but has not informed the contracting authority thereof without delay; or
- 2) if a complaint with respect to the procurement procedures in connection with the same subject and on the same grounds has already been submitted and examined.

(5) If a complaint is submitted regarding activities of a contracting authority with respect to the legality of the procurement procedures and a complaint regarding the same procurement procedures has already been submitted earlier by another submitter of a complaint but such complaint has not yet been examined, such complaints may be combined and examined together.

(6) Complaints shall be submitted in writing and shall include the following information:

- 1) the name and address of the submitter of the complaint;
- 2) the name and address of the contracting authority regarding which the complaint has been submitted;
- 3) the facts regarding which the complaint is being submitted, indicating the violation; and
- 4) the claim of the submitter of the complaint with respect to this complaint.

Section 42. Examination of Complaints

(1) The commission shall examine a complaint within a period of one month from receipt of the complaint in the Procurement Monitoring Bureau.

(2) The commission shall permit entering into a contract if the complaint is:

- 1) unfounded;
- 2) founded, but the commission has taken a decision regarding measures to be performed by the contracting authority to rectify the causes of the complaint, and those have been rectified; or
- 3) founded, but the violations determined by the commission are not significant and cannot influence the decision regarding the awarding of the procurement right.

- (3) The commission shall invite to the meeting for examination of a complaint the submitter of the complaint, the contracting authority and the tenderers or candidates (hereinafter – participants) whose interests could be affected by the decision taken by the commission. The commission shall, at least 10 working days before a meeting, invite participants to the meeting for examination of the complaint.
- (4) All participants have the right to express their views. After hearing the participants, the commission shall continue work without the presence of the participants.
- (5) The commission shall evaluate complaints on the basis of the facts presented by the submitter of a complaint and the participants, and explanations of the contracting authority. If the participants do not attend the examination of the complaint, the commission shall examine the complaint based on the facts accessible to it. The commission shall take a decision with respect to the submitted complaint and shall, within a period of three working days from taking the decision, send the decision to all participants.
- (6) Participants may appeal the decision of the commission in court.
- (7) The commission shall document in a report the course of examining the complaint and shall keep the report and information obtained during the examination for 10 years.

Transitional Provisions

1. With the coming into force of this Law, the Law on State and Local Government Procurement (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1996, No. 23; 1998, No. 15; 2000, No. 9) is repealed.
2. If a State contracting authority has published an auction or competition for the awarding of a State procurement or has begun examining one tender before the coming in force of this Law comes, the published auction, competition or examination of one tender shall be concluded within a period of three months in accordance with the Law "On State and Local Government Procurement" and Cabinet Regulation No. 98 of 18 March 1997, "Regulations on Tenders and Competitions for the Awarding of State and Local Government Procurements" insofar as such is not in contradiction with this Law.
3. The Cabinet shall by 1 December 2001 prepare the regulations referred to in Section 16, Paragraph one, Clause 7 of this Law and Section 22, Paragraph five of this Law.

This Law shall come into force on 1 January 2002.

This Law has been adopted by the *Saeima* on 5 July 2001.

President
Riga, 20 July 2001

V. Vīķe-Freiberga