

PUBLIC PROCUREMENT ACT

I. GENERAL PROVISIONS

1. Scope of application

Article 1

This Act shall lay down the conditions and regulate methods and proceedings for the purchase of goods and services and the contracting of construction works and services, in cases where the client is a government body, organization or agency or a legal entity as stipulated by this Law; this Act shall regulate the method of recording contracts and other data concerning the public procurement as well as the methods of protection of the rights of the bidders; this Act shall regulate the establishment of the Public Procurement Agency as an organization responsible for performing professional activities concerning the public procurement; this Act shall regulate other matters concerning the public procurement.

Exceptions from this Act

Article 2

This Act shall not apply to the following procurements:

1. those from organizations which pursuant to this Act are to be regarded as clients and are founded with an exclusive right to render services which are the object of public procurement;
2. those which are subject of international agreements covering supplies of goods, contracting works or rendering services or public design contests which are intended for joint implementation or exploitation of a project by the countries or organizations which concluded such agreement;
3. for ensuring fundamental conditions for life in cases of natural or other disasters, in line with the regulations on the protection against natural or other disasters;
4. for the purchase of armament or other procurement of confidential nature as prescribed by separate rules.

Clients from the paragraph 1 item 4 of this Article shall inform the Public Procurement Agency about the purchases planned for the current year by January 31, the latest.

2. Terms

Definition of Terms

Article 3

For the purposes of this Act, the terms shall have the following meaning:

1. A “client” shall mean:

- a) a government body, organization, agency or any other direct budget beneficiary, as defined by the Organic Budget Law, as well as an organization for compulsory social insurance;
- b) any legal entities founded by a direct or indirect budget beneficiary with a specific purpose of meeting needs in the general interest where more than a half of their management board members are representatives of budget beneficiaries or in which more than a half votes in their management board belong to the representatives of budget beneficiaries,
- c) a public enterprise and its affiliated companies in which a direct or indirect budget beneficiary or another client under this Act holds a majority share of the subscribed capital,
- d) an affiliated enterprise which is an independent legal entity and is either by virtue of management or in some other way associated with the persons listed under sub-items a), b), c) and d),

- so that due to the stated links they jointly shape the business policy and act harmoniously with the purpose of achieving common business goals or
- so that a body, organization or a legal entity under item 1) sub-items a) – c) of this Article may exercise substantial influence in decision-making, financing and doing business.

2. “Public procurement” shall mean the purchase of goods or services or awarding the construction works by a government body, organization, agency or other legal entity, which are to be considered clients, in line and under the conditions of this Act.

3. A “public procurement award” shall mean a contract concluded in accordance with the procedure performed under this Act in writing between a client and a supplier, or between a client and a person rendering services or performing construction works, having as its object the purchase of goods, or the performance of construction works or rendering services.

4. A “bidder” shall mean a domestic or foreign legal or natural person bidding to supply goods, render service or perform constructions works.

5. A “candidate” shall mean a person who was invited by the client to submit a tender after its qualification has been established.

6. An “open procedure” shall mean a procedure in which all those interested may submit tenders.

7. A “restricted procedure” shall mean a procedure in which only those suppliers invited by the client may submit tenders after their qualification has been established (the candidates).

8. A “negotiated procedure” shall mean a procedure in which the client negotiates with suppliers or providers of services or construction works about its selection and the terms of the contract.

9. A “design contest” shall mean a form of procedure used in the case of the award of services for the purchase of a physical or urban planning design, or designs in the fields of

architecture, engineering or computer science where the design is selected by a previously appointed jury.

10. An “offered price” is a price set by the client concerning the public procurement expressed in Dinars, which, if the subject of the procurement are goods from import, includes for the customs and other import duties.

11. An “unusually low price” is a price from the tender which is so low that it arouses doubt in client as to the supplier’s or service provider’s capacity to perform the public procurement.

12. A “criterion” is an element used to evaluate, compare or assess tenders.

13. A “condition” is an element which must be entirely fulfilled in the tender in a way as defined in the tender documentation and has exclusive nature.

14. A “qualification requirement” is a requirement from the tender documentation which is essential for the performance of the published public procurement and must be entirely fulfilled in the tender, since it is a prerequisite for the acknowledgement of bidder’s capacity.

15. A “qualification procedure” shall mean the method of performing the first phase of the restricted procedure applied for the award of public procurement in water, energy, transport and telecommunications sectors.

16. A “request to participate” shall be an application that may be addressed to the client by any interested person under a qualification procedure.

17. “Updating the criteria and conditions” shall mean the adjustment of criteria and conditions occasionally done by the client in a qualification procedure, taking into account market conditions, development and other circumstances.

18. A “timely tender” shall be a tender which is submitted to the client until the expiration of the deadline as defined in the tender documentation.

19. A “correct tender” shall be a tender which is submitted on time and which is found, after the opening of tenders and based on the review and evaluation, to entirely fulfill all requirements from the tender documentation.

20. An “appropriate tender” shall be a tender which is submitted on time and which is found, after the opening of tenders and based on the review and evaluation, to entirely correspond to all technical specifications.

21. An “acceptable tender” shall be a tender which is submitted on time and which is found, after the opening of tenders and based on the review and evaluation, to entirely correspond with the criteria, conditions and possible qualification requirements.

22. A “discount on the tender price” shall be the method of determining the tender price which can be offered by the bidder only when the contract is awarded by lots, and shall not be treated by the client as an element of additional privilege.

23. ^a«Goods» are all movables and imovables, products and equipment, electric enegy, raw materials and processing materials in solid, liquid and gas forms.

24. ^a«Public funds» are the funds under the control and under the authority of the Republic, a territorial autonomy, a local self-governance and an organization of compulsory social insurance.

List of clients bound to award contracts

Article 4

On the proposal of the Minister of Finance and Economy, the Government of the Republic of Serbia (hereinafter referred to as *the Government*) shall determine a list of client bound to award contracts under this Act every six months.

The list from the paragraph (1) of this Article shall be published in the Official Gazette of the Republic of Serbia.

3. Basic principles of public procurement

The principles of cost-effectiveness and efficiency in the use of public funds

Article 5

The client shall ensure that the procedure of public procurement and the selection of bidders shall be within the set terms and in the manner as stipulated by this Act and incurring as little expenses as possible in the process of effecting the public procurement.

The principle of ensuring fair competition among bidders

Article 6

The client shall not restrict fair competition among the bidders, especially shall not obstruct any bidder by unjustified use of a restricted procedure or with the use of discriminatory measures.

The person or entity that prepared the tender documentation or its parts shall not participate as bidder or sub-contractor and shall not cooperate with bidder in preparing a tender.

Client shall not ask the bidder to employ any specific sub-contractor or to perform any other transaction, for example export of specific goods or services, unless otherwise stipulated by special law or international agreement, or unless the tender documentation stipulated that the bidder should employ a certain number of domestic sub-contractors or include a certain quantity or value of goods and services of the domestic origin.

The principle of transparency in the use of public funds

Article 7

Public funds may only be used for the purpose as set in the contract concluded in the public procurement.

A public invitation for the public procurement shall be published in “The Official Gazette of the Republic of Serbia” and one of the daily papers.

Any person who has participated in the tender shall be entitled to learn details on the public procurement procedure in accordance with this Act.

The principle of equality of bidders

Article 8

Client shall not set conditions that would mean territorial, formal or personal discrimination whatsoever among the bidders or discrimination arising from the classification of the business performed by the bidder.

Determination of the origin of goods or services shall be tolerable in the cases and for the purposes stipulated by a special regulation.

Client shall not eliminate tenders exclusively because a bidder is based in a country which does not have an agreement with the Federal Republic of Yugoslavia on equal treatment of domestic and foreign bidders.

4. Protection of data and documents, recording of the procedure

Protection of data

Article 9

Client shall safeguard as confidential all data on bidders contained in the tender documentation which are defined as confidential by a separate act.

Client may refuse to deliver such information that would mean infringement of the confidentiality of data received in bids.

Client shall withhold as a trade secret the names of bidders and the submitted bids until the date fixed for the opening of tenders.

Determination of confidentiality

Article 10

In the dissemination of technical specifications to bidders and candidates in connection with the award of public contracts, the client may require the protection of confidential information which were made available to them.

Anyone who has received information defined as confidential in a specific regulation, irrespective of the level of confidentiality, shall respect the confidential nature of such information.

Documentation and the keeping of records

Article 11

Client shall keep records of all phases of the award of a public contract.

Client shall keep documentation in connection of the public procurements in line with the regulations governing the sector of documents and archives.

Client shall keep record on the public procurement contracts awarded in the negotiating procedure.

Storing of the documentation

Article 12

Client shall store documentation three years after the deadline for the execution of a contract if the term for storing documentation as stipulated in Article 11 para 2 is shorter than the term set for the execution of the public procurement contract.

5. Language used in public procurement procedure

Article 13

Client shall draw up the tender documentation and conduct the procedure in the Serbian language.

For public procurement tenders for goods and services with value over 6,000,000.00 Dinars and for construction works over 120,000,000.00 Dinars, client shall draw up the tender documentation and conduct the procedure in the language commonly used in international trade.

Bidders shall submit tenders in the language of the tender documentation or in the language specified in the tender documentation.

Article 14

Client may allow that bidders may submit their tenders, in part or in full, also in another language, especially in the part related to technical characteristics, quality and technical documentation.

In the case from the paragraph (1) of this Article, client shall specify which part of the tender may be in foreign language, as well as in which foreign language.

If during revision and evaluation of tenders, client finds out that the part of tender which is not submitted in the Serbian language shall be translated into Serbian, it may ask the bidders to do that within a specified time limit.

In the case of dispute, the tender documentation in the Serbian language, or the tender in the Serbian language shall be used as reference.

6. Currency

Article 15

Values in the tender documentation and the tender shall be stated in Dinars.

Client may ask that bidders state values also in other currencies. In this case, client shall state that the relevant medium exchange rate of the National Bank of Yugoslavia, applicable on the day of the opening of tenders, is used for conversion into Dinars.

Article 16

In the case described in Article 15 paragraph 2 of this Act, where bidders are permitted to submit tenders in another currency beside the Dinar, client shall state in the tender documentation the currencies in which tenders may be submitted.

7. Anti-corruption provisions

Article 17

Client shall reject a tender if he possesses a valid proof that the bidder gave or promised to a current or former employee of the client a gift in the form of cash or in any non-cash form whatsoever, an offer of employment or any other thing or favor the value of which could be expressed in money, as an attempt to influence an action or a decision or the course of the public procurement procedure.

Client shall inform the bidder and the Public Procurement Agency of the rejection of the tender and the reasons for it in writing, and shall record it in the documentation related to the public contract.

II. PUBLIC PROCUREMENT AGENCY

Establishment

Article 18

A Public Procurement Agency is established as a separate organization to perform professional activities in the public procurement sector in order to secure conditions for an efficient, effective and transparent use of the public funds for the public procurement and to incite competitiveness and equal position of the bidders in the public procurement tenders (hereinafter referred to as the Agency).

All regulations on the state governance are to be applied on the operation and organization of the Agency.

Operations

Article 19

The Agency shall deal with the following:

1. participate in the preparation of the regulations in the field of public procurement
2. offer consulting services to clients and bidders
3. organize training of employees to perform duties in the field of public procurement
4. cooperate with foreign institutions and experts in the field of public procurement
5. publish and distribute relevant professional literature
6. prepare model tender documentation and contract for typical public procurements
7. collect information about public procurement in other countries
8. systematically collect basic data from clients and keep record of public procurements
9. prepare and participate in setting up criteria for assessing individual types of expenses of the public fund beneficiaries
10. prepare a single basis for the setting up a record on the bidders and their financial liquidity, based on the records on the concluded contracts and the fulfillment of these contracts by the bidders in the field of public procurement.
11. monitor the procedure of public procurement
12. cooperate with other state bodies and organizations, organizations for compulsory social insurance and the bodies of territorial autonomies and local self-governance
13. deal with other matters in line with the law

The Agency shall report to the Government once a year about its activities during the previous year and propose measures.

III. PROCEDURES AND AWARD OF CONTRACTS FOR PUBLIC PROCUREMENT

1. Procedures for the award of public procurement contract

Types of procedure

Article 20

Award of public procurement contracts shall be done by open procedure.

Award of public procurement contracts may be done also by restrictive procedure and/or negotiating procedure.

Award of contracts by open procedure

Article 21

An open procedure is a procedure in which all interested suppliers may submit tenders prepared in accordance with previously defined requirements of the client as prescribed in the tender documentation.

Award of contracts by restricted procedure

Article 21

A restricted procedure is a procedure in which in the first phase client establishes qualification of bidders based on previously set qualification requirements, while in the second phase it invites all these candidates whose qualification had been established to submit the tender.

Client may apply a restricted procedure only where the object of public procurement are such goods, services or construction works which can be performed only by a limited number of bidders with adequate technical, human and financial resources.

Before the publication of tender with respect to the first phase of the restricted procedure, client shall request a prior opinion of the Public Procurement Agency. The Public Procurement Agency shall issue its opinion within seven days after the receipt of the request from the paragraph (3) of this Article. Where the Public Procurement Agency fails to issue the opinion within seven days, client may continue the award procedure.

The first phase of the restricted procedure may be applied also in cases where the object of public procurement is a permanent purchase of goods, services or construction works that cannot be planned in advance in terms of scope and time, and may immediately be purchased or performed, and are not produced following client's specific requests but are subject to market conditions.

In the first phase, the client shall set the tender documentation in such a way that the lowest price is the sole criterion in the second phase.

Negotiated procedure without prior publication and after prior publication

Article 23

Client may award the contract in a negotiated procedure without prior publication, if:

1. for objective reasons or for reasons related with the protection of exclusive rights, the procurement can be performed only by specific suppliers, or providers of services and works;

2. emergency occurs, or in the case of unpredictable events that client was unable to respect the deadlines prescribed for open and restricted procedures.

In the cases under the paragraph (1) of this Article, client shall obtain a prior opinion of the Public Procurement Agency.

The Public Procurement Agency shall issue its opinion within seven days after the receipt of the client's request.

Where the Public Procurement Agency fails to issue the opinion within seven days, client may continue the award procedure.

Client may award the contract in a negotiated procedure with prior call for competition with respect to the open or restricted procedure:

1. if it receives, in an open or restricted procedure, inadequate or unacceptable tenders, while the contents of the tender documentation shall not be basically modified. Client shall publish a notice stating that a contract shall be awarded in a negotiated procedure and that it has included in the negotiated procedure all bidders whose tenders had been submitted during the previous open or restricted procedure, provided they had complied with the request for recognition of capacity;

2. if in exceptional cases, where the nature of procurement or risk does not allow client to previously fix the total price.

During negotiations, client shall ensure that the contracted price is not higher than the comparable market price and carefully examine the quality of the item which is the object of public procurement.

2. Instituting of a procedure

Conditions for opening a procedure

Article 24

Client may institute a procedure of public procurement if the procurement has been included in the program of public procurements and if funds for the procurement have been allocated in the Budget of the Republic of Serbia (hereinafter referred to as the Republican Budget), the budget of a territorial autonomy, or local self-governance or in a financial program in the sense of the Budget System Law.

Funds for a specific public procurement cannot exceed the amount as allocated in the regulation governing the execution of the Budget and public financing.

Should the procedure of public procurement last for more than one year, the obligations falling due in the coming years shall be contracted in the amounts as stipulated by the regulations governing the execution of the budget for each year separately.

If the public procurement is of investment nature, client shall prepare an investment plan using uniform methodology for creating investment plans and in accordance with a development program.

Plan as mentioned in paragraph 4 of this Article shall be confirmed by the supreme organ of client in writing.

If the Republican Budget, the budget of a territorial autonomy or a local self-governance or a financial program of other client have not been adopted yet, client may institute the procedure of public procurement only up to the amount planned in accordance with the regulation on temporary financing.

Decision to institute a procedure

Article 25

Client shall institute the procedure to award a public contract by means of a written decision containing at least the following details:

1. the serial number of the public procurement contract for the current year;
2. the object of the public procurement;
3. the value of public procurement as client estimates and expects in tenders;
4. the reference to the decision on approving the investment type of public procurement in line with uniform methodology, if necessary;
5. the approximate dates by which individual phases of the award procedure must be carried out;
6. a definition of the items for payment in the budget or the financial plan.

The decision may contain other elements as well, if client considers them necessary.

Client shall, upon making a decision to institute the public procurement procedure, appoint an expert commission in accordance with the set criteria for the setting up of such commissions.

At the proposal of the Minister of finance and economy, the Government shall determine criteria for setting up commissions for public procurement.

Authorizing another person to carry out the procedure

Article 26

A client may authorize another legal or natural person in writing to award a public procurement contract; such person shall carry out the procedure on behalf and for the account of the client.

In awarding a public contract in the water, energy, telecommunication or transport sectors, client may use the list of qualified bidders of another client.

The decision to use the list of qualified bidders of another client shall be grounded in writing.

3. Contents of tender documentation

Preparation of tender documentation

Article 27

Client shall draw up tender documentation on the basis of which bidders can prepare correct tenders.

The content of tender documentation shall be identical to details published in the invitation for contract.

The tender documentation under the open procedure and in the second phase of the restricted procedure shall contain in particular:

1. an invitation to submit a tender;
2. an instruction to bidders on the elaboration of a tender;
3. a form of tender;
4. a form to establish the qualification, and instructions on the manner of demonstrating the qualification of the bidders (only in the case of open procedure);
5. forms for bidders to submit a statement accepting the terms of the tender;
6. a model contract;
7. the type, technical characteristics, quality, quantity and description of the goods, works and services, means of control and ways of securing guarantee, the time of performance, the location of performance or delivery of goods, possible additional services and the like;
8. technical documentation and drawings;
9. a model pro-forma invoice with instructions how to fulfill it;
10. instruction on the type of financial guarantee by which bidders insure the fulfillment of their commitment in the procedure of awarding a public procurement contract, like various forms of collateral for movables or mortgage on immovable property, bills of exchange, guarantees by private companies or other legal entities with an appropriate standing, bank guarantees, insurance policies and other types of guarantee.

The tender documentation shall also include other documents which, in view of the object of the contract, are necessary for the elaboration of a tender.

The tender documentation shall, in the first phase of restricted procedure, contain in particular:

1. an invitation to tender;
2. an instruction to bidders on the elaboration of a tender;
3. a form of tender;
4. a form for establishing the qualification and instructions on the manner of demonstrating the qualification of the bidders.

Minister of Finance and Economy shall lay down in detail the compulsory elements of the tender documentation.

In annual budget law thresholds shall be determined above which client shall request bank guarantees in the award of contract.

4. Access to tender documentation

Deadline to submit tender documentation

Article 28

On the day when the public tender is published, client shall make tender documentation available to all interested bidders or deliver it within two days from the receipt a request by mail, telefax or electronic mail.

In case as in paragraph (1) Client may charge only the costs of copying and delivery of tender documentation.

In an open procedure, client may restrict the time limit by which bidders may request the tender documentation, and such period shall not be longer than one half of the period set for the submission of the tenders.

Bidder may not assert subsequent increase in price for reasons of incomplete or inadequate tender documentation with respect to those parts of tender which were insufficiently defined in the tender documents but which could have been foreseen considering the object of public procurement and the documentation as a whole.

Amendments to the tender documentation

Article 29

If, within the time limit fixed for the receipt of bids, client issues amendments or additions to the tender documentation, it shall immediately send it free of charge to those bidders which already possess tender documentation.

Bidder may ask in writing but not later than 5 days before the expiration of the period set for the submission of the bids, for additional information or explanations with regard the tender documentation.

In the case from the paragraph (2) of this Article, client shall, in the period as mentioned in Article 28 paragraph 1 of this Act, send a written reply, and shall simultaneously send the same information to all other bidders who had received the tender documentation.

If tender documentation or supplementary documents are too extensive, or if a tender can be prepared only after on-site examination of the place where public procurement will be performed, or if client amends tender documentation six days or less before the deadline to submit tenders, client shall correspondingly postpone the deadline to submit tenders.

Client shall inform in writing all bidders who had received the tender documentation on the prolongation of the term, and publish this notice in the same way as the invitation to tender was published.

After the expiration of the term set for the submission of the tenders, client shall not amend or make additions to tender documentation.

5. Determining the contract value

Determining the value of public procurement of goods

Article 30

The basis for calculation of the estimated value of publicly procured goods shall be determined as follows:

1. in the case when the subject of the contract is the sale, rent or lease of goods and when the period of such contract is 12 months or less, the value of the contract shall be its total value for the entire contract period, and when the period exceeds 12 months the total value of the contract includes the value for the initial 12 months and the value until the expiration of the contract period.
2. in the case when the contract as mentioned in paragraph 1 item 1 of this Article is concluded for an indefinite period, as well as when there is uncertainty with regard to the contract period, a monthly value of the contract shall be multiplied by 48.

If the contract is concluded for an indefinite period or if it would be necessary to renew it after the expiration of the contract period, the estimated value of the public procurement shall be determined on the basis of the accrual total value of similar contracts concluded during the previous budget year or during the previous 12 months, adjusted with the expected changes in the quantity or value of the goods to be procured during the 12 months starting from the date of the conclusion of the original contract.

Determining the value of public procurement of services

Article 31

When calculating the average value of a publicly procured service, client has to include in the value of the service all expenses in relation to the service borne by the bidder.

In the case of certain services, client shall take into account the following:

1. for the insurance – the value of the premium
2. for banking and other financial services – fees, commissions and interests, and other types of payment in relation to the service
3. for architectural services, industrial design, spatial planning and similar – fees or commissions.

If client cannot determine the estimated value of the contract because of the length of the contract period, the value of the contract shall be determined in the manner described in Article 30 paragraph 1 of this Act.

Determining the value of public procurement of construction works

Article 32

The basis of calculation of the total value of the contract for the publicly procured construction works shall be the total value of the construction works.

When determining the value of the public procurement of the construction works, client shall include the value of all goods and services necessary for the performing of the procurement contract.

The value of the procurement of the construction works shall not include the value of the goods and services that are not necessary for the performing of the public procurement contract for construction works.

Determining the value for lots

Article 30

Subject of public procurement may be shaped in several separate wholes (lots), and each of them may be the subject of a separate contract.

Where the subject of public procurement is shaped in lots, and each is the object of a separate contract, the value of all lots in the period of one year from the date of negotiating for the first lot shall be taken into account when assessing the contract value.

Client shall award separate contracts in accordance with this Act for lots the value of which exceeds the value stipulated in Articles 69, 71, 90, 114, 123 and 126 of this Act.

Client shall provide approval from the Agency for shaping public procurement into lots and for their value.

Manner of determining value of public procurement

Article 34

Client shall not choose the manner of determining value of public procurement that would lead to avoiding public announcement due to a lower estimated value of the procurement.

The estimated value of public procurement is shown less sales tax.

6. General rules concerning the definition
of technical elements in public procurement

Technical specifications

Article 35

Technical specifications are an obligatory part of tender documentation.

Client shall refer to technical specifications in tender documentation relating to each individual public procurement.

Client shall define technical specifications by referring to laws, technical regulations and standards in force in the Republic or - in the absence of technical regulations and standards in the Republic - by referring to European standards or European technical licenses or common technical specifications.

The competent ministry shall establish the existence of technical regulations stated in the paragraph (3) of this Article.

Application of technical specifications

Article 36

Client must not apply or refer to technical specifications stating the goods, services or works of a specific make, source or manufacture if such statement might favor certain bidders, or unjustifiably eliminate others.

Client must not include in the tender documentation any provisions which could have the effect of favoring or eliminating certain bidders as stated in the paragraph (1) of this Article unless such specifications are justified by the subject of the contract.

Client shall not indicate in tender documentation specific trademarks, patents, types, nor a specific origin or manufacture.

Where the client is unable to describe the subject of the contract in the tender documentation so as to make the specifications sufficiently intelligible to bidders, the indication of elements such as trademarks, patents, types or manufacturers must be accompanied by the words “or equivalent”.

Issuing of attestations

Article 37

When client, which is contracting a service, demands attestations to verify the conformity of the service with the requirements of quality management and quality assurance issued by independent bodies to confirm that these services comply with specific standards, the authorized issuer of the attestation shall make reference to a quality assurance system under the Yugoslav standards series JUS EN ISO 9000, which fulfils the requirements from the Yugoslav standards series JUS EN 45000 and JUS ISO/IEC 17025.

The contents of technical specifications and/or project documentation

Article 38

Technical specifications and project documentation as defined in this Act shall mean the technical requirements which are an obligatory part of the tender documentation in which the characteristics of lots of works, materials, products, goods or service are laid down. They shall make it possible that works, materials, products, goods or services are described in a way which is objective and suitable for client's purposes.

Technical specifications may include requirements of quality, performance, safety or dimensions, applicable to the materials, products, goods or services with respect to quality assurance, terminology, symbols, testing and test methods, packaging, marking and labeling.

In the case of contracts for construction works, technical specifications may also include regulations for the design and quantity survey, testing, inspection and acceptance conditions as well as techniques or methods of construction.

Permission to derogate

Article 39

Client may, upon a prior approval of the Agency, derogate from the provisions laid down in Article 35 of this Act in the following cases:

1. if standards, technical approvals or general technical specifications or project documents do not include any provisions for establishing conformity, or, if there are no technical means to satisfactorily establish the conformity of a product or service with these standards, technical approvals or general technical specifications or project documents;
2. if observation of these provisions would prejudice the application of mutual recognition of type approval for telecommunications or terminal equipment or as regards standardization in the field of information technology and telecommunication or in other specific areas of goods or services;
3. if observation of standards, technical approvals or general technical specifications would oblige the client to procure supplies incompatible with the equipment already in use or such procurement would entail disproportionate high cost or disproportionate technical difficulties to client;

4. if the public procurement contract concerned is of a genuinely innovative nature for which the use of the existing standards, technical approvals or general technical specifications would not be appropriate.

Client referring to in the paragraph (1) of this Article shall publish its reasons in the call for tenders or in their tender documentation.

Other ways of defining technical specifications

Article 40

In the absence of standards, technical approvals or general technical specifications, technical specifications may be defined in the following manner:

1. in accordance with the technical specifications applicable in the Federal Republic of Yugoslavia. These technical specifications shall comply with the basic requirements applicable within the European Union for technical harmonization (especially in the cases of public procurements in the fields of information technology, telecommunications, etc.);
2. in accordance with the technical specifications applicable in the Federal Republic of Yugoslavia with respect to design, calculation methods, execution of works and use of materials;
3. in accordance with other documents, where client shall apply the following order of preference:
 - a) Yugoslav JUS standards which are transposed international standards;
 - b) any other national standards;
 - c) technical approvals and recommendations applicable in the Federal Republic of Yugoslavia.

Standards

Article 41

A *Yugoslav standard* is a standard adopted by a Federal body competent for standardization and available to the public.

An *international standard* is a standard adopted by an international organization for standards or an international standardization organization and is available to the public.

A *European standard* is a standard adopted by a competent body of the European Union and is available to the public.

A *foreign national standard* is a standard adopted by a competent foreign national body and is available to the public.

Other standards are standards which may be adopted on a different bases (e. g., industry standards, company standards, etc.).

Technical attestation

Article 42

Technical attestation is a positive technical assessment of suitability of a product for the intended use.

A European technical attestation is a positive technical assessment of suitability of a product for the intended use based on the fulfillment of basic requirements for the intended construction. The European attestation shall be issued by a body competent to issue technical attestations.

The European attestation shall be used for the procurement of construction works.

Common technical specifications

Article 43

A joint technical specification is a technical specification drawn up in accordance with a procedure recognized by the Government with a view of its uniform application in all Member States of the European Union.

Statement of essential requirements and fees for use of patents

Article 44

Essential requirements which are not included in the technical norms and standards in force and are relating to safety and other circumstances in the general interest shall be adhered to, and explicitly stated in the tender documentation.

Client may state in the tender documentation that fees for the use of patents and the responsibility for possible violation of the protected intellectual rights of third persons lies with the bidder.

7. Conditions for participation in the procedure of awarding the public procurement contract

Obligatory conditions for participation

Article 45

Client shall announce in the invitation for the contract and in the tender documentation the conditions which must be fulfilled by a bidder wishing to take part in the procedure.

The right to participate in the tender has any domestic or foreign legal or physical person.

1. which has been registered to run adequate business with a relevant state body in which it has a registered office;

2. against which no legal proceedings for forced settlement of debts or bankruptcy or liquidation has been instated and/or it has not ceased to operate due to a court order or any other bounding order;
3. which has not been in the five years preceding the announcement of the public procurement tender punished by a legal decision of a judicial or administrative body for a criminal act, economic violation and infraction or misdemeanor with relation to its business, i.e. if during the same period no legally binding judicial or administrative measure has barred it from dealing in business which is the subject of public procurement.
4. which has paid taxes, contributions and other public duties in line with the regulations of the state in which it has a registered office, i.e. in line with the regulations of the Republic of Montenegro if it has the registered office in its territory;
5. if it has a valid license issued by a relevant body for dealing in business which is the subject of public procurement, and such license is regulated by a separate regulation;
6. which has the necessary financial and operational resources
7. which has the necessary technical resources

Client may determine additional conditions with respect of fulfillment of obligations that bidder has toward its sub-contractors or suppliers.

Proof of the fulfillment of conditions

Article 46

Client shall require written proof from the bidder of the fulfillment of the conditions laid down in Article 45 of this Act, namely:

1. excerpt from the judicial or other record,
2. a certificate issued by the competent tax authority of the country/Republic of Montenegro where the bidder is established, or a certificate of the Republican Public Revenues Administration;
3. a certificate issued by the competent authority keeping records of issued licenses to carry out activities in question;
4. an audited balance sheet or excerpts from the balance sheet, or statements of a bidder's gross revenue from sale and revenues from products, works or services to which the contract relates, for the last three financial years, as well as opinions or statements of banks or other specialized institutions, or proofs which are stated in the call for tender and in the tender documentation. Client shall state in the invitation for the tender or in the tender documentation which element under this item it had chosen and which other elements proving financial and economic standing the bidder needs to produce;
5. one or more proofs in accordance with the subject of the contract, the quantity and the purpose, such as:

- a) a list of the principal goods supplied, works or services performed in the last three years, with the sums, dates and lists of purchasers/clients; where these purchasers or clients are the clients as defined in this Act, the evidence shall be issued in the form of certificate issued or countersigned by the competent authority, while if purchasers or clients are other legal entities or entrepreneurs, the certificate shall be issued or countersigned by the purchaser/client;
- b) a description of the bidder's technical facilities and appliances, measures for ensuring quality, and the research & development related capacities;
- c) a statement on the key technical personnel and other experts working for the bidder, who will be responsible for the execution of the contract, as well as on the persons responsible for the quality control;
- d) samples, descriptions or photographs of products, and description of works to be executed or services to be provided by the bidder. In the case of doubt, client may request proof of their authenticity;
- e) certificates issued by authorized bodies or quality control organizations attesting conformity of products or services to technical specifications or standards required in the tender documentation;
- e) a report on an examination, where the products to be supplied are complex, or the services or works are very demanding, or if in exceptional cases the subject of the contract is intended for special purposes. The examination shall be carried out by client's representatives or, on its behalf, a competent official body of the country in which the bidder is established. The examination shall focus on the production capabilities of the bidder and, where necessary, also its research & development capabilities, and quality assurance methods.

If the bidder is established in another country or in the Republic of Montenegro, client shall verify whether the documents whereby the bidder is proving the fulfillment of the required conditions are issued by the competent authorities of the foreign country or the Republic of Montenegro.

The Minister of Finance and Economy shall prepare a list of competent authorities of foreign countries issuing the documents that clients may request under the paragraph (2) of this Article.

Bidder shall immediately inform client in writing about a change in the information as mentioned in paragraph 1 of this Article and not later than 5 days from the date when the change took place and document it in a prescribed way.

Bidder shall ensure that its sub-contractors, if they are listed in the tender, also fulfill requirements from Article 45 of this Act, and document this fulfillment in the manner prescribed in paragraph 1 of this Article.

Bidder shall confirm in its tender its acceptance of the conditions as set in Article 45 paragraph 1 item 4 of this Act and state if the tender refers to the procurement as a whole or to particular lots.

In the case that bidder is submitting tender for all lots, the tender shall be submitted in such manner to be considered for each lot separately.

Professional references and confidentiality of acquired data

Article 47

If client requests the submission of professional references, it shall specify in the public invitation for contract or in the invitation to tender and in the tender documentation which professional recommendations (references) the bidders should produce.

Client shall consistently respect the legitimate interests of bidders and protect their technical or business secrets.

Client may use the information acquired only for the purposes of a specific public procurement.

Bidder is responsible for the authenticity of professional recommendations (references) as mentioned in paragraph 1 of this Article.

Supplementary statement

Article 48

Where the official bodies in a foreign country, or a republic, in which bidder is established, do not issue the certificates required in Article 46 paragraph (1) item 2 of this Act, they may be replaced by bidders own written statement certified before the competent body of the foreign country or the republic, where the bidder is established, given under the criminal and material liability.

8. Recognition of qualification

Establishing of qualification

Article 49

Before the award of a contract, client shall check that bidder fulfils the conditions concerning economic and financial standing as defined in Article 45 paragraph (2) item 6 of this Act.

Client shall award contracts on the basis of criteria for establishing the qualification referring to financial, personnel-related and technical capabilities to perform the procurement.

Client may define additional criteria provided they do not constitute any discrimination of bidders.

Establishing of qualification for sub-contractor

Article 50

In establishing the capability to execute a public procurement contract, client may demand from the bidder to state in its tender whether the execution of the contract will be, in part or in full, entrusted to a sub-contractor.

In the case where bidder intends to entrust the execution of the public procurement contract to a sub-contractor, the bidder shall name such sub-contractor and, if a contract is signed, this sub-contractor shall be named in the contract between the client and the bidder.

Bidder shall be liable in full for the execution of a contract awarded to it irrespective of the number of sub-contractors.

Bidder shall enable client at its request access to sub-contractor in order to confirm sub-contractor's qualification.

Submission of a joint tender

Article 50

Tenders may be submitted by a group of bidders.

In the case from the paragraph (1) of this Article, client must not require such a group of bidders to assume a specific legal form in order to submit a tender.

Client may require such a group of bidders to submit a legal act on the joint execution of a contract, if they are awarded the contract and provided such requirement is necessary for the successful execution of the contract.

The legal act from the paragraph (3) of this Article shall state in detail the responsibility of each individual bidder for the execution of the contract.

Bidders from a group shall have joint and unlimited liability to client.

Client may require from legal entities to state in their tenders or requests for participation the names and adequate professional qualifications of the persons who will be responsible for the execution of the contract.

Selection of candidates

Article 52

In the first phase of the restricted and negotiated procedure, client shall select those candidates which it will invite in the second phase to submit tenders or to take part in negotiations.

Client shall select candidates in the first phase of procedures from the paragraph (1) of this Article on the basis of information submitted by bidders demonstrating:

- bidder's legal status;
- bidder's economic standing;

- bidder's financial standing;
- bidder's technical capability;
- bidder's human resource capability.

Bidder shall demonstrate the fulfillment of the conditions required under paragraph (2) of this Article in the manner set out in Article 46 of this Act.

Creating the list of candidates

Article 53

Client shall create the list of candidates and determine the period with respect to which the qualification is recognized. Such period shall not exceed three years.

If client selects bidders by the negotiated procedure because it did not receive any correct or acceptable tenders, it shall include in this procedure all bidders from the previous unsuccessful open or restricted procedure to whom it had acknowledged qualification under Article 52 of this Act, and who had submitted, from the point of view of requirements of the public procurement, correct tenders, such client shall publish a notice stating that it will award a contract by the negotiated procedure.

9. Criteria for selecting the best tender

Definition of criteria

Article 54

Client shall publish identical criteria in the contract notice and in the tender documentation.

Criteria by which client selects the best tender shall be described and evaluated in the tender documentation. Criteria shall not be discriminatory and shall be logically related to the public procurement contents.

In the tender documentation, client shall state, describe and evaluate all the criteria which it intends to apply in the award.

Client may not change the criteria after the publication of invitation to tender or the award of contract in the restricted procedure.

In evaluating the tenders, client shall apply only those criteria which were published in the tender documentation, in the manner as they were described and evaluated.

Types of criteria

Article 55

The criteria to evaluate a tender may be:

1. the most economically advantageous tender, or
2. the lowest price.

The most economically advantageous tender is a tender incorporating various criteria depending on the subject of the public procurement contract, including:

1. delivery or completion date;
2. running costs;
3. cost-effectiveness;
4. quality and the application of adequate QA/QC systems;
5. aesthetic and functional characteristics;
6. technical and technological merits;
7. after-sales service and technical assistance;
8. guarantee period, types and quality of guarantees and the guaranteed values;
9. commitments with regard to spare parts;
10. post-guarantee maintenance;
11. price
12. possibilities for standardization and unification
13. extent of employment of sub-contractors , etc.

Client shall give relative importance to each of the elements in paragraph 2 of this Article and receive a ponder in the tender documentation, so that the sum of ponders is 100.

Client shall select among the submitted tenders by applying the criteria of the economically most advantageous tender by making a list based on the criteria and the ponders set for these criteria.

The selection among the submitted tenders by applying the criteria of the lowest price is based on the lowest price as the sole criterion, provided that all conditions stated in the tender documentation have been fulfilled.

Where the lowest price criterion applies, client shall not recognize any subsequent price increase after the contract has been signed.

Alternative tenders

Article 56

Where the criterion for the award of the public procurement contract is the most economically advantageous tender, client may take into account alternatives which are submitted by bidder, provided they meet the minimum requirements from the client's technical specifications.

Client shall state in its tender documentation the minimum technical specifications to be respected in the alternative proposals, as well as specific requirements for presentation of such proposals.

Where alternative tender is not permitted, client shall so indicate in the contract notice and in the tender documentation.

Client must not reject an alternative tender on the sole ground that it was drawn up on the basis of technical specifications in compliance with the national technical specifications which were recognized as adequate for fulfillment of the essential requirements.

Abnormally low price

Article 57

If, for a given contract, price in a tender appears abnormally low, client shall, before it may reject such tender, request in writing detailed explanation of the constituent elements of the tender which it considers relevant, especially those with respect to the efficiency of construction works, production or the selected technical solutions, the exceptionally favorable conditions for the fulfillment of the contract made available to the bidder or to the originality of the products or works proposed by the bidder.

In the case as described in paragraph 1 of this Article, client shall set a reasonable reply period not exceeding 20 days of the date of delivering the request.

Upon the receipt of the explanation, client shall verify relevant constituent elements from the paragraph (1) of this Article.

Additional explanations, inspection and allowed corrections

Article 58

Client may ask explanations from bidders to facilitate review, evaluation and comparison of bids and it may also run an inspection of the bidder and/or its sub-contractor.

Client must not ask, allow or offer any change in the contents of the tender, including the changes of price and, in particular, any changes that would convert an inadequate bid into an adequate one.

Client only may, in agreement with bidders, correct calculation errors detected during the examination of tenders after the procedure of opening the bids.

Client may request that bidder submits information on its business connections if these are related to a concrete public procurement.

In awarding public procurement contracts the value of which exceeds 300,000,000 Dinars, bidder shall submit its tender and a copy of the tender in two separate envelopes.

Bidder shall guarantee that the tender and the copy are identical.

The tender shall be opened in accordance with the provisions of this Act, and the copy shall remain unopened and shall be submitted simultaneously and directly to the Commission for the protection of bidders' rights.

If the review request was not submitted, the deposited copy shall be returned to the bidder immediately after the expiration of the deadline for submission of the review request.

If, however, bidder submits a request for a review, the deposited copy shall be returned to the bidder immediately after the finished review procedure.

10. Time limits in awarding public contracts

Time limit to submit tenders

Article 59

Client shall publish in the contract notice and in the tender documentation the time limit within which tenders must be submitted.

The time limit for submitting of bids fixed in the contract notice shall be the same as the time limit fixed in the tender documentation.

Fixing the time limit from the paragraph (2) of this Article is deemed to be fixing of date and fixing of hour until which the bids may be submitted.

After the expiration of the time limit for submitting tenders, bidder must not withdraw or change its tender. If bidder anyhow withdraws or changes its tender after the expiration of the limit, or fails to sign a contract when its tender was selected, client is entitled to a payment against the guarantee related to the tender.

Bidder shall present its tender in person or by mail.

Calculation of time limits

Article 60

Time limit for submission of tender shall be calculated from the day when the public invitation to tender is published in "The Official Gazette of the Republic of Serbia".

Timely tenders

Article 61

A tender shall be considered to have been submitted timely if the client receives it by the date and time stated in the notice.

Upon receipt of a tender, client shall mark the date and time of receipt of that tender and, upon a request from the bidder, issue a certificate of receipt.

Where a tender was submitted after the expiration of the date and time stated in the notice, it shall be considered that the tender was submitted too late. After completion of the procedure for the opening of tenders, client shall return such tender to the bidder, unopened, with a statement that it was submitted too late.

Fixing the time limit for submission of bids

Article 62

The time limit for submission of bids shall be such as to enable bidders to present correct tenders.

In fixing the time limit for submission of bids client shall provide for an extended time limit, if the preparation of tenders requires a review of voluminous tender documentation or lengthy technical specifications or a visit to a site, and so forth.

General time limit for submission of bids in an open procedure

Article 63

The time limit for submission of bids in an open procedure shall not be shorter than 40 days following the date when the public invitation to tender is published in “The Official Gazette of the Republic of Serbia”.

Reduced time limit for submission of bids in an open procedure

Article 64

The time limit for submission of bids in an open procedure laid down in Article 63 of this Act may be shorter but not be less than 30 days.

Notwithstanding the provision of the paragraph (1) of this Article, the time limit for submission of bids in an open procedure may be shorter, but must not be less than 22 days following the date when the public invitation to tender is published in “The Official Gazette of the Republic of Serbia”, provided the following conditions are fulfilled:

- that the client sent a prior notice about its intention to award a public procurement on the form previously published in “The Official Gazette of the Republic of Serbia”;
- that the client sent a prior notice about its intention to award public procurement at least 52 days and not more than 12 months before the public invitation was published;
- that in the prior notice client had published at least as much information as it had available at the time of dispatching it.

Time limits for submission of requests in restricted and negotiated procedures

Article 65

The time limit for submission of a request to participate in a restricted procedure and in the procedure which includes negotiations after a prior call for tenders shall not exceed 25 days following the date when the client had dispatched the invitation.

Fixing general time limit for submission of bids in restricted procedure

Article 66

The time limit for submission of bids in restricted procedure shall not be less than 30 days following the date when the client dispatched the written invitation.

Reduced time limit for submission of bids in restricted procedure

Article 67

The time limit for submission of tenders in restricted procedures may be shorter than the time limit prescribed in Article 66 of this Act, but must not be less than 26 days following the date when the client dispatched the written invitation, provided the following conditions are fulfilled:

- that the client sent a prior notice about its intention to award public procurement on the form previously published in “The Official Gazette of the Republic of Serbia”;
- that the client sent a prior notice about its intention to award public procurement at least 52 days and not more than 12 months before the public invitation was published;
- that in the prior notice client had published at least as much information as it had available at the time of dispatching it.

Requests to participate in the procedure for the award of a public procurement contract may be made by mail, telegram, telex, fax, by electronic mail, or by telephone.

If a request is made by telegram, telex, fax, by electronic mail or by telephone, it shall be confirmed by letter dispatched before the time limit laid down for the receipt of the tenders.

Conditions for additionally reduced time limits

Article 68

In restricted procedure and in negotiated procedure with prior publication of a call for tenders, in cases where urgency renders impracticable the time limits laid down in Article 67, client may fix the following time limits:

1. the final time limit for submission of requests to participate in the procedures must not be shorter than 15 days from the date of dispatch of the call;
2. the final time limit for submission of bids must not be shorter than 10 days from the date of dispatch of the invitation to tender.

Provided it has been requested in good time, additional information relating to the tender documentation shall be supplied to candidates by client not later than four days before the final date fixed for submission of bids.

Requests and invitations for participation in tender shall be sent by the most rapid means of communication possible.

When bidder makes request to participate by telegram, telex, fax or telephone, it must confirm the request by mail dispatched before the expiration of the time limit laid down in the paragraph (1) of this Article.

The provisions laid down in the paragraphs (1) to (4) of this Article shall not apply to contracts in water, energy, telecommunications and transport sectors.

11. Publication of a public procurement

Modes of publication

Article 69

Client shall publish all notices related to public procurement in “The Official Gazette of the Republic of Serbia” and at least in one daily paper which is circulated in the territory of the Republic.

Should the value of a public procurement exceed 6,000,000.00 Dinars for the goods and/or services or 120,000,000.00 Dinars for construction works, notices from paragraph 1 of this Article shall be published also in a paper i.e. an appropriate business publication or a technical or professional magazine that are available to a wide international professional and other public and in the language commonly used in international trade.

Notices on public procurement may also be published on the web site of the Agency, in line with the Agency’s decision.

Notices on public procurement from paragraph 3 of this Article shall be published in the Serbian language and in the language commonly used in international trade.

Types of publication

Article 70

Types of publication are as follows:

1. a prior notice;
2. a public invitation to tender;
3. a public notice for the qualification of bidders; and
4. a notice on the award of a public procurement contract

5. a periodic indicative notice.

In the restricted procedure for the award of contract, client shall publish a public notice only in the first phase of the submission of bids in order to establish the qualification, while in the second phase it invites candidates to submit bids.

The public notice for the qualification of bidders and the periodic indicative notice shall be published only in the case of award of contract in the water, energy, telecommunication and transport sectors.

Prior notice

Article 71

With respect to contracts exceeding the value of 50,000,000.00 Dinars client shall publish, at least once a year, a prior notice concerning the intention to award a public procurement contract.

In the case of procurement in the water, energy, telecommunications and transport sectors, the prior notice shall be published within 12 months prior to the date when the client sends the invitation to take part in a restricted or a negotiated procedure, whereby the client shall also observe the time limits fixed for the submission of bids laid down in this Act.

Public invitation to tender

Article 72

Client shall publish invitations to tender in the following cases:

1. in the case of award of contract in the open procedure;
2. in the first phase of the restricted procedure; and
3. in the case of award of contract in the negotiating procedure after a prior publication.

Public invitation to tender shall contain information on the client, the subject of the contract, conditions to participate, criteria, time and place of inspection of tender documentation, time and place of submission of tenders, approximate date of the decision on the award of contract, and reference of a contact person to provide additional information.

If client estimates that any other data are also necessary, they shall be included as well.

Public invitation to qualification and contents of an invitation to tender in a restricted procedure

Article 73

Client shall select the most favorable tender after the qualifications in the first phase.

In the case of the qualification procedure, client shall ensure that different bidders may at any moment request their qualification to participate in the tender be determined.

If a public notice has been sent during the qualification procedure, bidders in the procedure of the prior qualification or bidders in the negotiating procedure shall be selected among the candidates in accordance with this method of selection.

A public invitation for qualification of bidders in the qualification procedure shall particularly include the following information:

1. the title and the address of client, with telephone, telefax or telex numbers and an e-mail address;
2. the purpose of the qualification procedure
3. the address at which all information regarding the qualification procedure may be received
4. the final date for receipt of bids
5. the period of the qualification procedure, if it can be estimated.

If the client considers that more than six months from the date of the submission of request to participate will be required to make a decision, it shall within the period of two months from the date of the submission of the request inform the bidders about the reasons for the delay and about the date when the decision will be made.

Qualification procedure may have several phases of qualification and the client shall set in advance criteria and conditions not to discriminate bidders.

Client may update criteria and conditions in paragraph 6 of this Article when necessary.

Criteria and conditions in paragraph 6 of this Article shall be made available to bidders at their request and the client shall also inform the bidders about the updates of these criteria and conditions.

Should the client consider that its system of qualification fulfills demands of other clients, it shall provide it to other interested suppliers and contractors with names of these clients.

Clients shall apply the qualification procedure for the award of public procurement contract in the water, energy, telecommunications and transport sectors.

Client shall simultaneously and in writing invite all selected candidates to submit their bids.

The invitation shall particularly include:

1. the address at which candidates may request tender documentation and additional documentation, deadline to submit applications, amounts and conditions for payment for the tender documentation;

2. the deadline for the receipt of bids, address to which they must be sent, and the language in which they are to be drawn up;
3. bidders' references in the field related to the public procurement;
4. a list of any documents to be annexed to support the statements furnished by the candidates relating to the fulfillment of the conditions for participation the candidates are to fulfill, or to supplement the information demonstrating financial and economic standing, or technical capability to execute the contract which is the subject of the invitation to tender; and
5. the date of opening the bids.

Notice on the award of contract

Article 74

Client shall publish in "The Official Gazette of the Republic of Serbia" the result of the procedure to award a public procurement contract not later than 14 days after the concluding of a contract.

Periodical indicative notice

Article 75

A periodical indicative notice refers to goods, works or services that are subject of a public procurement contract to be awarded in a restrictive procedure or in a negotiating procedure by which all interested bidders are invited to submit their applications in writing.

The indicative notice in paragraph 1 of this Article shall contain the information that the contract shall be awarded by a restrictive procedure or by a negotiating procedure, and that there shall be no further publishing of a public invitation and all interested bidders are invited to submit their applications in writing.

Client shall request all candidates to confirm their interest in participating in the award of a public procurement contract before initiating selection of the bidders or participants in negotiations.

12. Opening of tenders

Public opening of tenders

Article 76

Tenders in open procedures and in the second phase of restricted procedure shall be opened in public.

Exceptionally, client may determine, for reasons of protecting the trade, official, military or state secrets, that tenders shall not be opened in public.

The decision from the paragraph (2) of this Article shall be made known in the published contract notice.

Minutes on the opening of tenders

Article 77

Client shall take minutes on the opening of tenders containing the following information in particular:

1. bid serial number;
2. name or code name of bidder in case of anonymous invitation to tender;
3. the tendered price and any discounts offered by a bidder.

Client shall, throughout the procedure, take care not to disclose the bidder's business secrets.

Minister of Finance and Economy shall prescribe in detail the procedure for the opening of tenders in the open, the restricted and the negotiated procedures, and a standard form for taking minutes on the opening of tenders.

Delivery of minutes on the opening of tenders

Article 78

Following the procedure of opening the tenders, client shall send, within three days, the minutes on the opening of tenders to the bidders who had submitted their tenders.

13. Award of contract

Correct, appropriate and acceptable tenders

Article 79

Client selects the most favorable bidder after having obtained at least two independent correct bids from two different bidders, not associated with each other in the sense of the Enterprise Profit Tax Act and Personal Income Tax Act.

In the procedure of awarding a public procurement contract, client shall, after reviewing and assessing the bids, reject the bids which are not correct. Client may reject also all inappropriate or unacceptable bids.

If client received only inappropriate or unacceptable bids, it may continue the procedure of awarding a public procurement contract in accordance with Article 23 of this Act.

Client may require bidders or candidates to submit, within a time limit of not more than 20 days, additional evidence relating to the fulfillment of the conditions, but only in such cases where the bidder or candidate was unable to obtain the required documents, because they are not being issued under the regulations applying in the country/Republic of Montenegro where they are established.

In the case from the paragraph (4) of this Article, client shall state which documents or other proofs have to be additionally submitted.

Rejection of all tenders

Article 80

Client shall explain in writing its decision to reject all tenders and, in particular, state exact reasons for the rejection.

Client shall publish the decision from the paragraph (1) of this Article in “The Official Gazette of the Republic of Serbia”.

Report on the award of a contract

Article 81

Client shall draw up a written report on each contract awarded.

The report shall contain at least the following information:

1. the name and address of the client;
2. the subject and value of the contract;
3. the names of the bidders rejected and the reasons for their rejection;
4. the name of the successful bidder and the reasons for selecting this particular bid and, if the bidder had stated that the contract will be carried out with the help of sub-contractors, the share of the contract to be carried out by sub-contractors shall also be stated;
5. for negotiated procedures – the circumstances justifying the use of this procedure.

Notice and reasoned notice on the award of a contract

Article 82

Based on the report from the Article 81 of this Act, client shall immediately send bidders a notice on the award of a public procurement contract.

The bidder who was not selected may request in writing a reasoned notice on the award of contract within 8 days of the date of receiving the notice stated in the paragraph (1) of this Article.

Client shall dispatch to the bidder from the paragraph (2) of this Article the reasoned notice on the award of contract within 15 days from the receipt of the written request.

Reasoned notice from the paragraph (2) of this Article shall contain the following information:

1. the reasons for the rejection of the bids of the bidders who submitted the request from the paragraph (2) of this Article;
2. the names of bidders meeting the required terms and criteria;
3. the relative merits of the selected bid with respect to criteria;
4. the name of the successful bidder.

Client may refuse to provide a reasoned notice in full or in part, if the disclosure of such information could be in collision with the rules, or could in some other way be contrary to the public interest, or damaging to business secret of the selected bidder, if the reasoned notice would contain the information defined as confidential by another regulation, or if the disclosed information would affect the rules on fair competition among bidders or other parties in the procedure, according to the law.

Refusal of application for qualification

Article 83

Client shall inform applicants whose qualification was refused of this decision and of the reasons for refusal.

The reasons for refusal of qualification shall be based exclusively on the qualification criteria.

Client shall keep a written record, in line with the regulations governing the field of records and archives, on qualified suppliers and service providers who shall be categorized according to the type of contract to which the qualification applies.

Exclusion of a candidate from the list of qualified bidders

Article 84

Client may eliminate a candidate from the list of qualified bidders only for reasons based on criteria laid down in advance.

Client shall notify a supplier or a service provider from the list from the paragraph (1) of this Article, stating the reasons for the elimination.

IV. SUBJECT OF PUBLIC PROCUREMENT CONTRACT AND SPECIAL PROVISIONS RELATING TO THE AWARD

OF CONTRACTS

1. Procurement of goods

Determination of subject of contract on public procurement of goods

Article 85

The subject of the contract on public procurement of goods shall be:

1. purchase of goods (with a full payment of price or on installments);
2. rent of goods; and
3. leasing of goods (with or without the possibility to purchase).

Linked services

Article 86

A public procurement contract on supply of goods may include a contract on provision of services, given these services are linked to the supply of goods (assembly, transport, insurance or other on-site services as defined by client).

Additional supplies

Article 87

Client may award a public procurement contract on supply of goods by negotiated procedure without prior publication for additional supplies by the original supplier in the following cases:

1. for additional supplies by the original supplier which are intended either as a partial replacement of products, material or installations; or
2. as the extension of the scope of existing products, material or installations where a change of supplier or service provider would oblige the client to purchase material having different technical characteristics, which would result in incompatibility or disproportionate technical difficulties in operation and maintenance.

The total value of the additional supplies of goods from paragraph 1 of this Article shall not exceed 25% of the total value of the principal public procurement.

Other supplies

Article 88

Client may award contracts on supply of goods by negotiated procedure without prior publication in cases of procurement of goods intended exclusively for the purpose of research, experiments, studies or development whereas client has no intention of commercial use of the goods nor it shall request reimbursement of the expenses of the research and development.

2. Procurement of works

Determination of the subject of the contract

on public procurement of works

Article 89

The subject of the contract on public procurement of works shall be:

1. execution of works;
2. design and execution of works linked to the specific activities set out in Annex II to this Act;
3. work in the course of building and civil engineering, taken as a whole, which fulfils all economic and technical requirements of the client.

Prior indicative notice

Article 90

If the value of the procurement of works exceeds 50,000,000.00 Dinars, client shall make that known immediately after the adoption of the Republican Budget by means of a prior indicative notice.

Award of contracts in case of subsidized construction

Article 91

The provisions of this Act shall also apply to the execution of works for which the investor obtained a subsidy from a direct or indirect budget beneficiary, or from an organization for compulsory social insurance, where the share of such subsidy exceeds 50% of the value of the contract on public procurement of works.

The provisions laid down in the paragraph (1) of this Article shall apply to public procurements related to the construction of hospitals, facilities intended for sport, recreation and leisure, schools and university buildings, buildings used for government purposes and the construction in the field of civil engineering in accordance with Annex II.

Additional works

Article 92

Client may award a contract on public procurement of works by negotiated procedure without prior publication:

1. for additional construction or services not included in the initially awarded project or in the first public procurement which, due to unpredictable circumstances, became necessary for the execution of contract on public procurement of works, provided that the contract be awarded to the initial provider of works or provider of services:
 - when such additional construction or services cannot be separated, in technical or economic terms, from the principal public procurement without causing insurmountable obstacles for the client; or

– when such construction or services are indispensable for further phases of execution, although the client could have awarded them separately from the execution of the initial contract, and where the total estimated value of such additional construction or services shall not exceed 25% of the total amount of the principal contract;

2. for new construction works or services which are the repetition of similar construction or services and are executed by the initial provider, given such construction or services comply with the initial project which was the subject of the first contract awarded through public call for tender. Client shall state such possibility already in the first publication of the call for tender.

Client may award contracts on public procurement of works by negotiated procedure without prior publication laid down in the paragraph (1) item 2 of this Article only if less than three years have passed since the conclusion of the first contract.

Other works

Article 93

Client may award contracts by negotiated procedure with prior publication also in the cases where the construction is included or performed exclusively for the purpose of development, research or experiment, and is not intended for any commercial purposes of client or for the reimbursement of research or development costs.

Meeting of special conditions for the award of contracts

Article 91

In its tender documentation, client may state the competent authority which provides the relevant information concerning the obligations which have to be fulfilled to comply with the provisions on safety at work, employment and working conditions.

In the case referred to in the paragraph (1) of this Article, client shall request the bidders or candidates to explicitly state in their tenders that they have taken account of statutory obligations resulting from regulations on safety at work, employment and working conditions.

Client shall take particular notice of the bidder's or candidate's respect for the regulations on safety at work, employment and working conditions if an unusually low price is based on the failure to respect such regulations.

List of interested contractors

Article 95

The Chamber of Commerce of the Republic of Serbia (hereinafter: *the Chamber*) shall draw up, on the basis of a public call, a list of the interested contractors, taking into account the provisions laid down in Article 45 paragraph (2) items 1 to 3 and 5 of this Act and of the conditions prescribed for the construction works in the Republic.

Upon fulfillment of the conditions laid down in the paragraph (1) of this Article, contractors established in a foreign country shall also be included in the list of interested contractors, provided that the Federal Republic of Yugoslavia has concluded an agreement to this effect with this country.

The contractors established in the Republic of Montenegro shall also be included in the list of interested providers of works provided they fulfill the conditions laid down in the paragraph (1) of this Article.

If the Chamber establishes in any way that the listed contractor no more fulfils the conditions laid down in the paragraphs (1) and (2) of this Article, the Chamber shall invite such contractor in writing, not later than 8 days after having established this fact, to prove again that the required conditions are fulfilled.

If the contractor from the paragraph (4) of this Article does not submit proofs that it still fulfils the conditions laid down in the paragraphs (1) and (2) of this Article, the Chamber shall erase it from the list of interested contractors.

The contractors who are registered in the list of interested contractors may, for each public procurement procedure in which they are participating, submit a certificate on their inclusion in the list, issued by the Chamber.

*Statement of a bidder or a candidate on fulfillment of
obligations towards employees and sub-contractors*

Article 96

Client shall require for each particular contract that the bidder or candidate submit a statement on the regular fulfillment of minimum requirements from the collective agreement or any other binding regulation, and that they regularly and timely fulfill their obligations towards their sub-contractors.

Client may prescribe special conditions related to the fulfillment of obligations of provider of works towards its sub-contractors, in which case bidder shall explicitly confirm its consent to such conditions to make its bid acceptable.

3. Procurement of services

*Determination of the subject of the contract
on public procurement of services*

Article 97

The subject of the contract on public procurement of services shall be the services stated in Annexes I A and I B.

The provisions of the Third Part of this Act shall also be applicable to the public procurement of services receiving a subsidy directly from a budget that exceeds 50%, where the client is not a direct budget beneficiary.

Services not subject to this Act

Article 98

This Act shall not apply to:

- services stated in Article 2 of this Act;
- purchase or rent of lands, completed premises or other real estate or the related rights, where the subject of procurement is a contract on financial services (credit, loan) related to such purchase or rent, which can be concluded in any form whatsoever, upon, before or after signing the purchase or rent contract;
- purchase, development, production or co-production of radio and TV programs, or the broadcasting time;
- services of voice telephony, telex, radio telephony, paging and satellite services;
- arbitration and conciliation procedures;
- financial services related to the issuing, sale, purchase or transfer of securities or other financial instruments;
- services of the National Bank of Yugoslavia;
- employment contracts;
- research and development services (save when the research results are used exclusively by client for its own purposes), provided that such services are entirely paid by client.

*Award of contract on public procurement of
services through a contest*

Article 99

Client shall award contract on public procurement of services through a contest in the field of urban planning, architecture, civil engineering, engineering, design and computer science.

Drawings, a design or a project shall be selected by an independent jury.

Where a particular professional qualification or experience is required by client from participants in a contest, at least one third of the jury shall have at least the same qualifications or experiences.

The jury shall be autonomous in making decisions, while the participation in the contest shall be anonymous.

The decision of the jury shall be made solely on the grounds of criteria stated in Article 55 of this Act.

Additional services

Article 100

Client may award a contract on public procurement of services by negotiated procedure without prior publication:

1. for additional services or works not included in the initially awarded project or in the first public procurement which, due to unpredictable circumstances, became necessary for the execution of contract on public procurement of services, provided that the contract be awarded to the initial provider of services or provider of works:

- when such additional services or works cannot be separated, in technical or economic sense, from the principal public procurement without causing insurmountable obstacles for the client; or
- when such services or construction are indispensable for further phases of execution, although the client could have awarded them separately from the execution of the initial contract, and where the total estimated value of such additional services or construction shall not exceed 25% of the total amount of the principal contract;

2. for new services or construction works which are the repetition of similar services or works and are executed by the initial contractor, given such services or works comply with the initial project which was the subject of the first contract awarded through public call for tender. Client shall state such possibility already in the first publication of the call for tender. Client may award contracts on public procurement of services by negotiated procedure without prior publication laid down in this item only if less than three years have passed since the conclusion of the first contract;

3. where a contract on public procurement of services is awarded following a contest laid down in Article 99 of this Act and must be awarded to a successful candidate, or to one of several successful candidates. If there are more than one successful candidate, client shall invite all successful candidates to participate in the negotiations.

Award of contract on consulting services

Article 101

Client awards contract on public procurement of consulting services (services described in items 9 – 11 of Annex I A and services in items 21 and 22 of Annex I B) by a restricted procedure.

In phase one, client recognizes qualification of a number of candidates, based on their capabilities and professional experience with relation to the services that are the subject of the public procurement contract.

Notwithstanding stipulations in item 2 of this Article, client may, having in mind the nature of the consulting service that is the subject of the public procurement contract, publicly invite potential contractors to express interest.

The public invitation as mentioned in line 2 and 3 of this Article shall include:

1. title and address of the client, its telephone, telefax or telex numbers and e-mail address;
2. purpose of the qualification procedure;
3. address at which information may be received about the participation in the qualification procedure;
4. deadline for the submission of applications;
5. the duration of the qualification procedure, if it can be estimated;
6. the nature of the consulting service that is the subject of the public procurement contract;
7. ways of obtaining pre-qualification documents;
8. expenses for the copying and dispatching of pre-qualification documents to be reimbursed.

In second phase client invites all candidates whose qualification it has recognized i.e. all bidders who have expressed interest to submit a bid.

Article 102

Client may, upon a prior approval of the Agency, invite bidders directly to submit bids for a consulting service, provided:

1. the consulting service that is the subject of the public procurement contract can exclusively be rendered by a limited number of bidders, where the invitation to submit bids is sent to all such bidders;
2. time and expenses required for the assessment of a large number of proposals would not be proportional to the value of the service that is the subject of the public procurement contract, provided the invitation to present bids has been sent to a sufficient number of bidders to ensure effective competitiveness.

Invitation to submit bids for consulting services, in addition to elements in Article 52 paragraph 2 of this Act, shall include particularly the indication and relative importance (ponder) of the criteria that are to be applied in assessing the bids.

Client shall base its criteria in paragraph 2 of this Article on the following:

1. qualifications, experience, reputation, reliability and the professional and managerial capabilities of the bidder and its staff which shall take part in rendering the service;
2. the degree of fulfillment of the bid with respect of the client's requirements;
3. price offered, including possible indirect and linked expenses;
4. effects of the bid on the balance of payments and the foreign currency reserves of the Federal Republic of Yugoslavia;
5. extent of the participation of domestic persons and the incitement of employment
6. effects of the technology transfer and know-how and the development of the managerial and professional skills;
7. other circumstances, depending on the nature of the consulting service.

Client shall earmark a ponder to each element in item 3 of this Article showing its relative importance, so that the sum of ponders equals 100.

Client shall categorize the submitted bids by firstly determining threshold requirements with regard to the quality and technical aspects, by applying the system of ponders from paragraph 3 item 1, 2 and 4 – 7 of this Article, and making a list accordingly.

Client shall then evaluate the prices offered by the bidders above the threshold.

Bid as mentioned in paragraph 5 of this Article may be selected provided:

1. it had the lowest price, or
2. it had the best combination of the criteria from paragraph 2 item 1, 2, 4 and 7 of this Article and the price offered.

Article 103

Client may award a contract on public procurement of services by negotiated procedure with prior publication.

The negotiated procedure from paragraph 1 of this Article may be:

1. simultaneous or
2. consecutive

Client shall simultaneously negotiate with the bidders who in the procedure as described in Articles 101 and 102 of this Act have submitted acceptable bids, and may ask or allow for amendments to bids, provided the chance to participate in the negotiations has been given to all such bidders.

Client shall after having completed the negotiation invite all remaining bidders to submit their best and final offers with respect to all aspects of their bids within a set period.

When assessing the bids, the price shall be considered separately and only after a technical evaluation of the bids have been completed.

A contract for the public procurement of consulting services shall be awarded to a bidder whose bid fulfilled the most the requirements of the client, determined according to the criteria in Article 102 of this Act and the ponderers set for these criteria in the manner described in the public call from Article 101 of this Act.

Article 104

Consecutive negotiation implies determining a threshold for the bids with respect to quality and technical aspects as described in Article 102 of this Act and making a list of bids.

Client shall inform the bidders about their bids failing to qualify in line with paragraph 1 of this Article.

Client shall invite the first bidder on the list to negotiate on the price offered and inform the rest of the bidders above the threshold that they may be invited to negotiate if the contract for the public procurement is not awarded to the first invited bidder.

Procedure from paragraph 3 of this Article shall last until the contract for public procurement is awarded, i.e. until the rest of the bids are rejected.

Contest as a composite part of another service

Article 105

The subject of a contract under this Act shall include independent contests for the design, drawings and/or projects which are organized as part of a procedure leading to the award of a contract on public procurement of services as referred to in:

1. Annex I B;
2. Annex I A, other than services of voice telephony, radiotelephony, paging and satellite services under category 5 of this Annex.

Contest as independent service

Article 106

The subject of a contract under this Act shall include independent contests for the design, drawings and/or projects including the award of prizes and payments to participants, in the cases referred to in:

1. Annex I B;

2. Annex I A, other than services of voice telephony, radiotelephony, paging and satellite services under category 5 of this Annex.

V. PUBLIC PROCUREMENT IN THE WATER, ENERGY, TRANSPORT AND TELECOMMUNICATIONS SECTORS

Subject of procurement

Article 107

Public procurement contracts in the water, energy, transport and telecommunications sectors shall encompass the following activities:

1. supply or operation of fixed networks intended to provide public services connected with the production, transport or distribution of drinking water, electricity, gas or heat,

as well as the supply of drinking water, electricity, gas or heat to such networks;

2. the exploitation of a geographical area for the purpose of exploring for or exploitation of oil, gas, coal or other solid fuels, the construction, operation and maintenance of airports, inland ports or other terminals for carriers in the air or inland waterway transport;

3. the operation of networks providing public services in the field of transport by railway, automated systems, bus or cable. As regards transport services, a network shall be considered to exist if the service is provided under operating conditions (such as maintenance of the roads, availability or frequency of services), where these conditions are prescribed by the competent authority;

4. maintenance or operation of public telecommunications networks or the provision of public telecommunications services, other than public procurements where clients, carrying out such activity, award contracts for supplies the exclusive purpose of which is to enable these clients to provide telecommunications services, given other organizations are free to offer these services in the same geographical area under substantially equal conditions.

Award of contract where a special or exclusive right is granted

Article 108

Where the Republic, territorial autonomy or local self-governance has awarded, through a special act, decree or other regulation, a concession for special or exclusive rights to carry out activities stated in Article 106 of this Act, the concessionaire shall act as a client under this Act in the procurements of goods, services or works.

Special and exclusive rights under this Act shall not include the rights awarded through a concession contract to a person that is not considered as client under this Act.

Special or exclusive rights under paragraph (1) of this Act implies that the owner of these rights may, for the purpose of constructing the networks or facilities referred to in Article 106

of this Act, may benefit from the expropriation procedure, or may place network equipment on the public road, below or above it.

It shall be considered that a person has special or exclusive rights laid down in the paragraph (1) of this Article also in the case referred to in Article 100 item 1 of this Act when supplying drinking water, electricity, gas or heat to a network which is operated by another person.

Definition of exceptions from the subject of public procurement

Article 109

The supply of drinking water, electricity, gas or heat shall not be considered as an activity within the meaning of Article 107 of this Act in the following cases:

1. in the case of supplying drinking water or electricity:

a) if the person who is not a client under this Act extracts drinking water or produces electricity because the consumption of these goods is necessary for doing business other than that referred to in Article 107 of this Act;

b) if the supply to the public network depends only on the own consumption of the person who is not a client under this Act and does not exceed 30% of this person's total production of drinking water or electricity, having regard to the average for the preceding three years, including the current year;

2. in the case of supplying gas or heat:

a) if the production of gas or heat by the person who is not a client under this Act is the unavoidable consequence of doing business other than that referred to in Article 107 of this Act;

b) if the supply to the public network is aimed only at the economic exploitation of such production and does not exceed 20% of the total annual revenue of an organization in the last three years, including the current year.

Additional supplies

Article 110

The subject of the public procurement contracts in the water, energy, transport and telecommunications sectors shall also include contracts:

1. connected with hydraulic engineering projects, irrigation or land drainage, provided that the volume of water intended for the supply of drinking water represents more than 20% of the total volume of water made available by these projects, or irrigation or drainage installations;

2. connected with waste water treatment or purification.

Contracts not subject to this Act

Article 111

This Act shall not apply to public procurement in the water, energy, telecommunications and transport sectors in the following cases:

1. the client responsible for the supply or operation of public telecommunication networks or the provision of public telecommunication services, awards contract for the purchase of goods intended exclusively to enable it to provide one or more telecommunication services, given other persons are free to offer those services in the same geographical area under substantially equal conditions;
2. the client awards contract for the purchase of water;
3. the client awards contract for the supply of electricity or fuel to produce electricity;
4. when client transports oil or gas via a system with a single bidder
5. in the case of design contests, the client awards contract or organizes contests for a purpose other than those provided for in Article 107 of this Article;
6. the client awards contract to a mixed company established by several clients for the purpose of doing business in the fields of:
 - a) supply or operation of permanent networks intended for the provision of public services related to the production, transfer or distribution of drinking water, electricity, gas and heat or the supply of drinking water, electricity, gas or heat to such networks;
 - b) the exploitation of a geographical area for the supply of airports, inland ports or other terminals for carriers in the air or inland waterway transport;
 - c) the operation of networks providing public services in the field of transport by railway, automated systems, bus or cable. It shall be considered that a transport network exists if the service is provided under operating conditions (such as maintenance of the roads, availability or frequency of services), where these conditions are prescribed by the competent authority;
 - d) supply or operation of the public telecommunication networks, or the provision of telecommunication services;
7. the client awards contract to an affiliated undertaking, provided that, in the last three years, the affiliated undertaking has achieved at least 80% of the average gross revenue from services in the Republic by providing services for the undertakings to which it is affiliated.
8. the client awards contract for the services of public bus transportation provided other persons can provide the same services in the same geographical area under equal conditions.

The stipulations of this Act do not apply to public procurement contracts awarded to other undertakings for the purpose of onward sale or rent, provided that client has no exclusive or special rights over the onward sale or rent of the subject of public procurement and that other undertakings may freely sell or rent under equal conditions.

Client shall inform the Agency about the procurement from paragraph 2 of this Article.

Award of a contract without prior publication

Article 112

Client may award a public procurement contract without prior publication in the following cases:

1. in the absence of tenders or appropriate tenders in response to a procedure with a prior call for bids provided that the original contract conditions have not been substantially changed;
2. where the contract is concluded exclusively for the purpose of research, experiment, study or development and not for the purpose of ensuring profit or of reimbursement of research and development costs, and insofar as the award of such contract does not determine or restrict the award of subsequent contracts where competition needs to be ensured among bidders;
3. where, for objective reasons, or for reasons connected with the protection of exclusive rights, the contract may be fulfilled only by a particular supplier or service provider;
4. for reasons that the client could not have foreseen and cannot be ascribed to its conduct, preventing it to respect the deadlines for the execution of public invitation;
5. where the contract is awarded for additional deliveries by the original supplier which are intended either as a partial replacement of products, material or installations or as the extension of the existing products, material or installations, where a change of supplier or provider of service would oblige the client to purchase the materials with different technical characteristics which would result in incompatibility or disproportionate technical difficulties in the operation and maintenance;
6. for supplies quoted and purchased on a commodity market;
7. for additional works or services not included in the project initially awarded, or in the contract initially concluded but which have, through unforeseen circumstances, become necessary for the execution of the contract, provided that the award is made to the contractor who is carrying out the original contract:
 - when such additional works or services cannot be technically or economically separated from the main contract without great inconvenience to the client;
 - when works or services, although separable from the execution of the original contract, are strictly necessary to its later stages, whereby the total estimated value must not exceed 25% of the value of the main contract;
8. for new works or services which are repeated similar services or works entrusted to the same contractor to which the client awarded an earlier contract provided that such works or services conform to a basic project for which a first contract was awarded following a public invitation to tender. As soon as the first tender is announced the client must give notice of this possibility. The client may award a contract pursuant to this point only during the three years following the conclusion of the first contract;

9. for bargain purchases where it is possible to procure supplies taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than the normal market prices;

10. for purchases of goods under particularly advantageous conditions from either a supplier definitively winding up his business activities, or from the bankruptcy procurator provided the other creditors agree, in accordance with the regulations governing compulsory settlement, liquidation and bankruptcy;

11. when a contract on public procurement of service is part of the follow-up of a design contest organized in conformity with this Act and which shall be awarded to one or more of the winners of this contest. In this case, the client shall invite all parties to take part in negotiations;

12. for services and goods of an enterprise engaged in vocational training, professional rehabilitation and employment of disabled persons, provided procurements are directly linked with the activities of vocational training, professional rehabilitation and employment of disabled persons, the enterprise fulfils the conditions laid down in Article 45 of this Act and an affirmative opinion of the Public Procurement Agency is obtained. Client shall verify the price and the quality of the subject of procurement by collecting several bids or by analyzing costs, or through the comparison of quality and the like. Client shall carry out verification by the procurement type and subject, which shall be stated in its documentation.

Prohibition to restrict participation

Article 113

The right to participate in a design contest must not be limited by reference to the territory or part of the territory of the Republic, or by the requirement that participants in the contest be either legal or natural persons.

Where design contests are restricted to a limited number of participants, client shall lay down clear and non-discriminatory selection criteria.

The number of candidates invited to participate shall be sufficient to ensure genuine competition (i. e., no less than 5 and no more than 20).

The jury evaluating the proposals submitted shall be composed exclusively of natural persons who are not associated with the participants in the contest.

Where a particular professional qualification is required from participants in a contest, at least half of the jury members shall have at least equal or equivalent professional qualification.

The jury shall be autonomous in its decisions and opinions.

The decisions of the jury shall be reached on the basis of projects submitted anonymously, and solely on the grounds of the criteria indicated in the contest notice and in the tender documentation, in accordance with Article 55 of this Act.

Prior indicative notice

Article 114

In accordance with Article 67 paragraph (2) of this Act, client shall, in the case of contracts in the water, energy, telecommunications and transport sectors, make known through a prior notice at least once a year:

1. in the case of contracts on public procurement of works – the essential characteristics of the contracts which the client intends to award, if their estimated value is not less than:

- a) 300,000,000.00 Dinars where client is doing business in the field of telecommunications;
- b) 25,000,000.00 Dinars in the case of services that are not listed in Annex I A, with the exception of the services falling within category 8 and the telecommunication services falling within category 5 of this Annex, where client is doing business in the field of production, transport or distribution of drinking water or electricity, the supply of airports, urban bus, trolley bus or tramway transportation services or the supply of inland ports or other terminals;
- c) 300,000,000.00 Dinars where client is carrying out the activities of transporting and distributing gas or heat, or of the extraction and refining of petroleum or gas, as well as railway services;

2. in the case of contracts on public procurement of services – the estimated total value of the contracts in each category of services listed in Annex I A which the client intends to award over the following 12 months, where such estimated total value is not less than 50,000,000.00 Dinars.

Updating of terms and conditions

Article 115

When client makes a decision to carry out a selection by qualification procedure, or when it updates terms and conditions, it shall set such terms as to avoid discrimination of specific suppliers or contractors.

Production of attestations

Article 116

Client may ask candidates to produce attestations issued by independent bodies for attesting conformity of the supplier or contractor to certain quality assurance standards.

The attestations from the paragraph (1) of this Article shall refer to quality assurance systems based on the relevant EN 29 000 European standards series certified by bodies conforming to the EN 45 000 European standards series.

Client shall recognize equivalent attestations issued by bodies or organizations established in other countries where so laid down in an international treaty concluded by the Federal Republic of Yugoslavia.

Client shall also accept other evidence of equivalent quality assurance measures from the providers of services which have no access to attestations from the paragraph (3) of this Article or no possibility of obtaining them within the relevant time limits.

Group tender

Article 117

Suppliers or contractors shall be permitted to submit a group tender or negotiate as a group in accordance with Article 51 of this Act.

If the client indicates in the contract notice that only a natural person or only a legal person may be a bidder or a candidate, it cannot reject bidders or candidates who are carrying out their activity in accordance with the regulations of the country in which they have their domicile or seat and who are permitted, pursuant to the regulations of their country, to carry out the activity which is the subject of the public contract.

Application of other terms and conditions

Article 118

Without prejudice to the provisions laid down in Articles 54 and 55 of this Act, client may apply other criteria for the evaluation of tenders, provided such criteria are laid down in other valid regulations and give a certain advantage to bidders or candidates, and provided such method of awarding contracts is in conformity with international agreements concluded by the Federal Republic of Yugoslavia.

Application of other criteria shall be published in the contract notice and in the tender documentation.

Where the strategic interest of the award of a contract on public procurement of goods or works is to eliminate regional disparities or to create jobs in less developed areas, the method of awarding contracts laid down in the paragraph (1) of this Article to certain bidders must be in conformity with international agreements concluded by the Federal Republic of Yugoslavia.

The Government is entitled to set up strategic interests in defining other criteria and conditions.

Reciprocity

Article 119

Where bidders offer products originating in a country with which the Federal Republic of Yugoslavia has not concluded an agreement providing Yugoslav bidders with equal access to the market of the other country, such tender may be rejected where the proportion of the products originating in that other country exceeds 50% of the total value of the products in the tender.

The origin of goods shall be established in accordance with valid regulations.

For the purpose of the paragraphs (1) and (2) of this Article, software used in telecommunication networks shall be considered as product.

Client shall check closely the list of countries representing the origin of those goods which it may reject pursuant to paragraph (1) of this Article.

*Restriction of contracts on
public procurement of services*

Article 120

The Government may, upon obtaining the opinion of the Federal Ministry of Foreign Economic Relations, temporarily suspend or restrict the award of contracts on public procurement of services to:

1. bidders established in a country with which the Federal Republic of Yugoslavia has not concluded an agreement on equal treatment of national and foreign bidders;
2. bidders affiliated to the bidders specified in the item 1 of this paragraph having their registered seat in a country with which the Federal Republic of Yugoslavia has concluded an agreement on equal treatment of national and foreign bidders, but where such bidders have no direct and effective links with the economy of the Republic;
3. bidders submitting tenders which have as their subject services originating in a country with which the Federal Republic of Yugoslavia has not concluded an agreement on equal treatment of national and foreign bidders.

Preference in the award of contracts

Article 121

Where two or more tenders are equivalent in the light of the award criteria defined in Articles 54, 55 and 56 of this Act, client shall give preference to:

- 1) the tenders which may not be rejected pursuant to Article 120 of this Act;
- 2) the tenders which would not imply the supply of materials different to the existing materials with respect of technical characteristics.

The prices of the tenders from the paragraph (1) of this Article shall be considered equivalent if the price difference does not exceed 3%.

Archiving of documentation

Article 122

In the award of contracts in the water, energy, telecommunications and transport sectors, clients shall provide and store documentation relating to:

1. the qualification and selection of bidders and the award of the contract;
2. the use of a procedure without prior publication of a contract notice as set out in Article 112 of this Act;
3. the award of a contract on public procurement of services, the use of technical specifications and standards and the selection of the award procedure, where the provisions of this Act have not been applied.

Client shall store the documentation from the paragraph (1) of this Article for at least four years from the date on which the contract was concluded. Information must be communicated upon a request from the competent bodies.

Client doing business in the field of production, transport and distribution of drinking water or electricity, bus transport and other urban and railway transport, airport, inland port and other terminals shall notify information to bidders on their request.

Notification from the paragraph (3) of this Article may be oral, and shall be in writing only on special request.

Clients referred to in the paragraph (3) of this Article shall, promptly after the date on which a written request is received, inform any eliminated candidate of the reasons for the rejection of its tender and of the advantages of the tender selected as well as of the name of the successful bidder.

VI. AWARD OF LOW-VALUE CONTRACTS

Definition of low value contracts and their award

Article 123

The procedure for the award of low-value contracts under this Act shall be a procedure in respect of contracts the estimated value of which is less than the value defined in the Annual Budget of the Republic.

Every year, in preparing the Budget Proposal, the Government shall determine the threshold below which in the budget year client may award low value public procurement contracts.

Client shall in the procedure of awarding low value contracts collect at least three bids and inform bidders on the elements to be included in the value of the public procurement (e.g. transport and insurance costs, customs duties, sales tax, excises etc.).

Bidders may submit only one bid and cannot change it whatsoever.

Client and bidder may not negotiate the elements of the bid.

Bidder that tendered the lowest price competing under same conditions with other bidders shall be awarded low value contract on public procurement.

Preparation of internal regulation

Article 124

For the award of low value contracts client shall lay down an award procedure in an internal regulation, taking into account the provisions of this Act.

In its internal regulation, client shall define in particular:

1. the method of execution of the contract with regard to the estimated value, technical and technological requirements and the financial consequences of the contract;
2. the method of drawing up the tender documentation;
3. the persons responsible for collecting tenders by telephone, fax, etc., and in particular the method of verifying the tendered price;
4. the method of documenting the tenders and storing the documents;
5. the method of executing the concluded contract and supervision over the execution of low value contract, in particular within the guarantee period,
6. the method of using order forms and other previously prepared model documents in these procedures, where client has to prescribe a threshold allowing the previously prepared model document to be used for each contract awarded.

Client shall specify the manner of proving the fulfillment of minimal conditions for bidders in accordance with the provisions of this Act.

Records on concluded low value contracts

Article 125

Client shall keep separate records of contracts concluded in low-value procedures for the award of the public procurement contracts for supply goods, works or services.

VII. STATISTICS ON PUBLIC PROCUREMENT

1. Keeping statistics

Type of data on public procurement

Article 126

Client shall collect and keep certain information relating to awarded contracts in accordance with this Act, and in so doing it shall keep separate information for the award of contracts for goods, for services and for works, as well as for the award of contracts in the water, energy, telecommunications and transport sectors.

Client need not keep statistics for the award of contracts on public procurement as described in Annex I B and telecommunication services from item 5 of the Annex I A, provided the value of these procurements does not exceed 12,500,000.00 Dinars.

Minister of Finance and Economy shall draw up forms to keep statistics on public procurement.

Types of data

Article 127

The report on public procurement contracts awarded shall contain the following information, if the client is a direct budget beneficiary:

1. the estimated total value of concluded contracts;
2. the number and value of concluded contracts and the type of procedure under which the contract was awarded, the type of goods, works or services, the name of the other contracting party and the address of the seat of the other contracting party. Where a contract was awarded by negotiated procedure it shall be necessary to state the basis referred to in Article 23 of this Act and the number and value of contracts concluded with contracting parties established in the Republic, in the Republic of Montenegro and in other countries;

If client is not a direct budget beneficiary, it shall provide only information indicated under paragraph (1) item 2 of this Article.

Client shall report separately the information on low-value contracts.

Minister of Finance and Economy shall prescribe in detail the content of the report from paragraph 1 of this Article.

Client shall submit a report to the Agency not later than by April 30 for the current year about the contracts on public procurement concluded during the preceding year.

The Agency shall prepare a summarized report and submit it to the Government not later than by July 31 of the current year.

VIII. PROTECTION OF BIDDERS' RIGHTS

Subject of the provision of legal protection

Article 128

The protection of the bidders' rights shall be provided by the Agency's Commission for the protection of bidders' rights (hereinafter referred to as the Commission) throughout the public procurement procedure.

Composition and appointment of Commission

Article 129

The Commission has a chairman and four members.

The Government at the proposal of the Minister of Finance and Economy shall appoint the Chairman and the members of the Commission.

The Chairman of the Commission shall be a Bachelor of Laws with the judiciary exam passed.

Not less than two members of the Commission shall be Bachelors of Laws whereas the remaining members may be Bachelors of Economy or Engineering.

The term of office of the Chairman and the members of the Commission is four years with the possibility of being re-elected.

Method of operation of Commission

Article 130

The method of operation of the Commission shall be regulated by a separate document adopted by the Commission.

The Commission shall report to the Government and the People's Assembly once a year.

Protection of confidentiality

Article 131

Members of the Commission shall safeguard as confidential all information which refer to the state, military, official or business secret and treat documents in accordance with the degree of confidentiality.

Motion to protect rights submitted to the Commission

Article 132

Any person that took part in the procedure for the award of public procurement contract as bidder may submit a motion for the protection of its rights, should it consider its rights had been violated during the procedure for the award of public procurement contract (hereinafter referred to as the motion-submitting party).

The motion to protect rights in the procedure of the award of public procurement contract shall not challenge the criteria for the assessment of bids and limiting factors for the participation unless they are contrary to this Act.

Consequences of instigating procedure of the protection of rights

Article 133

A submitted motion to protect rights in the procedure of the award of public procurement contract shall postpone further activities of client in the procedure of the award of public procurement contract.

Upon a motion of client or the motion-submitting party, the Commission shall propose to the Agency and the Agency may decide that the submitted motion to protect rights shall not postpone further activities of client in the procedure of the award of public procurement contract.

Deadline for submitting motion to protect rights

Article 134

Motion to protect rights may be submitted at any stage of the procedure of the award of public procurement contract, unless this Act prescribes different.

Motion to protect rights cannot be submitted when bidder had prior knowledge of the reasons for the submission of the motion to protect rights or the bidder could have had the knowledge of such reasons before client made its decision to award the contract whereas it did not submit its motion to protect rights before the client announced its decision.

After the award of public procurement contract, deadline to submit motions to protect rights shall be 8 days after receiving information on the award of public procurement contract.

Submission of motion to protect rights

Article 135

Motion to protect rights shall be submitted to client in two copies and the motion-submitting party shall simultaneously inform the Agency on its submission.

Motion to protect rights shall be submitted to client by registered mail, fax or e-mail.

Motion to protect rights shall be grounded.

The motion-submitting party shall pay tax of 40,000.00 Dinars to a relevant account when submitting the motion.

In the case of a low value contract, the tax is 20,000.00 Dinars.

The motion-submitting party shall include in its motion to protect rights the following information:

1. title and address of the motion-submitting party;
2. title and address of client;
3. public procurement contract which is the subject of the motion to protect rights and the information on the award of the contract on public procurement, if it was sent to the bidder;
4. which stipulations of this Act have been violated with regard to the public procurement procedure

5. facts supporting the alleged violation of this Act with regard to the public procurement procedure
6. proof of the payment of tax from paragraph 4 or 5 of this Article.

Should the client assess that the submitted motion to protect rights does not include all information as listed in paragraph 6 of this Article, or the statements does not clearly indicate the violation of the stipulations of this Act with regard to the public procurement procedure, it shall invite the motion-submitting party to append its motion within three days from the date of receiving invitation to do so.

Should the motion-submitting party fail to append its motion within the period set in paragraph 7 of this Article, client shall dismiss the motion.

Prior verification of the motion to protect rights

Article 136

Client shall, upon the receipt of the motion to protect rights, verify the timeliness of the submission of the motion and if the motion-submitting party is a person under Article 132 of this Act.

Client shall dismiss any untimely submission of the motion to protect rights and those submitted by persons under Article 132 of this Act and inform the Commission accordingly.

Client shall consider reasons pointed out in the motion to protect rights if the motion was timely submitted and by the interested person.

Authority of expert

Article 137

Client shall request the Agency to appoint an expert to take part in the procedure dealing with the motion to protect rights.

The Agency shall appoint an expert within three days from the date of the receipt of the request. The expert shall be from a list of experts prepared jointly with the Chamber.

The expert shall be selected with regard to his knowledge of regulations on public procurement as well as rules and regulations governing the sector of the public procurement which is the subject of the motion to protect rights.

The expert shall inspect relevant documentation within 8 days from the date of the appointment as expert and prepare a justified opinion on the alleged violation of the provisions of this Act with respect to public procurement procedure.

Should the expert fail to submit his opinion within the period set in paragraph 4 of this Article, client shall decide on the motion to protect rights without the expert opinion and inform the Agency about the inactivity of the expert.

If the client failed to take into consideration the expert opinion when deciding upon the motion to protect right, it shall state so and explain the reasons for such action.

The Minister of Finance and Economy shall prescribe in detail conditions to appoint expert as mentioned in paragraph 1 of this Article.

Client's decision upon motion to protect rights

Article 138

After having verified the motion as mentioned in Article 136 of this Act, Client shall decide upon the motion to protect rights as follows:

1. client shall fully or partially invalidate the procedure of public procurement, or
2. dismiss the motion to protect rights.

Client shall make a decision from paragraph 1 of this Article within 20 days from the date of receipt of the motion to protect rights.

Should the client fail to make a decision within the period specified in paragraph 2 of this Article, the motion shall be regarded as dismissed.

Continued procedure against client's decision upon motion to protect rights

Article 139

Client shall inform in writing the motion-submitting party about its decision to dismiss the motion within 3 days from the date of the decision.

In addition to the information as described in paragraph 1 of this Article client shall also invite the motion-submitting party to give a written statement within 3 days from the date of the receipt of the information whether it shall continue procedure before the Commission.

Should the motion-submitting party state in writing that it shall continue the procedure before the Commission, client shall within 3 days submit to the Commission the motion to protect rights with accompanying documentation and its decision.

Should the motion-submitting party fail to act as provisioned by paragraph 2 of this Article client shall bring a decision to terminate the procedure.

An appeal may be submitted to the Commission against the decision from paragraph 4 of this Article within 3 days from the date of submission of the decision to the motion-submitting party.

Procedure before Commission for protection of bidder's rights

Article 140

Procedure before the Commission shall continue upon request and against documentation as described in Article 139 paragraph 3 of this Act.

Commission shall rule within the scope of the request submitted.

Should the basic principles of public procurement be violated, the Commission shall investigate proofs considered to help solve the case and bring a legal and rightful decision.

Deadlines

Article 141

Commission shall rule within 15 days from the date of the receipt of request.

Deadline from paragraph 1 of this Article shall be in extremely justified cases extended for 5 days, and the Commission shall inform the motion-submitting party accordingly.

Ruling from paragraph 1 of this Article shall be submitted to the motion-submitting party and the client.

Appendix to motion

Article 142

Should the Commission find that the motion does not contain all information as prescribed by Article 135 of this Act or that the motion does not indicate the nature of the violation of the stipulations of this Act, it shall invite the motion-submitting party to append its motion within 8 days from the date of the invitation.

Should the motion-submitting party fail to act in line with paragraph 1 of this Article, the Commission shall dismiss the motion.

Commission may before ruling request from relevant bodies and organizations information necessary for bringing the decision.

Request for obtaining information must be grounded.

Cost of the procedure before the Commission

Article 143

Each party in the procedure before the Commission shall bear expenses created by their own actions.

Each party shall submit a separate request to the Commission stating expenses to be reimbursed and the party to the detriment of which the Commission shall rule shall reimburse these expenses to the other party in line with the request.

Ruling of the Commission on the expenses of the procedure is final.

Ruling of the Commission

Article 144

Commission shall rule upon the motion to protect rights as follows:

1. it dismisses in whole or partially the procedure of public procurement; or
2. rejects the motion as ungrounded.

Commission shall explain its ruling.

Client shall act in line with the ruling of the Commission.

The ruling of the Commission shall not be the subject of any appeal or administrative proceeding.

The motion-submitting party may sue the client before the relevant court of justice for compensation of damage.

IX. VOIDNESS OF CONTRACTS

Voidness

Article 145

The following public procurements contracts shall be deemed as null and void:

1. which are concluded contrary to awarding procedures and conduct prescribed by this Act;
2. which client broke up into several minor parts contrary to this Act;
3. which are concluded in order to settle claims and liabilities without carrying out the contract award procedure;
4. where client has awarded a contract under other terms than those prescribed by this Act, or concluded a contract with a bidder which was not selected as the most favorable;
5. where client has awarded the execution of contract, or appointed a third person to this effect, or a person that is not a client under this Act in order to avoid the application of this Act;
6. where the initial contract has been amended contrary to Articles 87, 92 and 100 of this Act;
7. which are concluded contrary to the decision of the Commission; and
8. which are concluded without previously performing a contract award procedure which the client should have performed under the provisions of this Act.

X. PENAL PROVISIONS

Infringements

Article 146

A fine between 100,000.00 and 200,000.00 Dinars shall be imposed on a client for committing the infringement of:

1. awarding a contract without implementing the procedure prescribed by this Act (Article 20);
2. commencing an award procedure before the relevant conditions have been fulfilled (Articles 24 and 45);
3. adapting the subject of the contract, the tender conditions, the technical specifications or other elements of the call for competition to a specific bidder or awarding the contract to a bidder who participated in the drawing up of some or all of the contract documents (Articles 6 and 36);
4. awarding a contract contrary to the principle of equality (Article 8);
5. failing to protect the information stated in a tender documentation in accordance with the relevant degree of confidentiality (Articles 9-12 and 82);
6. failing to keep and store documentation relating to a public procurement contract (Article 12);
7. failing to provide information to the Public Procurement Agency on rejected tenders due to attempts to offer bribe (Article 15);
8. failing to provide the tender documentation to all those who requested it in accordance with the contract notice (Articles 28 and 29);
9. failing to respect the time limits for publication of the notice and receipt of bids (Articles 59 to 68);
10. failing to publish the contract notices laid down in Article 70 of this Act in “The Official Gazette of the Republic of Serbia” or sending them for publication in other media prior to sending them for publication in “The Official Gazette of the Republic of Serbia” (Article 69);
11. failing to respect the valid technical norms, standards and other technical regulations in drawing up the tender documentation (Articles 35 to 44);
12. setting up conditions for participation and criteria not in conformity with this Act or changing the conditions and criteria after the publication of the contract notice without informing bidders of this (Articles 29, 45 to 58);
13. failing to provide information on the performed public procurement procedures to the Public Procurement Agency (Article 126);

14. failing to act in accordance with this Act with respect of motions to protect rights in the public procurement procedures (Article 140);

15. failing to act in accordance with the ruling of the Commission (Article 144).

A fine between 7,000.00 and 10,000.00 Dinars shall be imposed on the responsible physical person of a client for infringements stated in the paragraph (1) of this Article.

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 148

On the day this Act on public procurement of the Government, ministries, special organizations, public services another organizations founded by the Republic comes into force, all the regulations on public procurement that are contrary to this Act shall not be applicable.

Where public notices were published before the effective date of this Act, the stipulations of this Act shall be applicable as of January 1, 2003.

Procurement of persons considered as clients under this Act for which public calls have been announced before the effective date of this Act shall be carried out in accordance with the rules applicable to date.

Article 149

Until the act governing the Budget of the Republic of the year 2003 takes effect, a low value public procurement contract in accordance with this Act shall be deemed to be that of the estimated value less than 350,000.00 Dinars.

Article 150

Public Procurement Agency shall commence its activities not later than one year after the enforcement of this Act.

Until the Agency as stipulated in paragraph 1 of this Article commenced activities, the Republican Administration for Common Affairs shall act on its behalf and report to the Government once a month.

Article 151

Until the rules as described in Article 137 paragraph 7 of this Act are adopted, the Government approves the separate act on appointing experts.

Article 152

This Act shall enter into force on the eighth day following the day of its publication in “The Official Gazette of the Republic of Serbia”.

Annex I A:

Services

| Category Number | Subject |
|-----------------|---|
| 1. | maintenance and repair services |
| 2. | land transport services (except the railway transport services) including armored cars and courier services, other than postal transport |
| 3. | air transport services for passengers and cargo, other than postal transport |
| 4. | transport of post by land and air (except the railway transport services) |
| 5. | telecommunication services (except the services of voice telephony, radio telephony, paging and satellite services) |
| 6. | financial services: <ul style="list-style-type: none"> – insurance services – banking and investment services (except the procurement of financial services related to the issuing, sale, purchase or transfer of securities or other financial instruments and services of the National Bank of Yugoslavia) |
| 7. | computer and related equipment |
| 8. | research and development services (except the procurement of R&D services, when the research results are not used exclusively by client for its own purposes and provided that such services are entirely paid by client) |
| 9. | accounting , auditing and bookkeeping services |
| 10. | services in the field of market research and public opinion |
| 11. | management consulting (except arbitration, conciliation and related services) |
| 12. | architectural services; engineering; urban planning and landscape architecture services; services of technical testing and analysis |
| 13. | advertising services |
| 14. | building cleaning services and real estate management services |
| 15. | publishing and printing services on part-time or contractual basis |
| 16. | sewage and waste removal services, sanitary and similar services |

Annex I B:

Services

| Category Number | Subject |
|-----------------|--|
| 17. | hotel and restaurant services |
| 18. | rail transport services |
| 19. | inland transportation services by water |
| 20. | support and auxiliary transport services |

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|-----|---|
| 21. | legal services |
| 22. | recruitment services |
| 23. | investigative and security services, other than armored car protection services |
| 24. | educational services and vocational training services |
| 25. | health and social services |
| 26. | services in the field of recreation, culture and sport |
| 27. | other services |

Annex II:

Construction works

| Class | Group | Sub-group and item | Description |
|-------|-------|--------------------|--|
| 50 | | | BUILDINGS AND CIVIL ENGINEERING |
| | 500 | | <i>General works in the field of buildings and civil engineering (without special specifications) and demolition</i> |
| | | 500.1 | General works in the field of buildings and civil engineering (without special specifications) |
| | | 500.2 | Demolition |
| | 501 | | Construction of buildings and parts of buildings |
| | | 501.1 | General construction works |
| | | 501.2 | Roofing works |
| | | 501.3 | Building of chimneys, ovens and fire-places |
| | | 501.4 | Protection against water and damp |
| | | 501.5 | Renovation and maintenance of external walls (refilling contacts between bricks and mortar, cleaning, etc.) |
| | | 501.6 | Erecting and dismantling scaffolding |
| | | 501.7 | Other specialized activities connected with construction works including carpentry |
| | 502 | | <i>Civil engineering: building roads, bridges, railways, etc.</i> |
| | | 502.1 | General works in the field of civil engineering |
| | | 502.2 | Earthworks |
| | | 502.3 | Building of bridges, tunnels and shafts; drilling |
| | | 502.4 | Waterways (rivers, canals, harbors, inflows, dams, etc.) |
| | | 502.5 | Construction of roads, railways, airports and sports facilities |
| | | 502.6 | Specialized construction works connected with water (irrigation, drainage, water supply, removal of waste water, sewage systems, etc.) |
| | | 502.7 | Other construction works, including specialized activities in other fields of civil engineering |
| | 503 | | Installations |
| | | 503.1 | General works |

| | | | |
|--|-----|-------|--|
| | | 503.2 | Gas and water supply installations and installation of sanitary equipment |
| | | 503.3 | Installation of heating and ventilation appliances (central heating, air conditioning appliances, ventilation) |
| | | 503.4 | Insulation works |
| | | 503.5 | Electrical installations |
| | | 503.6 | Installations of antennas, lightning protection, telephones, etc. |
| | 504 | | Finishing works |
| | | 504.1 | General finishing works |
| | | 504.2 | Façade and Stucco work |
| | | 504.3 | Interior woodwork (including laying parquet) |
| | | 504.4 | Painting, glazing and applying wall coverings |
| | | 504.5 | Laying tiles and other floor and wall coverings |
| | | 504.6 | Other finishing and supplementary works (installation of fireplaces, etc.) |