

PUBLIC PROCUREMENT LAW

Provision of Law no: 4761 which is not Applicable to Law no: **4734**
on Public Procurement

Provision of Law no: 4964 which is not Applicable to the Law no:
4734, on Public Procurement

Provision of Law no: 5398 which is not Applicable to the Law no:
4734, on Public Procurement

Interim

PUBLIC PROCUREMENT LAW

CHAPTER I

General Provisions

SECTION I

Application Principles

Purpose

Article 1- The purpose of this Law is to establish the principles and procedures to be applied in any procurement held by public authorities and institutions governed by public law or under public control or using public funds.

Scope¹

Article 2- The provisions of this Law shall apply to procurement of goods, services or works the costs of which are paid from any resources at the disposal of the contracting authorities stated below:

a) public administrations included in the general budget, administrations with special budget, special provincial administrations and municipalities and their related revolving funds organizations, associations (except those operating as professional organizations and their supreme institutions), legal persons,

b) state economic enterprises, consisting of public corporations and state economic establishments,

c) social security establishments, funds, legal persons that are established in accordance with special laws and that are assigned with public duties (except for professional organizations and foundation institutions of higher education) and institutions with independent budgets,

d) any institutions, organizations, associations, enterprises and corporations which more than half of their capitals, directly or indirectly, together or separately are owned by those stated in items (a), (b) and (c),

¹ The contracting authorities and entities covered by the Law 4734 are listed in the second article. It should be noted that contracting authorities specified in the paragraphs (a) and (c) of article 2 of this Law correspond to the definitions for the contracting authority and the body governed by public law in the 2004/18/EC. However, while some of the authorities specified in the paragraphs (b), (d) and (e) of the same article correspond to the contracting entities operating in the energy, water, transportation and postal services defined in the 2004/17/EC, the others do not operate in those sectors and also do not correspond to the definitions for contracting authorities and bodies governed by public law specified in the 2004/18/EC.

e) procurement of works by the banks within Law No: 4603 and by the corporations which more than half of their capitals, directly or indirectly, together or separately are owned by those banks.

However, Saving Deposit Insurance Fund and banks whose shares are partially or fully owned by this Fund, banks covered by the Law No: 4603 and corporations which more than half of their capitals, directly or indirectly, together or separately are owned by those banks (excluding the procurement of works mentioned in paragraph (e)), real estate investment trusts, which are subject to Capital Market Law, of the banks covered by the Law 4603 and enterprises, establishments and corporations who carry out activities in the energy, water, transportation and telecommunication sectors are out of the scope of this Law.

Exceptions

Article 3-

a) procurement of agriculture or livestock products, by authorities included within the scope of this Law, directly from the producer or its partners in order to process, utilize, improve or sell pursuant to the establishment purpose or regulations of such authorities and services procurements to be made from development cooperatives of forest villages and from villagers pursuant to Law No: 6831, Forest Law,

b) goods, services and works procurement which are decided by the relevant ministry that these are related to the defence, security or intelligence or that these require to be treated confidentially, or procurements requiring special security measures during the performance of the contract pursuant to related legislation or those concerning the cases in which the basic interests of the state's security needs to be protected,

c) procurements of goods, services or works, which are to be realized with foreign financing pursuant to international agreements, and in the financing agreement of which it is stated that different tender procedures and principles will be applied; all kinds of consultancy and loan graduating services with regard to borrowings from international capital markets; procurement of goods and services to be made by Republic of Turkish Central Bank relating to production and printing of banknotes and valuable documents; any kind of procurement for consultancy services in privatization implementations pursuant to Law no: 4046, dated 24.11.1994; procurements of goods and services related to commercial activities by enterprises, undertakings and companies operate in the field of air transport,

d) procurements of goods, services or works of branches of contracting authorities in foreign countries; goods or services procurements which necessarily to be made in place for means of transport during their presence in foreign countries,

e) for the institutions covered by this Law; purchases of goods and services from punishment execution institutions and the institutions of jails workhouses affiliated to Ministry of Justice, from rest homes and orphanages attached to the Social Services and Child Care Institution, from schools and centres involving production attached to Ministry of Education, from institutes and breeding stations attached to the Ministry of Agriculture and Village Affairs and from Printing House of Prime Ministry on the condition that these goods and services are produced by themselves, purchases of goods and services which are in the principal status of State Supply Office from the General Directorate of State Supply Office, purchases of freight, passenger and port services from the Republic of Turkey General Directorate of State Railways, purchases of fuel and transportation from the General Directorate of Liquidation Works Revolving Fund Administrations as well as the purchases of goods, services, and consultancy services from the Scientific and Technological Research Council of Turkey within the scope of research and development activities, purchases of meat and meat products from the General Directorate of Meat and Fish Products Agency and purchases of

monoblock wheels and wheel sets used in vehicles that tow or are towed on rail from the General Directorate of the Machinery and Chemical Industry Agency,

f) purchases of goods and services necessary for research and development projects executed and supported by national research and development institutions and purchases of all kinds of research and development services excluding those where the authorities covered by this law meet the whole financing and exploit the outputs only in executing their own activities,

g) goods or services procurements of the institutions listed in sub-paragraphs (b) and (d) of first paragraph of second article for their commercial and industrial activities, to be made in order to cover the needs relating directly to production of goods and services or to their principal activities, the estimated costs and contract prices of which do not exceed two trillion three hundred billion Turkish Liras (five million eight hundred forty-nine thousand four hundred twenty-six Turkish Liras)* excepting those financed by treasury guarantee or by means of transferring directly from the transfer order of budget,

h) services procurements by contracting authorities that are under the scope of this Law with a view to providing diagnosis and cure for the persons entitled pursuant to their special legislation and purchasing of drugs and medical supplies with prescription during outpatient treatment by persons whose treatments are undertaken by their authorities, goods and services procurements to be made by contracting authorities providing health services covered by this Law from each other intended to diagnosis and treatment,

i) survey, restoration, restitution and conservation projects of movable and immovable cultural heritage falling under the scope of the Protection of Cultural and Natural Heritage Law, No: 2863, dated 21.07.1983, road rehabilitation and environmental planning projects and their implementations; and also goods and services procurements related to assessment, protection, transportation and excavation works of those projects,

j) drafting emergency response plans and procurement of services, tools, appliances and materials which are urgently needed in order to to decontaminate the sea environment and to execute those plans within the scope of Law on Interference in Emergency of Sea Pollution by Reason of Petroleum and Detrimentials and on Compensation of Damages,

k) goods and services procurements with regard to repair and restoration and landscaping of cultural properties of foundations,

l) goods and services procurements necessary for implementing protection measures to be taken in line with the legislative provisions on witness protection,

m) spot purchases of liquidated natural gas (LNG) by Petroleum Pipeline Corporation (BOTAŞ) through importing,

n) goods and services procurements through agreements and contracts allowing guarantees in advance in order to ensure provision of urgent needs that likely come up in cases such as

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defence, security and humanitarian aid issues which may arise from either international obligations or for national purposes, in a fast and effective manner,

o) energy and fuel purchases by the state economic enterprises operating in the fields of electricity generation, transmission, trading and distribution to be made in order to carry out these activities, from other authorities and institutions,

p) goods and services procurements by General Directorate of Youth and Sports and by autonomous sports federations relating to national and international sports events,

r) within the scope of Ministerial Decrees concerning the Coal Aid for the Poor Families, regardless of who the operator is, the goods and services procurements by the General Directorate of Turkish Coal Enterprises from coal fields belong to itself or its subsidiaries or affiliates

shall not be governed by this Law except prohibition and criminal provisions.

Definitions

Article 4- For the purposes of this Law:

Goods means any kind of purchased necessities, and movables and immovables, together with the rights thereof.

Services means such services as maintenance and repair, transportation, communication, insurance, research and development, accounting, market surveys and polls, consultancy, promoting, broadcasting and publication, cleaning, catering, meeting, organisation, exhibition, guarding and security, vocational training, photography, film, intellectual and fine arts, computer systems and software services, lease of movable and immovable properties and the rights thereof and other similar services.

Works means construction of buildings, roads, railways, highways, airports, docks, harbours, shipyards, bridges, tunnels, subways, viaducts, sports facilities, infrastructure, pipelines, communication and energy transmission lines, dams, power plants, refineries, irrigation facilities, soil reclamation, flood-prevention and pickling; and installation, manufacture, preparation of site materials, transportation, completion, large scale-repair, restoration, landscaping, drilling, demolition, reinforcing and assembly related with the works stated above and similar construction works.

Supplier means natural or legal persons, or joint ventures formed by those persons, submitting tenders to procurement of goods.

Service Provider means natural or legal persons, or joint ventures formed by those, persons submitting tenders to procurement of services.

Consultant means service providers of consultancy, who use their knowledge and experience for the benefit of the contracting authority and have no organic link with the contractors of the contract for which they provide their services who do not gain anything other than the due consultancy fee from the contracting authority.

Works Contractor means natural or legal persons, or joint ventures formed by those persons, submitting tenders to procurement of works.

Candidate means natural or legal persons, or joint ventures formed by those persons applying for pre-qualification.

Joint Venture means partnerships or consortia established by mutual agreement of more than one natural or legal person in order to participate in procurement.

Tenderer means the supplier, service provider or works contractor submitting tender to procurement of goods, services or works.

Potential tenderer means natural or legal persons, or joint ventures formed by those persons, operating in the field of the subject matter of contract, and have purchased the tender or pre-qualification documents.

Domestic Tenderer means natural persons who are the citizens of Republic of Turkey and legal persons established in accordance with the Laws of Republic of Turkey.

Contractor means the tenderer who is awarded and with whom the contract is signed.

Contracting authority means procuring authorities and institutions covered by this Law.

Contracting Officer means authorized and liable persons or boards as well as those persons to whom the required authority and liability has been transferred properly in the contracting authority to spend and to carry out procurement proceedings.

Participation Request means the documents submitted by a candidate to be considered in determining its qualification at the pre-qualification process of restricted procedure.

Tender Document means administrative specifications including the instructions to tenderers, technical specifications including the project, draft contract and other required documents and information related to goods, services or works to be procured.

Preliminary Project means a project for a certain structure, designed in accordance with final need assessment programme without carrying out required land and ground surveys, consisting of one or more solutions through plans, sections, elevations and profiles based on information obtained from base maps and available data including environmental impact assessment and feasibility reports.

Final Project means a project designed after possible land and ground surveys are carried out, in accordance with the approved preliminary project of a certain structure, conveying structural elements dimensioned, as well as construction system and equipment and technical specifications.

Application Project means a project designed in accordance with approved final project of a certain structure, conveying all kinds of details of the structure.

Procurement means the proceedings which involve the award of a goods, services or works contract to the tenderer selected in accordance with the procedures and conditions laid down in this Law, and which is completed by signing of the contract following the approval of the contracting officer.

Tender means the price offer with the document and/or information submitted by a tenderer to a contracting authority for the procurement carried out pursuant to the provisions of this Law.

Open Procedure means a procedure whereby any tenderer may submit a tender.

Restricted Procedure means a procedure whereby only those tenderers invited following a prequalification evaluation by the contracting authority may submit a tender.

Negotiated Procedure means a procedure which can be used in cases specified in this Law and conducted in two stages, whereby the contracting authority negotiates with the tenderers about the technical details, implementation methods and, in certain cases, the price.

Direct Procurement means a procedure which can be used in cases specified in this Law, whereby the necessities are directly procured from the tenderers invited by the contracting authority through negotiating about technical terms and price.

Contract means a written agreement between the contracting authority and the contractor for the procurement of goods, services or works.

Authority means the Public Procurement Authority (PPA).

Board means the Public Procurement Board (PPB).

Prior Notice means a notice published as early as possible after the beginning of fiscal year regarding the contracts that are planned to be awarded within the year.

Electronic Public Procurement Platform means the electronic environment, managed by the Authority, in which the contracting authorities and other stakeholders can conduct the proceedings related with the procurement process via internet.

Dynamic Purchasing System means a completely electronic process for making purchases of goods which are generally available as manufactured on the market where all of the tenderers which submit an indicative tender appropriate with the tender documents and satisfy the qualification criteria within the validity period of the system are admitted to the system.

Electronic Reverse Auction means a repetitive process initiated following evaluation of tenders and involving re-evaluation and re-ranking of new prices or new values concerning certain elements of the tenders which are submitted in electronic environment and revised downwards through an electronic device using automatic evaluation methods.

Framework Agreement means an agreement between one or more contracting authorities and one or more tenderers, which establishes the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Basic Principles

Article 5- In tenders to be conducted in accordance with this Law, the contracting authorities are liable for ensuring transparency, competition, equal treatment, reliability, confidentiality, public supervision, and fulfilment of needs appropriately, promptly, and efficient use of resources.

Unless there is an acceptable natural connection between them purchase of goods, services and works cannot be consolidated in the same procurement.

Procurement of goods, services or works cannot be divided into lots with the intention of avoiding threshold values.

For the procurements to be held in accordance with this Law, the principal procurement methods are open and restricted procedures. The other methods may be used under the special conditions set out in the Law.

The procurement proceedings shall not be initiated unless there is a sufficient budget allocation.

Where the related legislation requires an Environmental Impact Assessment (EIA) Report for a works project, a positive EIA report must be obtained before the initiation of procurement proceedings. However, in works procurements to be made urgently due to natural disasters, EIA report shall not be asked.

Tender Commission

Article 6- The contracting officer shall assign a tender commission, which consists of at least five members and in odd numbers, including one chairperson, at least four personnel of the related contracting authority provided that two of them are experts on the subject matter of the tender, and personnel responsible for accounting and finance, together with its substitute members.

In case of absence of personnel in adequate number or qualification in the contracting authority, experts may be invited to the commission from other contracting authorities which are in the scope of this Law.

In order to allow for the required, each member of the commission shall be provided with a copy of the records of procurement proceedings dossier, within three days following the invitation or announcement.

The tender commission shall convene with no absentees. The commission decisions shall be taken by majority voting. Abstention is not allowed in decisions. The chairman and members of the commission are responsible for their votes and decisions. Dissenting members have to write down their justifications in the records of commission minute and sign it.

The decisions taken by the tender commission and the minutes kept shall be signed by the chairperson and members of the commission, indicating their names, surnames and titles.

Procurement Proceedings Dossier

Article 7- A record of procurement proceedings shall be kept for all procurements. This record of procurement proceedings shall include the certificate of approval and its attached priced bill of quantities relating to the estimated cost obtained from the contracting officer, the tender documents, the notices, the tenders or the applications and other documents submitted by candidates or tenderers, and all documents relating to the procurement process such as minutes and decisions of the tender commission.

SECTION II Rules on Participation

Threshold Values

Article 8- Taking into consideration the estimated cost, the threshold values that shall be applicable for the implementation of Articles 13 and 63 of this Law are as follows:

a) three hundred billion Turkish Liras for procurement of goods and services by the contracting authorities operating under the general or the annexed budget (six hundred and ninety-nine thousand two hundred and seventy Turkish Liras)*

b) five hundred billion Turkish Liras for procurement of goods and services by other contracting authorities within the scope of the PPL (one million one hundred and sixty-five thousand four hundred and fifty-one Turkish Liras)*

c) seven trillion Turkish Liras for the works contracts by any of contacting authorities covered by this Law (twenty-five million six hundred and forty thousand twenty-one)*

Estimated Cost

Article 9- Prior to the procurement proceedings of goods, services or works, the contracting authority shall conduct all necessary price research and shall determine an estimated cost excluding the value added tax and shall be indicated on a priced bill of quantities with its justifications. Estimated cost shall not be stated in tender or pre-qualification advertisements, and shall not be explained to tenderers or to the others who do not have any formal relationship with the tender proceeding.

Rules on Qualification

Article 10- The tenderers participating in the procurement proceedings may be required to submit the following information and documents for evaluation of their economic, financial, professional and technical qualifications:

a) For evaluation of the economic and financial capability;

1) bank statements relating to the financial standing of the tenderer,

2) the balance sheet of the tenderer which is obligatory to be published in accordance with the related legislation, or required sections of the balance sheet, if those are not available, equivalent documents,

3) a statement of the tenderer's overall turnover or documents indicating the volume of the work being carried out and completed by the tenderer relating to the subject matter of the procurement proceedings.

b) For the evaluation of professional and technical qualifications;

1) documents proving that the tenderer is operating as a registered member of the related chamber in accordance with the relevant legislation, and is legally eligible to submit tenders,

2) with regard to subject matter of the procurement or similar works undertaken by the tenderer under a contract having a value in the public or private sector;

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- a) documents proving the experience in works contracts whose preliminary acceptance proceedings have been completed and in services contracts linked to construction works whose acceptance proceedings have been completed within the last fifteen years,
 - b) documents proving the experience in works contracts whose preliminary acceptance proceedings have been completed and in services contracts linked to construction works whose acceptance proceedings have been completed, of which is supervised or managed at least in the ratio of %80 of the contract value. within the last fifteen years,
 - c) documents proving the experience for the ongoing works contracts and services contracts linked to works contracts which have been completed flawlessly, supervised and managed at least in the ratio of %80 of the total contract value within the last fifteen years, provided that the initial contract value has been completed,
 - d) documents proving the experience in goods and services contracts completed within the last five years,
 - e) for transferred contracts: the documents proving the experience in works contracts whose preliminary acceptance proceedings and in services contracts linked to construction works whose acceptance proceedings have been completed within the last fifteen years and in goods and services contracts whose acceptance proceedings have been completed within the last five years, provided that at least %80 of the contract value have been completed,
- 3) documents relating to the production and/or manufacturing capacity, research-development activities and quality assurance practices of the tenderer,
- 4) information and/or documents relating to the organisational structure of the tenderer, proving that he/she employs or will employ adequate number of staff in order to fulfil the subject matter of the procurement,
- 5) in cases of procurement of services or works, the documents demonstrating the educational and professional qualities of the managerial team and the technical staff of the tenderer,
- 6) documents relating to facilities, machinery, devices and other equipment required for fulfilment of the work that is the subject matter of the contract of the procurement,
- 7) documents relating to the technical staff or technical institutions responsible for quality control, whether they are directly attached to the tenderer or not,
- 8) certificates granted by quality control institutions accredited in accordance with the international rules, certifying the conformity of the work in question with the standards specified in the tender document,
- 9) in case requested by the contracting authority for the confirmation of their accuracy, samples, catalogues and/or photographs of the goods to be supplied.

Which of the information or documents specified above will be required for qualification evaluation proceedings, in accordance with the characteristics of the subject matter of the procurement, shall be specified in the tender documents and in the notices or in the invitations relating to procurement or pre-qualification.

Among the documents which are specified under the sub item no:2 of item no: (b) in the first paragraph, the ones obtained for works contracts or services contracts related to works contracts due to the supervision or management duties, the real person should be either an

architect or an engineer. The documents, which will be obtained through management, supervision and completion of work can not be used by tenderers apart from the individuals and institutions who are the owners of the documents and can not be transferred, rented and sold. In order to participate in a tender, legal entities, to be established or joined as partners by the owners of above mentioned documents, should possess more than half of the shares of the legal entity for at least one year, it is obligatory to request this share requirement in every tender and to maintain the share during the guarantee period. Documents to be obtained during the first five years for supervising activities shall be taken into consideration at a maximum rate of one fifth, while the documents to be obtained in the subsequent years by real persons and by the engineers and architects who have owned more than half of the shares of a legal entity for at least five years shall be taken into consideration as a whole for supervising activities and at a maximum rate of one fifth for management activities.

Any tenderer shall be excluded from the procurement proceedings who;

a) is bankrupt or is being wound-up, whose affairs are being administered by the court, who has entered into an arrangement with creditors, who has suspended business activities or who is in any analogous situation arising from a similar procedure under his own national laws and regulations;

b) is the subject of proceedings for a declaration of bankruptcy, for an order of compulsory winding up, or administration of court due to his debts to creditors or of any other similar proceedings under his own national laws and regulations,

c) has not fulfilled obligations relating to the payment of finalised social security contributions in accordance with the legal provisions of the country in which he is established or those of Turkey,

d) has not fulfilled obligations relating to the payment of finalised taxes in accordance with the legal provisions of the country in which he is established or those of Turkey,

e) has been convicted of an offence concerning his professional conduct by a judgement of a competent court within the five years preceding the date of the procurement proceedings,

f) is established to be involved in misconducts by appropriate means of proof by the contracting authority that are against the work ethics or professional ethics during a work he carried out for the contracting authority within the five years preceding the date of the tender,

g) has been prohibited from professional activity by the chamber where he is registered in accordance with the relevant legislation, as of the date of the tender,

h) fails to submit the information and documents specified in this article or it is established that he/she has submitted misleading information and/or false documents,

i) has been participated in procurement proceedings in spite of prohibition according to Article 11,

j) is established to be involved in prohibited conducts and actions laid down in Article 17.

The Authority is entitled to determine the content and amount of social security premium debt by taking the approval of the Chairmanship of Social Security Establishment with regard to clause (c) of the fourth subparagraph; and taxes under the scope of tax due by taking the

approval of Revenue Administration Department with regard to clause (d) of the fourth subparagraph; in terms of kind and amount.

Among the documents required under this article which ones can be submitted as written undertakings shall be determined by the Authority. If the written undertakings containing false statements are submitted, or the tenderer who has been awarded the contract can not submit the documents supporting the status specified in the written undertaking prior to contract signing, those shall be excluded from the tendering and their tender securities shall be registered as revenue.

Ineligibility

Article 11- The following persons or authorities cannot participate in any procurement, directly or indirectly or as a sub-contractor, either on their own account or on behalf of others:

- a) those who have been temporarily or permanently prohibited from participating in public procurements pursuant to provisions of this Law or other laws; and those who have been convicted of the crimes under the scope of Prevention of Terrorism Law No:3713, dated 12.04.1991, or of organized crimes, or of bribing crimes in their own country or in a foreign country.
- b) those whom the relevant authorities have been decided that they have been involved in fraudulent bankruptcy,
- c) the contracting officers of the contracting authority carrying out the procurement proceedings, and the persons assigned in boards having the same authority,
- d) those who are assigned to prepare, execute, complete and approve all procurement proceedings relating to the subject matter of the procurement held by the contracting authority,
- e) the spouses, relatives up to third degree and marital relatives up to second degree, and foster children and adopters of those specified under paragraph (c) and (d),
- f) the partners and companies of those specified under paragraph (c), (d) and (e) (except for joint stock companies where they are not a member of the board of directors or do not hold more than 10 % of the capital).

The contractors providing consultancy services for the subject matter of the procurement cannot participate in the procurement of such work. Similarly, the contractors of the subject matter of the procurement cannot participate in procurements held for the consultancy services of such work. These prohibitions are also applicable for the companies with which they have a partnership and management relation and for joint stock companies where they own more than half of the capital and for the companies where more than half of the capital is owned by above-mentioned companies.

Whatever their purposes of establishment are, the foundations, associations, unions, funds and other authorities included within the body of the contracting authority carrying out the procurement, or related with the contracting authority and the companies to which such authorities are partners, cannot participate in the procurement held by these contracting authorities.

The tenderers who participate in the tender proceedings despite these prohibitions shall be disqualified, and their tender securities shall be registered as revenue. Moreover, in case the contract is awarded to one of those tenderers due to failure in detecting such situation during evaluation stage, then the tender proceedings shall be cancelled and tender security shall be registered as revenue.

Specifications

Article 12- Preparation of administrative and technical specifications specifying all characteristics of the goods, services and works that constitute the subject matter of the procurement by the contracting authorities is obligatory. However, in cases where contracting officer approves that preparation of technical specifications by contracting authority is impossible due to the characteristics of the goods, services or works, it may be outsourced, in accordance with the provisions of this Law.

The technical criteria for the goods, services and works to be procured shall be specified in the technical specifications, which constitute an integral part of the tender documents. The specified technical criteria shall aim efficiency and functionality, shall not consist of elements impeding competition and shall ensure equal opportunity for all tenderers.

Technical specifications may, where possible, include arrangements to ensure conformity with national and/or international technical standards. Technical characteristics and definitions shall be set forth in these specifications. No specific brand, model, patent, origin, source or product can be specified, and no feature or definition indicating any brand or model, can be included.

However, in case where no national and/or international standards exist or where it is not possible to establish technical characteristics; brand or model can be specified provided that "or equivalent" phrase is stated.

Tender notice periods and rules and Prior Notice

Article 13- Giving all tenderers sufficient time to prepare their tenders;

- a) Procurement with estimated costs equal to or exceeding the threshold values stated in Article 8, shall be advertised by publishing in the Public Procurement Bulletin, at least once, provided that;
 - 1) notices of procurements to be conducted by open procedure shall be published not less than forty days prior to deadline for the submission of tenders,
 - 2) pre-qualification notices of procurements to be conducted by restricted procedure shall be published not less than fourteen days in advance of the deadline for the application,
 - 3) notices inviting candidates to a negotiated procedure shall be published not less than twenty-five days prior to the deadline for the submission of tenders.

In procurements to be conducted by restricted procedure whose estimated costs equal to or exceeding the threshold values, it is compulsory to provide a letter of invitation to tender, not less than forty days in advance of the deadline for the submission of tenders to candidates that are qualified as a result of the pre-qualification proceedings.

- b) For the procurements with estimated costs below the threshold values given in Article 8,
 - 1) the notices of procurements to be conducted for the procurement of goods or services with an estimated cost of up to thirty billion Turkish Liras (seventy-six

thousand two hundred and ninety-one Turkish Liras)* and for the procurement of works with an estimated cost of up to sixty billion Turkish Liras (hundred and fifty-two thousand five hundred and eighty-eight Turkish Liras) * shall be published at least once in not less than two newspapers being issued where the procurement is to be held and the work is to be performed, minimum seven days in advance of the deadline for the submission of tenders,

2) the notices of procurements to be conducted for the procurement of goods or services with an estimated cost between thirty billion Turkish Liras (seventy-six thousand two hundred and ninety-one Turkish Liras)* and sixty billion Turkish Liras (hundred and fifty-two thousand five hundred and eighty-eight Turkish Liras)* and for the procurement of works with an estimated cost between sixty billion Turkish Liras (hundred and fifty-two thousand five hundred and eighty-eight Turkish Liras)* and five hundred billion Turkish Liras (one million two hundred and seventy-one thousand six hundred and nine Turkish Liras)* shall be published at least once in the Public Procurement Bulletin and in one of the newspapers being issued where the work is to be performed minimum fourteen days in advance of the deadline for the submission of tenders,

3) the notices of procurements conducted for the procurement of goods or services with an estimated cost above sixty billion Turkish Liras (hundred and fifty-two thousand five hundred and eighty-eight Turkish Liras)* and below the threshold value, and for the procurement of works with an estimated cost above five hundred billion Turkish Liras (one million two hundred and seventy-one thousand six hundred and nine Turkish Liras)* and below the threshold value shall be published at least once in the Public Procurement Bulletin and in one of the newspapers being issued where the work is to be performed minimum twenty-one days in advance of the deadline for the submission of tenders,

In procurements to be conducted by restricted procedure with estimated costs below threshold values established in Article 8, it is compulsory that pre-qualification notices be published not less than seven days in advance of the deadline for the application to pre-qualification in accordance with the procedures in paragraph (b), excepting time limit, and that invitation letters (to tender) be sent to the candidates who are qualified as the result of pre-qualification proceedings, prior to tender date according to the time limits in paragraph (b).

Where notices are drawn up and transmitted by electronic means, the time limit set in paragraph (1) of subparagraph (a) of first paragraph may be shortened by seven days. Where direct access to notice and tender and prequalification document is enabled through Electronic Public Procurement Platform, the time limit specified in the paragraph (1) of subparagraph (a) of first paragraph and the forty-day time limit for invitation to pre-qualified candidates in restricted procedure may be shortened by five days.

Contracting authorities may publish a prior notice, in the Public Procurement Bulletin for procurements with estimated costs equal to or exceeding the threshold values stated in Article 8. When a prior notice is published the time limit of forty days for notices and requests

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to participate may be shortened up to twenty four days, including the cases of international announcement of notices.

It is mandatory to include the following information in a prior notice:

- a) the name, address, telephone, fax number and e-mail address of the contracting authority,
- b) the name, characteristics and type of the procurement, items and estimated quantities in goods and services procurement and the place where the task is to be performed, construction technique and estimated physical quantities and coverage according to needs programme in works procurement,
- c) whether a framework agreement is to be established, or not,
- d) the place of the procurement proceedings,
- e) the quarter of the year in which the tender notice is to be published.

Where a prior notice has been published, tender notice should be published at least 40 days after the publishing of prior notice in order to take the advantage of time limit shortening specified in the fourth paragraph. Publishing of the prior notice does not impose the contracting authority an obligation to procure.

It is compulsory to conduct the procurement either in open or restricted procedure where a prior notice published.

Prior notices shall be published in the Public Procurement Bulletin free of charge.

The Authority is competent to determine which of these tender notices will be announced furthermore through "Media Announcement Institution" in one of the newspapers delivered nationwide.

If no newspaper is issued in the place of the procurement to be held, the notices shall be displayed on the notice boards of the related contracting authority, government and municipality buildings and announced by municipal facilities. These proceedings shall be minuted.

Apart from the above-mentioned compulsory announcement of notices, the contracting authorities may also advertise the procurement notices by means of other newspapers or publications having national and international circulation, data processing networks or electronic media (internet), depending on the significance and characteristics of the procurement. However, where international announcement of notices is required, the above minimum time limits shall be increased by twelve days.

Joint ventures

Article 14- Joint ventures may be established by more than one natural or legal person either in the form of a business partnership or as a consortium. Members of a business partnership carry out the whole business jointly having equal rights and responsibilities while members of consortium carry out the business separating their rights and responsibilities according to their expertise field for the purpose of performing relevant parts of the business. Business partnerships may participate in any kind of tender. However, in cases where different expertises are needed, the contracting authorities shall indicate in tender documents whether the consortium are allowed or not to submit tenders. At the tender stage, the joint venture shall be asked to submit an agreement indicating the mutual agreement of the parties to form a business partnership or a consortium. The pilot partner and the coordinator partner shall be specified in business partnership agreements and in consortium agreements respectively. In case the contract is awarded to the business partnership or consortium, a notary-certified business partnership or consortium contract shall be submitted prior to

signing of the contract. In both business partnership agreement and contract, it has to be stated that the natural or legal persons setting the business partnership are jointly and severally liable in the fulfilment of the commitment, whereas in consortium agreement and contract it has to be clarified which part of the business has been committed by natural or legal persons setting the consortium and they would ensure the coordination among them through coordinator partner in fulfilling the commitment.

Sub-contractors

Article 15- Where it deemed necessary because of the characteristics of the subject matter of the procurement, the tenderers may be asked, to specify the portions of the contract which they plan to assign to sub-contractors at the tender stage, and submit the list of the sub-contractors for the approval of the contracting authority prior to the signing of the contract. However, in such a case, the liabilities of the sub-contractors with regard to the portion of the contract assigned to them shall not release the contractor from its own liabilities.

Cancellation of tender prior to the pre-determined time for submission of tenders

Article 16- The procurement procedures may be cancelled at any time prior to the pre-determined time for submission of tenders, in cases where considered necessary by the contracting authority or where it is established that the documents included in the tender document contain items preventing the performance of the tender, which are impossible to correct.

In such a case, the tenderers shall be promptly notified of the cancellation, together with the reasons thereof. Those who have already submitted their tenders shall also be notified of the cancellation. In case of cancellation of the tender procedures, all submitted tenders shall be deemed rejected, and shall be returned unopened to the tenderers. The tenderers may not make any claims against the contracting authority because of the cancellation of the tender proceedings.

In case the cancellation of procurement, it may be reopened by reviewing the reasons for cancellation.

Prohibited acts or conducts

Article 17- The following acts or conducts are prohibited in tender proceedings:

- a) to conduct or attempt to conduct procurement fraud by means of fraudulent and corrupt acts, promises, threats, unlawful influence, undue interest, agreement, malversation, bribery or other actions,
- b) to cause confusion among tenderers, to prevent participation, to offer agreement to tenderers or to encourage tenderers to accept such offers, to conduct actions which may influence competition or tender decision,
- c) to forge documents or securities, to use forged documents or securities or to attempt these.
- d) to submit more than one tender by a tenderer on his own account or on behalf of others, directly or indirectly, as the principal person or as representative of others, apart from where submitting alternative tenders is allowed.
- e) to participate in procurement proceedings although prohibited pursuant to Article 11.

Provisions stated in Chapter 4 of this Law shall apply to those who have been involved in these prohibited acts or conducts.

CHAPTER II

Procurement Process

SECTION I Procurement Procedures and Implementation

Applicable procurement procedures

Article 18- In procurement of goods, services and works by contracting authorities, one of the following procedures shall be applied:

- a) Open procedure,
- b) Restricted procedure,
- c) Negotiated procedure,

Open procedure

Article 19- Open procedure is a procedure where all tenderers may submit their tenders.

Restricted procedure

Article 20- Restricted procedure is a procedure in which tenderers who are invited following pre-qualification by the contracting authority, can submit their tenders. Procurement of goods, services or works may be conducted by restricted procedure where open procedure is not applicable as the nature of the subject necessitates speciality and/or high technology and in procurement of works where estimated costs exceed the half of threshold value.

Pre-qualification evaluation shall be carried out in accordance with the qualification criteria, which are established pursuant to Article 10 and specified in the pre-qualification documents and in the pre-qualification notices. Those who fail to meet the minimum requirements specified in these documents shall not be accepted as qualified. Provided that it is stated in prequalification notice and document, all or a certain number of the tenderers who have been considered as qualified from those who have been listed by ranking according to specified criteria set forth in the document may be invited to submit their tenders.

The candidates who have not been invited to submit tenders shall be informed in writing about the reasons. The procurement shall be concluded after the evaluation of the tenders in accordance with the evaluation criteria that are designed in accordance with Article 40 in a way to avoid any impediment to competition depending on the nature of the work and that are specified in the tender documents and in the letter of invitation. In case the number of tenderers that can be invited to submit tenders is less than five or the number of tenderers that submit tenders is less than three, the procurement shall be cancelled.

In case of the cancellation of procurement due to the number of tenderers being less than three, the procurement proceedings may be concluded by reviewing the tender documents and eliminating the deficiencies and errors, if any; and by re-inviting all pre-qualified tenderers.

Negotiated procedure

Article 21- Negotiated procedure may be applied, where;

- a) no tender is submitted in open or restricted procedures,
- b) it is inevitable to conduct the tender procedures immediately, due to unexpected and unforeseen events such as natural disasters, epidemics, risk of losing lives or properties or events that could not be predicted by the contracting authority,
- c) it is inevitable to conduct the tender procedures immediately, due to occurrence of specific events relating to defence and security,

- d) the procurement is of a character requiring a research and development process, and not subject to mass production,
- e) due to specific and complex characteristics of the works, goods or services to be procured, it is impossible to define the technical and financial aspects clearly,
- f) product good, material and services procurements by contracting authorities with estimated costs of up to fifty billion Turkish Liras (hundred and twenty-seven thousand one hundred and fifty-four Turkish Liras).*

Publication of a notice is not compulsory in cases set forth in subparagraphs (b), (c) and (f). Where a notice is not published, at least three tenderers shall be invited to submit their qualification documents and price offers together.

In procurements to be conducted in accordance with subparagraphs (a), (d) and (e), first of all, the tenderers who are accepted as qualified according to evaluation criteria in tender documents shall submit their initial proposals, which do not include prices, on aspects such as technical details and realization methods of the contract that is subject matter of the tender. The tender commission shall interview with each tenderer on the best methods and solutions to meet the needs of the contracting authority. After the clarification of the conditions as a result of the technical interviews, the tenderers who have demonstrated their capacity and capability to meet all these conditions shall be asked to submit their offers including the tender price based on a reviewed and clarified technical specifications.

In procurements to be conducted under this provision, the procurement proceedings shall be concluded after receiving the tenderers' final offers in writing which may not exceed their initial price.

In procurements of goods to be conducted under the scope of paragraphs (b), (c) and (f), signing of contract and receiving the performance security are not obligatory, provided that the goods are delivered within the time limit of contract signing and upon the approval of the contracting authority.

Direct procurement

Article 22- The method of direct procurement may be applied in the following cases without advertising and without receiving any securities:

- a) when it is established that the needs can be met from only one natural or legal person,
- b) in case only one single natural or legal person has exclusive rights with regard to the need in question,
- c) procurement of goods and services which are necessarily supplied from the real or legal person who is the initial supplier/ service provider, to ensure compatibility and standardization with existing goods, equipment, technology or services by means of contracts to be arranged based on the principal contract and not exceeding three-year period in total,
- d) procurements not exceeding fifteen billion Turkish Liras (thirty-eight thousand one hundred and forty-four Turkish Liras)* for needs of contracting authorities within the boundaries of metropolitan municipalities and procurements not exceeding five billion

* has been published in Official Gazette which is numbered 27824 and dated 23.01.2011 by Communiqué of Public Procurement Authority, numbered 2011/1 and has covered the period of **01.02.2011 – 31.01.2012**

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Turkish Liras (twelve thousand seven hundred and nine Turkish Liras) * for needs of other contracting authorities, and purchases with regard to accommodation, trip and subsistence within the scope of representation expenses,,

- e) purchase or lease of immovable property according to need of the contracting authority,
- f) procurement of medicine, vaccination, serum, antiserum, blood and blood products which are not economically stored due to their nature and necessity to use in a definite time interval or used in urgent cases, and medical consuming materials whose appliance can be decided during practice and peculiar to patient such as orthosis, prothesis, and procurement of consuming materials for test and analysis,
- g) procurements of services from advocates having Turkish or foreign nationality or from advocacy partnerships in order to represent and defend the contracting authorities covered in the Law, in lawsuits with regard to disputes which proposed to be settled by international arbitration,
- h) services procurements from Turkish or foreign nationality advocates pursuant to Articles 22 and 36 of Law No: 4353, dated 08.01.1943, and services procurements in order to register the intellectual and industrial properties by national and international institutions,
- i) procurements of services by Turkish Labor Authority regarding its duties stated in the subparagraphs (b) and (c) of the third article of Law No: 4904, dated 25.06.2003; and also its duties stated in the seventh subparagraph of article 48 of the Unemployment Insurance Law, numbered 4904, and dated 25.08.1999,
- i) in cases where it is determined to renew the elections before the end of regular term, or to go to off year elections, or to hold a referendum on constitutional changes; procurement of watermarked voting paper and watermarked voting envelope paper and procurement of printing services by Supreme Election Board, and in case of local elections procurement of printing services of voting paper by the chairmanships of Provincial Election Boards.

In procurements pursuant to this article, the needs shall be met upon a market price research by a person or persons to be assigned by contracting officer, without necessity of establishing a tender commission and of requiring the qualification provisions stated in article 10.

Design Contests

Article 23- In order to acquire the required plans and projects relating to architecture, landscaping, engineering, urban design projects, urban and regional planning and fine arts; the contracting authorities may conduct contests, with or without prize, in which the winner is selected through an evaluation by a jury, by advertising such contests in a way to ensure a competitive environment in accordance with the principles and procedures stated in the related legislation.

SECTION II

Procurement and prequalification notice, Issuance of Tender Documents

Contents of procurement notices

Article 24- The notice shall not include anything that is not specified in the tender documents. It is mandatory to include the following information in the notices:

- a) the name, address, telephone and fax number of the contracting authority,
- b) the name, characteristics, type and quantity of the procurement,
- c) the place of delivery in procurements of goods and the place where the task is to be performed in procurements of services and works,
- d) the commencement and completion dates for the subject matter of the procurement,
- e) the procurement procedure to be applied, rules of participation and the required documents and certificates,
- f) the criteria to be used in the qualification evaluation,
- g) indication of whether the tender is limited only to domestic tenderers, and whether there is a price advantage for domestic tenderers,
- h) the place where the tender documents can be seen, and the price to obtain tender documents,
- i) the place, date and hour of opening of the tenders,
- j) the address where the tenders are to be submitted until the hour specified for opening the tenders,
- k) the type of tender and contract,
- l) the statement specifying that a tender security should be given in an amount determined by the tenderer, not being less than 3 % of the tender price,
- m) the validity period of the tenders,
- n) statement on whether the consortium are allowed to submit tender or not.

Contents of pre-qualification notices

Article 25- Advertisements shall not include anything that is not specified in the pre-qualification documents. The following information is mandatory in pre-qualification notices:

- a) the name, characteristics, type and quantity of the procurement,
- b) the place of delivery in procurements of goods and the place where the task the name, address, telephone and fax number of the contracting authority,
- c) is to be performed in procurements of services and works,
- d) the commencement and completion dates for the subject matter of the procurement,
- e) the procurement procedure to be applied, rules of participation in pre-qualification and required documents,
- f) the criteria to be used in pre-qualification evaluations,
- g) indication of whether the procurement is limited only to domestic tenderers, and whether there is a price advantage for domestic tenderers,
- h) the place where the pre-qualification documents can be seen, and the price to obtain pre-qualification documents,

- i) the place, date and hour for the submission of the application to pre-qualification,
- j) Indication of whether the consortium are allowed to submit tender or not.

Ineligibility of procurement notices

Article 26- Procurement notices that are not in compliance with the provisions set forth in Articles 13, 24, and 25 shall not be valid. In case of such incompliance, the procurement or pre-qualification proceedings cannot be carried out unless the procurement notices are renewed in a way to ensure conformity with these articles.

However, in case of errors that are not in compliance with the provisions of Article 24 and 25, except for cases of not advertising tender notices or not conforming to the related time limits specified in article 13, the tender or pre-qualification proceedings may be conducted provided that a correction notice is advertised in order to correct the erroneous matters within fifteen days in procurements with twenty-five or forty day time limits pursuant to article 13, and within ten days in other cases following the advertisement of procurement notices.

Contents of pre-qualification and tender documents and administrative specifications

Article 27- The tender documents shall include the administrative specifications that also incorporate the instructions to tenderers, the technical specifications that also cover the project of the work, the draft contract and other required documents and information. Prequalification documents shall include required qualifications of candidates, prequalification criteria and other necessary information and documents.

The administrative specifications shall include at least the following information, depending on the subject matter of the procurement:

- a) the name, characteristics, type and quantity of the work, and in case of services the work description,
- b) the name, address, telephone and fax number of the contracting authority,
- c) the procurement procedure, date and hour of the tender and place of tender submission,
- d) instructions to tenderers,
- e) required qualifications for tenderers, the required documents and qualification criteria,
- f) methods for request for clarification of the tender documents and the realization of such request,
- g) the validity period of the tenders,
- h) statement on whether the consortium are allowed to submit tender, whether it is possible to submit tenders for the whole or a portion of the subject matter of the procurement, whether an alternative tender can be proposed in procurement of goods and if so, how those alternative tenders are to be evaluated,
- i) information on whether the transportation fees, insurance costs, taxes, duties and charges are to be included in the tender price,
- j) the procedures and principles set forth in this Law and which shall be applied during the receiving, opening and evaluation of the tenders,

- k) the procedures and principles set forth in this Law, which are required to be applied from beginning with the decision of procurement until signing of the contract,
- l) an indication of whether the procurement is limited to domestic tenderers only and whether there is a price advantage for domestic tenderers,
- m) type of tender and contract,
- n) the amount and terms of tender security and performance bond,
- o) a statement that the contracting authority is free to cancel the tender proceedings before the tender opening time,
- p) a statement that the contracting authority is free to reject all the tenders and cancel the procurement proceedings,
- r) the commencement and completion dates for the subject matter of the tender, the place it will be carried out, the terms of delivery and the penalties to be paid in case of delays,
- s) the place and terms of payment; whether an advance payment is to be made or not, and if so, the amount and terms of such payment; the method of payment for price difference, if any, for subject matter of the contract,
- t) circumstances and conditions where time extension is possible, and mutual obligations in case of work increases and work decreases possible within the scope of contract,
- u) information on which party will be responsible for paying the taxes, duties, charges and other expenses relating to the contract,
- v) in works contracts, terms relating to insurance of the work and the workplace, construction liability and supervision,
- y) conditions relating to supervision, inspection and acceptance,
- z) procedure of dispute settlement.

Providing of tender and pre-qualification documents

Article 28- The tender and pre-qualification documents can be seen at the place of contracting authority, free of charge. However, it is compulsory this document be purchased by economic operators willing to participate in the pre-qualification or tender proceedings. The price of the document shall be determined by the contracting authorities in such a way that this amount shall not exceed its printing cost and not impede competition.

Clarifications or amendments to the tender documents

Article 29- In principle, no amendment should be made in the tender documents after the advertisement of the procurement notices. If an amendment is deemed as necessary, the necessities and reasons thereof shall be certified with a minute, and the previous notices shall be deemed invalid, and the procurement notice shall be advertised again, likewise.

However, after the advertisement of tender notices, if material or technical errors or deficiencies that may affect the preparation of tenders or realization of the work are detected by the contracting authority or notified by the tenderers with a written notice, the tender

documents can be amended. The addendum relating to such amendments, and constituting a binding part of the tender documents shall be provided to all tenderers who have purchased the tender documents, in a way to ensure that they are informed ten days prior to the deadline for submission of tenders. In case an extension of the time period is needed in order to prepare the tenders due to the amendments made with addendum, the date of tendering may be postponed for maximum twenty days, but for once only. In case of an addendum, the tenderers who have already submitted their tenders prior to such arrangement shall be allowed to withdraw their tenders and submit new tender.

Moreover, the tenderers may request explanations in writing relating to aspects in the tender documents, which they may need when preparing their offers, twenty days prior to the deadline for submission of tenders. In case such request is found appropriate by the contracting authority, the required explanations shall be provided in writing, in a way to ensure that all the tenderers who are already provided with the tender documents until that date are informed of such explanations ten days in advance of the deadline for submission of tenders, without disclosing the tenderer making the request.

SECTION III **Submission of Tenders and Applications**

Preparation and submission of tenders

Article 30- All documents required under the rules of participation in the procurement including the tender letter and the tender security shall be placed in an envelope. The name, surname or commercial title and notification address of the tenderer, the subject of the procurement and the full notification address of the contracting authority carrying out the procurement proceedings shall be written on the envelope. The seal of the envelope shall be signed and stamped by the tenderer.

The tender letter shall be submitted in writing and signed. It is mandatory to indicate in the tender letter that the tender documents are fully read and accepted; the offered price is written clearly, both in writing and in figures as consistent with each other; there are no scrapings, erasures, or corrections and the tender must be signed by the authorized persons stating name, surname or commercial title. In procurement of goods, if a provision on submission of alternative tenders exists in the procurement document, then the alternative tender shall be prepared and submitted accordingly.

The tenders shall be submitted to the contracting authority no later than the date and hour specified in the tender documents, in return of a receipt indicating the queue number. The tenders submitted after the hour specified as deadline shall not be accepted and shall be returned unopened. The tenders may also be sent via registered mail. The tenders sent by mail must be received by the contracting authority until the hour specified as deadline in the tender documents. The date and hour of the receipt of the tenders that will not be included in the procurement proceedings due to postal delays shall be recorded in writing.

The submitted tenders cannot be withdrawn or changed for any reason whatsoever, except in case of an addendum arrangement.

Submission of applications

Article 31- All documents required for participating in pre-qualification shall be submitted to the contracting authority in accordance with the relevant principles and procedures set forth under the first and third paragraphs of Article 30.

Validity period of tenders

Article 32- The validity periods for tenders shall be specified in the tender documents. In case contracting authority requires, this period may be extended maximum as long as the validity period of the tender specified in the tender document with the consent of the tenderer, provided that no amendments are made in the conditions of tender and contract.

Tender security

Article 33- In procurements, a tender security shall be given in amount determined by the tenderer, not being less than 3 % of the tender price. In consultancy services, it is not compulsory to require tender security provided that it is stated in tender documents.

Values Accepted as tender security

Article 34- The values accepted as tender security are as follows:

- a) The current Turkish Lira,
- b) Letters of guarantee from banks and special financing institutions,
- c) Domestic Borrowing Bills issued by the Undersecretariat of Treasury and documents arranged for replacing these bills,

The letters of guarantee that may be arranged by foreign banks permitted to operate in Turkey in accordance with the related legislation, and the letters of guarantee that may be arranged by banks or special financing institutions operating in Turkey upon the counter-guarantees given by banks or similar creditors operating abroad shall also be accepted as tender security.

With regard to bills and documents replacing these bills mentioned in paragraph (c), the bonds issued with a nominal value including interest shall be accepted as tender security on the sales value corresponding to the capital.

Securities other than letters of guarantee shall not be received by tender commissions. Such securities must be deposited to accounting offices or departments.

The letters of guarantee belonging to successful tenderer who is awarded the contract and to the tenderer submitting the second economically most advantageous offer shall be submitted to accounting offices or departments following the procurement proceedings. The tender securities of other participants shall be promptly returned. In case a contract is signed with the successful tenderer, the guarantee belonging to the tenderer who has submitted the second economically most advantageous offer shall be returned immediately after the signing of the contract.

Securities may be exchanged with other values accepted as tender security.

Under no circumstances, the tender securities received by the contracting authority can be attached and held subject to precautionary measures.

Guarantee Letters

Article 35- Public Procurement Authority is authorized to determine the form and scope of guarantee letters pursuant to Law.

The period shall be stated in preliminary letters of guarantee provided that it shall be at least 30 days more than the validity periods set for tenders in accordance with Article 32. In case of extension of the validity period of the tender, the period of preliminary letters of

guarantee shall be extended accordingly. Validity of performance bonds shall be determined by the contracting authority by taking into account the termination date of the procured task.

Letters of guarantee violating the relevant legislation shall not be accepted.

SECTION IV Evaluation of Tenders

Receiving and opening of tenders

Article 36- The tenders shall be submitted to the contracting authority until the time stated for submission of tenders in the tender documents. The number of tenders submitted at the hour of the tender shall be recorded in the minutes by tender commission and announced to those who are present, and then the tender proceedings shall be immediately commenced. The tender commission shall examine the tender envelopes in the order of submission. Envelopes that are not in compliance with paragraph 1 of Article 30 shall be recorded in the minutes and shall not be included in the evaluation stage. The envelopes shall be opened in the presence of tenderers and those who are present, in the order of submission.

It shall be checked if the documents of the tenderers are complete or incomplete, and whether the tender letter and the preliminary guarantee are in conformity with the relevant procedures. Tenderers with incomplete documents or improper tender letters and tender securities shall be recorded in the minutes. The tenderers and their tender prices and the amount of estimated cost shall be announced. The minutes relating to these proceedings shall be signed by the tender commission. At this stage, no decision shall be made with regard to rejection or acceptance of any of the tenders, the documents consisting of the tender cannot be corrected or completed. The session shall be closed for immediate evaluation of the tenders by the tender commission.

Evaluation of tenders

Article 37- Upon the request of tender commission, the contracting authority may ask the tenderers to clarify their tenders in writing on the unclear aspects of the tender, in order to use in the examination, evaluation and comparison of tenders. However, this clarification shall not be required and made with the intension of making change in the tender price, or converting any ineligible tender according the conditions in the tender documents to an eligible one.

In evaluating the tenders, first of all, the tenders of the tenderers whose documents are established to be incomplete or whose tender letters and tender securities are established to be not in compliance with the requirements as a result of the first session in accordance with Article 36 shall be excluded from the evaluation proceedings. However, in case of missing information in the documents provided that absence of those do not alter the substance of the tender; the contracting authority shall request the tenderer in writing to furnish these missing information in a given time period. The tenderers who do not furnish this missing information in a given time shall be excluded from the evaluation and their tender securities shall be registered as revenue. Following this first-evaluation and proceedings, the tenders of tenderers with complete and appropriate documents and appropriate tender letters and preliminary guarantees shall be held subject to a detailed evaluation. At this stage, the tenders shall be examined for their conformity with the qualification criteria determining the capacity of the tenderers to perform the contract, as well as with the conditions set forth in the tender documents and whether an arithmetical error exists in unit price charts. The tenders that are found ineligible and the tenders with arithmetic errors in unit price charts shall be disqualified.

Abnormally low tenders

Article 38- The tender commission shall evaluate the tenders in accordance with Article 37 and shall determine those that are abnormally low compared to the other tenders or the estimated cost determined by the contracting authority. Before rejecting these tenders, the commission shall request from the related tenderers, the details relating to components of the tender that are determined to be significant, in writing and within a specified period.

The tender commission shall evaluate the abnormally low tenders taking into consideration the written explanations documented on the following aspects:

- a) economic nature of the manufacturing process, the services provided and the method of works,
- b) selected technical solutions and advantageous conditions to be utilized by the tenderer in supply of the goods and services or fulfilment of the works,
- c) the originality of the goods, services or works proposed.

As a result of this evaluation, the tenders of the tenderers whose written explanations are found insufficient or who fail to make a written explanation shall be rejected.

Tender Commission shall use the criteria set by the Authority to determine and evaluate the abnormally low tenders. In implementation of this article the Authority is entitled to set limit values or inquiring criteria or average values in order to identify and evaluate abnormally low tenders and to determine the economically most advantageous tender.

Rejection of all tenders and cancellation of the tender proceedings

Article 39- Upon decision of the tender commission, the contracting authority is free to reject all tenders and cancel the tender proceedings. In this case, all the tenderers shall be informed promptly about this cancellation. The contracting authority shall incur no liability for rejecting all the tenders. However, in case requested by the tenderers, the contracting authority shall notify of the tenderers who request the reasons for the cancellation of the tender proceedings.

Conclusion and Approval of the Tender Proceedings

Article 40- Following the evaluation performed in accordance with Article 37 and 38, the contract shall be awarded to the tenderer who submitted the the economically most advantageous tender shall be awarded with the contract.

The economically most advantageous tender is determined solely on the basis of price or together with the price by taking into account the non-price factors such as operation and maintenance costs, cost-effectiveness, productivity, quality and technical merit. In tender proceedings where the economically most advantageous tenders shall be determined by taking into account the non-price factors in addition to the price, these factors must be expressed in monetary values or relative weights in tender documents.

In tender proceedings where it is stated in the tender documents that there is a price advantage for domestic tenderers in accordance with Article 63 of this Law, the tender proceedings shall be concluded by also taking into account the price advantage to determine the economically most advantageous tender.

In tender proceedings where the lowest price offer is evaluated as the economically most advantageous tender, in case there are more than one offers with the same tender prices and these are established to be the economically most advantageous tender, the tender

proceedings shall be concluded by determining the economically most advantageous tender taking into account the factors other than price as stated in the second paragraph.

The tender commission shall reach a justified decision, and submit the decision for the approval of the contracting officer. The decisions shall include the names or commercial titles of the tenderers, the offered prices, the tender opening date and the award of contract and grounds thereof, and in case the contract was not awarded, the related reasons thereof.

Within maximum five days following the date of the decision, the contracting officer shall approve or cancel the tender decision, indicating clearly the grounds for cancellation.

The tender commission's decision shall be deemed valid if the decision is approved, and null if it is cancelled.

Prior to approval of the tender decision by the contracting officer, the contracting authority must check whether the successful tenderer and the owner of the second most economically advantageous tender are prohibited from participation in tenders and shall attach the related document to the tender decision. If it is detected that both tenderers are prohibited, the procurement shall be cancelled.

Notification of finalised tender decisions

Article 41-The tender result shall be acknowledged to all tenderers who have submitted an offer, including the tenderer to whom the contract is awarded, within maximum three days following the day of approval by the contracting officer. While doing this, the reasons for excluding the tender from the evaluation or not finding the tender eligible, shall also be included.

In cases where the tender decision is cancelled by the contracting officer, the tenderers shall be notified together with the reasons thereof.

The contract shall not be signed unless five days have passed in procurements held pursuant to subparagraphs (b) and (c) of Article 21 and ten days in procurements held in other cases, following the notification of all the tenderers about the tender result.

Invitation to contract signing

Article 42- Within three days following the end of time limits specified in Article 41, and in cases requiring the pre-fiscal control, following the completion date of this control, the successful tenderer shall be notified to sign the contract by issuing a performance bond within ten days following the date of notification. In case of foreign tenderers twelve days shall be added to this period. On the date of contract signing, it is compulsory to check whether or not the successful tenderer is prohibited from participating in tenders by sending the results of the tender to the Authority.

In the procurements related to consultancy services where no performance bond is required before the contract according to the provision of Article 43, invitation to sign the contract shall be issued in accordance with the provisions of first paragraph without asking for any performance bond.

Performance bond

Article 43- In order to ensure that the commitment is carried out in accordance with the provisions of the contract and tender documents, a performance bond calculated as 6 % of the contract value shall be taken from the successful tenderer prior to the signing of the contract.

In works procurements, following the necessary evaluation pursuant to Article 38, if the contract has been awarded to one of the tenderers who has submitted a tender below the reference price calculated according to the same article, then the performance security shall be received in an amount equal to 6 % of the base price.

However, in case of procurements related to consultancy services, provided that it is specified in the tender documents, the performance bond may not be taken before signing of the contract. In such a case, a deduction of 6 % from each progress payment shall be retained as guarantee.

The obligations and liabilities of the tenderer in signing of the contract

Article 44- The successful tenderer is obliged to sign the contract after submitting the performance bond according to Article 42 and 43. The tender security shall be returned immediately after the signing of the contract.

In case these obligations are not fulfilled, the tender security of the successful tenderer shall be registered as revenue without taking any further legal action. In such a case, the contracting authority may sign a contract with the tenderer submitting the second economically most advantageous tender in accordance with the principles and procedures set forth in this Law provided that the said tender's price is found as appropriate by the contracting officer. However, in order to sign a contract with the tenderer submitting the second economically most advantageous tender, the tenderer in question shall be notified as stipulated in Article 42, within three days following the termination of the ten-day period specified in Article 42.

In case the tenderer with the second economically most advantageous tender also rejects signing the contract, the tender security of this tenderer shall also be registered as revenue and the tender proceedings shall be cancelled.

The obligations and liabilities of the contracting authority in signing of the contract

Article 45- The contracting authority is obliged to carry out its duties regarding the conclusion of the contract within the period set forth in Article 42 and 44. In case the contracting authority fails to fulfil this obligation, the tenderer may renounce his commitments within maximum five days following the end of the period, on condition that he makes an announcement through a notary-public approved notification with a period of ten days. In this case, the tender security is returned and the tenderer gains the right to demand the recorded expenses he has incurred in the issuing of the guarantee. Those who have caused this loss shall compensate for it and shall be subject to the provisions of Article 60.

Signing of the contract

Article 46- All tenders that are carried out shall be concluded with a contract. The contracts shall be prepared by the contracting authority and signed by the contracting officer and the contractor. In case contractor is a joint venture, the contracts shall be signed by all the partners of the joint venture. It is not mandatory the contracts be registered and notarized by public notary, unless otherwise stated in tender documents.

Contracts shall not be contrary to the conditions set out in the tender documents.

Notification of Results

Article 47- Except those sent according to Article 42, the results of the procurement of goods, services and works made by contracting authorities covered by this Law, are notified

to the Authority in fifteen days at most. Among these results, those relating to procurements covered by the Law are published in the Public Procurement Bulletin by the Authority. The information to be included in the notification of results and which of the results regarding the goods, services and works contracts awarded according to the Law by the contracting authorities operating in the areas of defence, security and intelligence to be published shall be decided by the Authority after considering the opinion of the concerned contracting authority.

SECTION FIVE

Special Provisions on Procurement of Consulting Services

Consulting services

Article 48- Services in technical, financial, legal or similar fields such as engineering and architecture, surveying and project, map and cadastre, development plan in any scale, development application, preparation of Environmental Impact Assessment Reports, plan, software developing, design, preparation of technical specifications, supervision and controlling shall be procured from consultancy service providers.

Subject to the provisions contained in this section, only the restricted procedure shall be applied to tenders regarding consultancy services. However, the consultancy services whose estimated costs are lower than the upper value established for services in subparagraph (2) of paragraph (b) of Article 13 may be carried out through services procurement.

Pre-qualification and Determination of Tenderers

Article 49- The pre-qualification notices shall be published within the period and principles specified in Article 13.

The pre-qualification notices announced in accordance with the provisions of this Law shall include information relating to the pre-qualification criteria to be used in the evaluation of the general competency, financial capacity and technical skills of the candidates. These notices shall also include the number or range of number of candidates to be invited for inclusion in the short list and for submitting tenders.

The candidates who apply for pre-qualification shall be evaluated in accordance with the pre-qualification criteria set forth in the tender documents and in the pre-qualification notice, and then a short list shall be prepared, which includes minimum three and maximum ten candidates selected among those that qualify in the pre-qualification evaluations carried out.

Invitation to tender

Article 50- The candidates who have been included in the short list prepared according the Article 49 above, shall be given a time period which is not less than the periods stated in article 13 in order those candidates to prepare their technical and financial proposals, and a letter of invitation to tender shall be sent along with the tender documents. Those who are not found to be qualified as a result of the pre-qualification evaluation and candidates who are not included in the short list shall be notified in writing. In case the number of tenderers who are eligible to be invited to the tender is less than three, the invitations shall not be sent and the tender shall not be conducted.

When preparing their tenders, the tenderers can make a request for written explanations until twenty days prior to the final submission date of tenders, on matters, which need explanation in the tender documents. In case an explanation is made by the contracting authority, this explanation shall be sent in writing to all the tenderers who are shortlisted so that they are informed ten days prior to the final submission date of tenders.

In case the contracting authority notices or the tenderers notify in writing that material or technical mistakes or discrepancies exist that may affect the preparation of the tenders or the realisation of the assignment after the invitation letter is sent, some amendments may be made in the tender documents. An addendum containing those amendments which are binding part of the tender documents, shall be sent to all tenderers who are shortlisted to ensure that they are informed at least ten days prior to the final submission date of the tender. In case additional time is needed to prepare the tenders due to the amendments made with the addendum, the date of the tender can be postponed for a maximum of twenty days, only for once. In circumstances where an addendum is arranged, tenderers who have submitted their tenders prior to the issuance of the addendum shall be allowed to withdraw their tenders and submit new ones.

Preparation and submission of tenders

Article 51- The letter of tender containing the price offered for the consultancy services and tender security shall constitute the financial offer of the tenderer. These shall be put in an envelope with the statement indicating that it is the financial offer. The letters of tender must comply with the conditions set forth in Article 30.

All other documents required for the technical evaluation shall constitute the technical proposal of the tenderer. This proposal shall be placed in a separate envelope marked as technical proposal.

Both envelopes shall indicate the name, surname or commercial title and notification address of the tenderer and the assignment, which is the subject of the tender. The seal of the envelopes shall be signed and stamped by the tenderer.

The envelopes containing the financial and technical proposals shall be submitted by placing both of them in another separate envelope or package and writing on it the name, surname or commercial title, open notification address of the tenderer, the assignment which the tender is related to, and the open address of the contracting authority.

Evaluating the tenders and awarding the contract

Article 52- The tender commission shall take the minutes indicating the number of tenders submitted until the tender opening time and shall announce this number to those who are present and promptly start the tender opening. The tender commission shall examine the tender envelopes in receiving order. Envelopes, which do not comply with the first paragraph of Article 30 shall be recorded in the minutes and shall be excluded from the evaluation process. Envelopes containing the technical proposals shall be opened in receiving order in the presence of the tenderers and those who are present, a control shall be made to ensure that all of the required documents are submitted and the situation shall be recorded in the minutes. The envelopes containing the financial proposals shall be recorded in the minutes without being opened, packed all together, sealed, and signed by the tender commission to be held in protection. No decision can be made at this stage as regards the rejection or acceptance of any tender. The documents in the tenders cannot be changed; no corrections or completion can be made. The session shall be closed for the tender commission to evaluate the tenders immediately.

The submitted tenders cannot be withdrawn or changed for any reason whatsoever, except the case of an addendum arrangement.

The tenders submitted for consultancy services shall be evaluated in two stages, namely technical and financial evaluation. The technical proposal shall be evaluated at the first stage and the financial proposal at the second stage and both stages shall be scored individually. The overall score shall be calculated taking into account the weighted coefficients

determined for the technical and financial points. The weighted coefficients of technical and financial scores may be established in different ratios depending on the characteristics and the authenticity of the services, provided that the weighted coefficient of the technical point is higher.

In these tenders, the technical evaluation criteria shall be set in accordance with the criteria specified under Article 10. In the designation of these criteria, which are specified in the tender documents and in the invitation to tender, the experience in fulfilling contracts of similar characteristics and scale, the method proposed for the job, the organisational structure, the educational and professional qualifications of the managerial team and the technical staff to be assigned for the execution of the job shall be taken as a basis.

In the evaluation of the tenders, firstly an examination is made to ensure that all documents of the tenderers pertaining to the technical evaluation comply with the conditions required in the tender documents. Tenders, which have missing documents, or which do not comply with the required conditions shall be disqualified. However, in case of missing information in the documents provided that absence of those do not alter the substance of the tender; the contracting authority shall request the tenderer in writing to furnish these missing information in a given time period. The tenderers who do not furnish this missing information in a given time shall be excluded from the evaluation and their tender securities shall be registered as revenue.

The tender commission shall make a technical evaluation according to the technical evaluation criteria and points specified in the tender documents and in the invitation letter and shall determine the technical points of the tenderers. Tenders, which have got points below the minimum technical point specified in the tender documents, shall be excluded from the evaluation.

Tenderers with missing documents or who do not comply with the required conditions or who have gotten a technical point below the minimum required technical point, shall be notified in writing that their tenders have been excluded from the evaluation and that their financial proposals shall be returned unopened by hand, to themselves or to their proxies at the date and hour of the opening of the financial proposals. At the same date, tenderers whose technical proposals exceed the minimum technical points set out in the tender documents shall also be notified in writing of the date and hour of the opening of the the financial proposals.

At the date and hour notified by the tender commission; first of all, the results of technical evaluation and the technical points shall be announced to those who are present. The package containing financial proposals, which have been collectively kept under protection by the tender commission, shall be opened. The financial proposal envelopes of the tenderers, whose tenders have been disqualified, shall be returned unopened by hand to themselves personally or to their proxies, and these tenderers shall be made leave the room. After that, the financial proposals of tenderers who achieve the minimum technical point or get higher shall be opened and the prices and related estimated cost shall be read out and recorded in the minutes. The envelopes of the financial proposals, which could not be returned unopened by hand, shall be mailed immediately after the conclusion of the tender proceeding.

Tenderers who fail to submit the tender letter and tender security in their financial proposals or whose tenders are not in conformity with the procedures shall be disqualified from the evaluation and this decision be recorded in the minutes. The financial points of the tenderers with eligible financial proposals and tender securities shall be determined.

The technical and financial points belonging to these tenderers shall be multiplied by the weighted coefficients specified in the tender documents and thus the total points shall be determined. The tenderer scoring the highest total point shall be invited to negotiate the job description, contractual terms, personnel and financial proposal. However, this meeting shall not cause any significant change in the terms and conditions set out in the tender documents. In case the parties clarify the contractual terms and come to an agreement after the meeting, the tenderer in question shall be awarded the contract.

The decision taken by the tender commission shall be submitted to approval of the contracting officer.

In case the tenderer awarded with the contract fails to fulfil his liability to sign the contract, despite of the agreement reached in the meeting, the tender security shall be registered as revenue by the contracting authority. In this case, a contract shall be signed with the tenderer scoring the second highest total point by negotiating provided that the tender price is approved to be appropriate by the contracting officer. If the second tenderer does not realise the signing obligation, its tender security shall be recorded as revenue by the contracting authority.

The tender proceedings shall be cancelled in case there are less than three candidates or tenderers after the pre-qualification or technical or financial evaluation.

CHAPTER THREE

Public Procurement Authority, Review of Complaints and Settlement of Disputes

SECTION ONE

Public Procurement Authority

Public Procurement Authority

Article 53- a) In order to carry out the duties assigned with this Law, Public Procurement Authority with public legal entity, which is administratively and financially autonomous, has been established. Public Procurement Authority is assigned and authorized for the accurate implementation of the principles, procedures and proceedings specified in this Law.

The Authority is related to the Ministry of Finance. The Authority is situated in Ankara.

The Authority is independent in fulfilment of its duties. No organ, office, entity or person can issue orders or instructions for the purpose of influencing the decisions of the Authority.

The Public Procurement Authority shall comprise of the Public Procurement Board, Presidency, and the services units.

b) The duties and authorities of the Public Procurement Authority with respect to the tender procedures carried out in accordance with this Law are as follows:

1) to evaluate and conclude any complaints claiming that the proceedings carried out by contracting authority within the period from the commencement of the tender proceedings until the signing of the contract are in violation of this Law and the related legislative provisions,

2) to prepare, develop and guide the implementation of all the legislation concerning this law and Public Procurement Contracts Law and the standard tender documents and contracts,

3) to provide training on procurement legislation, to provide national and international coordination,

4) to gather information as specified by the Authority relating to the contracts and tender proceedings carried out, to compile and publish statistics relating to quantity, price and other issues,

5) to keep the records of those who are prohibited from participating in tenders,

6) to carry out research and development activities,

7) to regulate the principles and procedures with regard to tender notices, to publish Public Procurement Bulletin in printed or electronic media,

8) in cases where it is established that domestic tenderers are prevented due to unfair reasons from participating in tender proceedings taking place in foreign countries, to take relevant measures in order to ensure that the tenderers of those countries are prevented from participating in the tenders held under the scope of this Law, and to furnish proposals to the Council of Ministers in order to ensure that the necessary arrangements are made,

9) to prepare the annual budget, the final account and the annual activity reports of the Authority, to ensure the implementation of the Authority's budget, the collection of the revenues and the incurrence of the expenses.

The Authority may request documents, information and comments from all private and official institutions, establishments or persons, when fulfilling its duties. The requested documents, information or comments must be provided within the given time limits.

The Authority shall be authorized to issue the standard tender documents, form contracts, regulations and communiqués relating to the implementation of this Law and Public Procurement Contracts Law, through Board decision. The Board and the Authority shall employ their authorities by establishing regulative transactions and taking specific decisions. Standard tender documents, form contracts, regulations and communiqués shall be put into force through publication in the Official Gazette.

c) The decision organ of the Authority shall be the Public Procurement Board, consisting of nine members including one president, and one deputy chairperson. The members of the Board shall be appointed by the Council of Ministers upon the proposal of the Ministry of Finance. The Council of Ministers shall appoint the Chairperson and Deputy Chairperson. The Chairperson of the Board shall also be the President of the Authority. The members of the Board shall be graduates of Faculties of Law, Economics, Political Sciences, Business Administration, Economics and Administrative Sciences, Architecture and Engineering, or from the foreign higher education institutions whose equivalence to the above mentioned Faculties are recognized by the authorized bodies. The persons to be appointed for Board memberships must: have no less than twelve years of assignment fulfilled in the public institutions and authorities have relevant qualifications and experience with regard to national and international procurement legislations as a result of an active work experience of at least four years in judging, reviewing, supervising, implementing or advising with regard to public procurement legislation; and have no past or present relationship of membership or task, including candidateship, with any political parties.

The duty period of the Board members is four years. A member can be elected more than once. Board members can not be discharged before the duty period is over. However, if

members become incapable due to the physical disabilities or illness or loose the conditions related to their assignment, they are deposed from their duties before the due date. In case of sentenced with misconduct or defamatory offence, they are deposed from their duties by the approval of Prime Minister. Board memberships, which become vacant due to deposition or any reason before the due date, are filled with appointments that are in agreement with the above-mentioned procedures within one month.

The general management and representation of the Authority and the execution of the decisions taken by the Board shall be the liability of the president. In case of leave of work due to permission, illness, domestic or abroad appointment or relieve of duty of the president, the deputy chairperson shall act as the president.

The right to sue, to make enforcement proceedings and to discontinue for appeal to higher courts against courts' decisions and the right to discontinue to recourse for correction of decisions against the decisions given by higher courts belong to the Board.

d) The Board members shall take an oath in witness of the First Bureau of Assembly of the High Court of Appeal that they will fulfil their duties in an honest and impartial manner that they will not violate and let others violate the provisions of this Law and the related legislation throughout their memberships. Any application for such oath shall be deemed among priority issues by the High Court of Appeal. The Board members cannot start working unless they take their oaths.

e) President and the members of the Board may issue scientific papers in return of copyright fees and lecture in return of fee on condition that these activities do not hinder their primary duties; however they may not be involved in any official or private task other than mentioned above as long as it is not based on a special law, may not hold a managing position in associations, foundations, cooperatives and similar bodies, and may not involve trade or freelance activities as well. The members of the Board are obliged to dispose off any stocks or securities they have acquired prior to starting their offices, belonging to legal entities carrying out activities in the market or their subsidiaries, via transferring or selling off to persons other than their relatives by blood up to third degree or by marriage up to second degree, within thirty days following the start of their assignment periods, except for those securities issued by the Undersecretariat of Treasury for domestic borrowing purposes. The members who do not act in compliance with this provision shall be deemed resigned from their memberships.

Board decisions may not be subjected to appropriateness supervision.

President and the members of the Board and the Authority's staff may not be appointed as arbitrator or court experts.

When executing their duties, the Board members and the staff of the Authority cannot disclose any confidential information or document concerning the related officials or third parties to any authority except for those authorized by law for such disclosures, and cannot use them for the benefit of their own or third parties. This liability of confidentiality shall also continue after they leave their offices. Board members and Authority's staff shall be treated as Civil Servants for crimes they commit or crimes committed against them due to their offices. The provisions of Article 104 of Banking Law, No: 5411 and dated 19.10.2005 shall apply related to civil and criminal liability of Board Members and Authority staff.

f) The Board members are obliged to submit a declaration of property, within one-month following the date of commencement and expiry of office, and every year during their office period.

g) The Board shall meet upon call from the chairperson or, in case of his/her absence, the deputy chairperson, with no absentees, and shall take decisions by rule of majority. In case of equal votes, the party supported by the Chairperson shall be accepted as constituting the majority. There can be no abstentions while taking decisions. The board members shall be responsible for their votes and decisions. In cases of permit-leaves, sick-leaves, assignments or failure to make new appointments to the offices that become vacant, seven members at least are necessary for convening.

The Board members cannot participate in meetings and voting sessions related to decisions concerning their relatives by blood up to third degree or by marriage up to second degree and fosters.

The members who fail to participate in five meetings within a calendar year for reasons other than stated in this Law shall be deemed to have resigned from membership.

h) Three vice presidents may be appointed by Minister upon the proposal of the President in order to assist in the duties to the President. The vice presidents of the president shall be appointed among those who comply with the same terms of appointment as the Board members or those who have been working at the Authority as professional staff for at least ten years consecutively with no interruptions, after graduating from a Faculty of Law, Economics, Political Sciences, Business Administration, Economics and Administrative Sciences, Architecture and Engineering or from higher education institutions abroad whose equivalences to those are recognized by authorized bodies.

The service units of the Authority; shall consist of main service units, consultancy units and auxiliary service units, organized in adequate number of departments as required in line with the duties and authorities of the Authority. Those who will be appointed as Chief Legal Adviser must be graduated from Faculties of Law and have sufficient knowledge and experience with regard to their professions and must have no less than twelve years of work experience related to their professions fulfilled in the public institutions and authorities; those who will be appointed as Authority Adviser and Presidency Adviser must be graduated from at least a four-year undergraduate program of Faculties or from foreign higher education institutions whose equivalences to those are recognized by the authorized bodies and must have no less than twelve years of assignment fulfilled in the public institutions and authorities; those who will be appointed as Head of Department must be graduated from at least a four year undergraduate program of Faculties or from foreign higher education institutions whose equivalences to those are recognized by the authorized bodies must have no less than twelve years of assignment fulfilled in the public institutions and authorities. Head of Departments and other personnel are appointed by the President.

The fundamental and permanent duties required for the service of the Authority shall be executed by the professional staff consisting of the Public Procurement Experts and Assistant Experts, together with the other staff. All of these personnel shall be employed under a service contract.

Those who will be appointed as Public Procurement Expert Assistants must know well at least one of the foreign languages specified in the regulation, must be graduated from a four-year undergraduate program of Faculties of Law, Economics, Political Sciences, Business Administration, Economics and Administrative Sciences, Architecture and Engineering or from foreign higher education institutions whose equivalences to those are recognized by the

authorized bodies, must be successful in the special contending examination specified in the regulation, and must be under thirty years old on the first day of January of the year of such examination. Among those who have been appointed as Public Procurement Expert Assistants, the ones who have fulfilled at least three years of actual work period, received positive records every year, and proven that they can perform the duty of Public Procurement Expert within the framework of the principles and criteria set forth in the regulation such as performance during work and during the participated training activities shall be entitled to enter the proficiency examinations for Public Procurement Experts. Those who are successful in the proficiency exam shall be appointed as Public Procurement Experts, whereas those who fail to acquire the right to enter the proficiency exams and those who fail in this exam shall be assigned to another post within the Authority according to their status. The provisions relating to appointment, proficiency exams, duties, authorities and liabilities, working principles and procedures of Public Procurement Experts shall be specified with the regulation, which will be put into force with the decision of the Board.

The service units of the Authority, their duties and responsibilities, the procedures and principles relating to appointment and working of the personnel, and the titles, number and qualifications of the personnel that will be recruited under a service contract shall be regulated with the regulations issued by the Council of Ministers upon the proposal of the Authority and in line with the comments of the Ministry of Finance.

The staff of the Authority shall be subject to the Civil Servants Act No: 657, provided that the provisions envisaged in this Law are reserved.

i) The monthly salaries of the Chairperson and the members of the Board shall be designated by the Council of Ministers upon the proposal of the Ministry of Finance.

The salaries and other financial and social rights of the Authority staff shall be determined by the Board, within the framework of the principles, procedures and amounts specified by the Council of Ministers upon the proposal of the Board and in line with the opinions of the Ministry of Finance

The provisions of the Law of Retirement Fund of Republic of Turkey, No 5434, shall apply for those who are appointed as Board members and for the Authority staff. With regard to retirement; President of the Board shall be applied to the representation compensation, office compensation, additional co-efficient and other financial provisions of those designated for Undersecretary of the Ministry, the Board members shall be applied to those of Ministry Deputy Undersecretaries, the vice presidents of the President of the Authority shall be applied to those of the Director Generals of Ministry, and the Heads of Departments of the Authority shall be applied to those of Deputy Director Generals of Ministry. The periods spent under these offices shall be deemed spent under offices requiring the payment of executive compensation and higher authority compensation.

In case those who are appointed as Board Chairperson or member are included within a scheme of any other social security institution established by law prior to their appointments, they shall remain within these schemes, if they desire, and shall not be subject to the provisions specified above.

During the duty period, the persons who are appointed as Board president or as members are discharged from their past duties. However, for the persons who are appointed for the membership while they are charged with the public duties, in the event that their duties are ended for any reason apart from losing the conditions to enter civil-service positions, or they request to leave the job or in case of completing their duty periods, they are appointed for the suitable positions by the related ministry or officials who have the authority to appoint

providing that they apply for their previous institutions within thirty days. During the said appointment procedure, for those who are in official and judiciary category and appointed as Board President and members after starting to receive supreme arbitral indemnity, the period of time spent in the Authority is considered as spent in the duties requiring payment of supreme arbitral indemnity. In case the persons who have been charged in the Authority request to leave the job, they are appointed to suitable positions provided that their current positions evaluated in their service in accordance with the Law provisions to which they were previously subjected by the authorized officials. Those provisions are also applied to the personnel who come from the universities, provided that the provisions about acquiring academic titles are legally guaranteed.

The salaries as well as the social rights and benefits being received by the President and the members of the Board, whose duties have ended due to the expiry of their terms of duty, shall be continued to be paid by the Authority until they are appointed to positions suitable for their acquired rights. Payments by the Authority to those appointed to positions suitable for their acquired rights shall be terminated as of the date of their appointment. The salaries as well as the social rights and benefits being received at the expiry of their duties by those, who were appointed as the President or a member of the Board among persons who had not been working in any public entity and whose duties have ended due to the expiry of their terms of duty, shall be continued to be paid by the Authority until they are appointed to a duty or employed in a job. The payments to be made by the Authority within this scope may not exceed three months.

The personnel who work on the issues related to Authority's field of duty in general and annexed budget administrations and state economic enterprises can be assigned in the Authority by the consent of their institutions, while the judges and attorneys can be assigned in the Authority by their own consent, for the posts excluding public procurement expert. Those personnel are regarded as on leave without pay and their salaries, allocations, any kind of increments and indemnities and other financial and social benefits and aids are determined through the contract signed between the Authority and the related personnel. During their vacation period, the employee rights of their civil service continue and these periods are taken into account at the time of their promotion and retirement, also they are promoted on due date without requiring any other procedure. The university personnel can be assigned for the suitable positions in the Authority regarding their professions in accordance with the article no:38 of Law of Higher Education, no:2547, date: 4.11.1981. The number of personnel who will be assigned in this frame can not exceed 10 % of the total staff number.

j) The revenues of the Authority are as follows:

1) Five of the per ten thousand of the contract price to be collected from the contractor for the contracts whose prices exceeding one hundred billion Turkish Liras (one hundred and twenty-seven billion, three hundred and four million Turkish Liras)*, to be signed in the scope of this Law (At the stage of contract signing, contracting authorities and notaries are obliged to check that the contractor has deposited this amount to Authority's accounts),

2) In goods and services procurements an appeal application charge of one thousand New Turkish Liras (one thousand one hundred and fifty-two Turkish Liras)* for procurements whose estimated costs are up to five hundred thousand New Turkish Liras (five hundred and seventy-six thousand six hundred and twenty-nine Turkish Liras)*, two thousand New

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Turkish Liras (two thousand three hundreded five Turkish Liras)* for procurements whose estimated costs are between five hundred thousand (five hundreded and seventy-six thousand six hundreded and twenty-nine Turkish Liras)* and one million New Turkish Liras (one million one hundred fifty three thousand two hundred and fifty-nine Turkish Liras)*, three thousand New Turkish Liras (three thousand four hundreded fifty-eight Turkish Liras)* for those whose estimated costs are one million New Turkish Liras (one million one hundred fifty three thousand two hundred and fifty-nine Turkish Liras)* and over; in works procurements an appeal application charge of one thousand New Turkish Liras (one thousand one hundred and fifty-two Turkish Liras)* for procurements whose estimated costs are up to one million New Turkish Liras (one million one hundred fifty three thousand two hundred and fifty-nine Turkish Liras)*, two thousand New Turkish Liras (two thousand three hundreded five Turkish Liras)* for procurements whose estimated costs are between one million (one million one hundred fifty three thousand two hundred and fifty-nine Turkish Liras)* and ten million New Turkish Liras (eleven million five hundred and thirty-two thousand five hundred and ninety-nine Turkish Liras)*, three thousand New Turkish Liras (three thousand four hundreded fifty-eight Turkish Liras)* for those whose estimated costs are between ten million (eleven million five hundred and thirty-two thousand five hundred and ninety-nine Turkish Liras)* and twenty million New Turkish Liras (twenty-three million sixty-five thousand one hundred and ninety-eight Turkish Liras)*, four thousand New Turkish Liras (four thousand six hundred and twelve Turkish Liras)* for those whose estimated costs are twenty million New Turkish Liras (twenty-three million sixty-five thousand one hundred and ninety-eight Turkish Liras)* and over,

3) Revenues from activities such as training programs, courses, seminars and meetings,

4) Revenues to be obtained from all kinds of printed papers, forms, announcements, documents, and publications and from operating the Electronic Public Procurement Platform,

5) Supports from the general budget, when necessary,

6) Other revenues.

The revenues of the Authority shall be collected at an account in the Central Bank of Republic of Turkey or in any of the national banks.

The properties and assets of the Authority shall be deemed belonging to the State, and therefore cannot be attached or pledged. The uncollected revenues of the Authority shall be collected by property funds in accordance with the provisions of Law No: 6183 on Collection Procedures of Public Receivables, and shall be transferred to the accounts of the Authority within one month.

k) The expenses of the Authority shall be made with an annual budget which is put into force upon the decision of the Board. The budget year of the Authority shall be the calendar year. The budget shall be prepared within thirty days prior to the beginning of the budget year. The annual financial report and the budget final account relating to the budget implementation results of the Authority shall be acquitted with a Resolution of Council of Ministers.

Transactions and works relating to the annual accounts, revenues and expenses of the Authority shall be audited by the Court of Accounts.

SECTION TWO

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Applications Against Tenders and Review

Applications against tenders

Article 54- Candidates, tenderers or potential tenderers who claim that they have suffered a loss of right or damage or likely to suffer a loss of right or damage due to unlawful procedures or actions within the process of the tender may file a complaint and appeal in line with the procedures and the principles of this law.

The complaint and appeal applications are the mandatory administrative application paths to be exhausted before filing a lawsuit.

Complaint applications shall be submitted to the contracting authority and appeal applications shall be submitted to the Authority through signed petitions.

The petitions shall include;

- a) name, surname or title and address of the applicants, and of the agents or representatives if any,
- b) name of the contracting authority and subject matter of the contract or the procurement registration number,
- c) the date when the situation leading the application has been realized or notified,
- d) the subject matter of application, the reasons and the evidences thereof,
- e) for the appeal applications, the date of notification of the complaint raised to contracting authority and the date of notification of the contracting authority's decision, if any.

It is compulsory to attach the documents evidencing the authority for application as well as the original of the signature circular or the copies approved by the competent authorities to the complaint petitions. These documents shall not be required with the complaint petitions, if they had already been submitted with the application documents or within the tender envelope by the candidate or the tenderer.

The Council of Ministers may decide that an application security shall be received up to the four times the amount specified in item (2) of subparagraph (j) of article 53 from the applicants. Application securities shall be deposited in the accounts of the Authority. These securities shall be kept in separate accounts without being associated with the revenues of the Authority.

It is compulsory to attach the documents to the appeal petitions evidencing the authority for application as well as the original of the signature circular or the copies approved by the competent authorities, and a copy of the answer, if any, by the contracting authority and the document evidencing the application fee has been deposited to the accounts of the Authority.

A person may not apply for more than one procurement and more than one person may not apply for the same procurement with the same petition.

The deficiencies in applications that are contrary to the above stated matters and have not expired yet may be corrected by the applicant before the end of application period, without any necessity for notifying by contracting authority or by the Authority.

Upon the applications, reasoned decisions to be made by the contracting authority or by the Authority are as follows;

a) Ordering the termination of the procurement proceedings in case of violation of law which would constitute an obstacle for the continuation of the tender proceeding and which cannot be remedied by taking corrective measures;

b) Determining the corrective action in cases where the problem may be remedied through correction and where it is not necessary to interrupt the procurement process;

c) Rejecting the application in cases where the application does not comply with related rules regarding time, procedure and form, the contract has been signed properly or no infringement of law could be detected or subject matter of appeal is not covered in the Authority's field of duty, and recording the application security, if any, as revenue as well in cases of rejecting the appeal application except where the subject matter of the application is not within the the duty area of the Authority.

The principles and procedures of applications relating to dynamic purchasing system, Electronic Reverse Auction and framework agreements shall be determined with a regulation issued by the Authority.

Complaint Application to the Contracting Authority

Article 55- The complaint shall be made to the contracting authority within the application period which is five days regarding the procurements held according to subparagraphs (b) and (c) of the article 21 and ten days for other cases from the date which the proceeding or action, which is subject matter of the complaint, have been realized or should be realized, and before contract signing. The period for complaint applications concerning the issues covered in the procurement notice shall start from the date on which the notice is first published, while the period for applications regarding the other provisions of prequalification or tender documents which are not reflected in the procurement notice shall start from the purchasing date of the related document.

The complaints regarding the procurement notice, prequalification or tender documents shall be submitted at the latest until three working days before the tender or application deadline provided that time limits do not exceed the time limits stated in the first paragraph. It is compulsory for the contracting authorities to conclude such complaint applications before the procurement date or deadline for the application. In case material defect or technical defect or deficiencies which could effect tender preparation or fulfilment of the work during the review following the complaint are detected and the contracting authority considers a correction on the tender documentation, application deadline or tender date can be postponed for once, according to procedure in article 29 after the necessary correction. However, if the detected material or technical defect or deficiencies have also taken place in tender notice it shall be proceeded according to Article 26.

The contracting authority makes the necessary review on the complaint application and takes a reasoned decision within ten days following the complaint application. The decision shall be notified to the complainant and the other candidates, tenderers or potential tenderers within three days after the date of the decision. Potential tenderers are not notified about the decisions other than those against the tender notice, tender or pre-qualification documents.

In case a decision is not taken in the specified period the complainant may submit an appeal application within ten days following the expiring of decision period; and in case the decision is not deemed appropriate, the candidates, tenderers or potential tenderers including the complainant may submit an appeal application to the Authority within ten days following the notification of the decision by the contracting authority.

The contract may not be signed unless ten days have passed either from the final notification date of the decision upon application where an application to the contracting authority exists, or from the expiration date for taking a decision where no decision is taken and unless it has

been enquired whether there has been no appeal application or, unless the Authority has given a final decision where there has been an appeal application.

The appeal application to the Public Procurement Authority

Article 56- The candidates, the tenderers or potential tenderers who have submitted a complaint application to the contracting authority or those who have found the decision of the contracting authority inappropriate may file an appeal to the Authority before the signing of the contract under the conditions and within the period stipulated by the fourth paragraph of Article 55. Among the proceedings and decisions related to the cancellation of a tender only those taken upon complaints and appeals can be subject matter of an appeal and this appeal application is submitted directly to the Authority within five days.

When reviewing the appeals the Authority shall look for whether there has been an infringement of equal treatment principle in the framework of claims of applicant and by considering the aspects established in the contracting authority's decision taken upon a complaint and objections raised against proceedings. The appeals to be submitted against an action taken by the contracting authority to cancel the tender upon a complaint or appeal, on the other hand, shall be reviewed limited with the justifications of the contracting authority for such cancellation.

Having been signed of the contract without complying with the specified periods and procedures in the Law or having been resigned from the appeal application shall not constitute an obstacle for reviewing appeal application and taking one of the decisions stated in Article 54.

The Board, when deemed necessary, may decide to hear the parties and the relevant persons. In this case, the parties and the relevant persons shall be heard on a date to be identified by the Board.

The Authority is obliged to make the final decision on the appeal application within twenty days following the date on which the documents, information and the tender proceeding files of the tender under review are recorded in the Authority. This period shall apply as ten working days for the appeals against tenders that are conducted pursuant to subparagraphs (b) and (c) of the Article 21 and against actions taken by the contracting authority to cancel the tender upon a complaint or appeal.

The Authority, when deemed necessary, may consult opinions of expert public or private law legal persons and real persons on the technical issues where certain expertise is needed. Private law legal persons and real persons may be paid an amount to be determined by the Authority which doesn't exceed the value to be calculated by multiplying the benchmark figure of (8000) by the salary coefficient applied to civil servant salaries. On the other hand, if the opinions of public officers are consulted to a payment shall be made to such personnel within the framework of the same principles by taking the benchmark figure of (5000) as basis without being constrained with other legislation applied to personnel. The payments to be made under this paragraph are not subject to any tax and deduction other than stamp duty.

All decisions taken by the Board shall be notified to the parties within five working days following the decision date and is published in the website of the Authority within five days following the notification. No fee may be collected for the access to the decisions.

Contracting authorities must immediately execute the necessary transactions resulting from Board decisions, which would create changes in the legal status.

Judicial Review

Article 57- The final decisions made by the Public Procurement Authority with regard to the complaints shall be under the jurisdiction of the Turkish courts and such cases shall have priority.

CHAPTER IV Prohibition and Criminal Liability

Prohibition from participation in tenders

Article 58- Those who are established to be involved in acts and conducts set forth in Article 17, shall be prohibited from participation in any tender carried out by all public institutions and authorities including the those specified in the 2nd article and the those listed in 3rd article of this Law, for at least one year and up to two years depending on the nature of the said acts and conducts; and those who do not sign a contract in accordance with the procedures, except for force majeure, although the tender has been awarded to them, shall be prohibited likewise from participation in any tender for at least six months and up to one year. Prohibition decisions shall be taken by the Ministry implementing the contract or by the Ministry which the contracting authority is subordinate to or associated with, by contracting officers of contracting authorities which are not considered as subordinate to or associated with any Ministry, and by the Ministry of Internal Affairs in special provincial administrations and in municipalities and in their affiliated associations, institutions and undertakings.

In case legal persons who are subject to prohibition are sole proprietorships, the prohibition decisions shall apply to all of the partners, and in case of companies with shared capital, the prohibition decisions shall apply for partners that are real or legal persons who own more than half of the capital in accordance with the provisions of paragraph 1. Depending on their being real or legal persons, in cases where those who are subject to a prohibition decision are partners to a sole proprietorship, the sole proprietorship shall also be subject to the prohibition decision; and in cases where those who are subject to a prohibition decision are partners to a company with shared capital, the company with shared capital shall also be subject to the prohibition decision provided that they own more than half of the capital.

Those who are established to be involved in these acts and conducts during or after the tender proceedings shall not be allowed by the contracting authority to participate in the current tender as well the subsequent tenders to be carried out by the same contracting authority until the effective date of the prohibition decision.

The prohibition decisions shall be made within at most forty-five days following the date which the conducts or acts requiring prohibition has been established. The prohibition decision shall be sent for publication in the Official Gazette within at most fifteen days, and shall become effective on the date of its publication. The decisions shall be followed up by the Public Procurement Authority and those who are prohibited from participation in public procurements shall be recorded.

The contracting authorities carrying out the tender proceedings shall be responsible for notifying the relevant or related ministry of any event requiring prohibition from participation.

Penal Liability of Tenderers

Article 59- Even if it has been established after the completion and acceptance of the contract, the real or legal persons and their partners or proxies who have been involved in acts or conducts among the ones specified in Article 17 constituting a crime under the Criminal Code, shall be notified to public prosecutors in order to be held subject to criminal prosecution in accordance with provisions of the Criminal Code. In addition to the punishment rendered by the court, these persons shall be prohibited from participation in the procurement proceedings of all public institutions and authorities that are included within the

scope of this Law by decision of court, starting from the ending date of the prohibition decision made by the contracting authority pursuant to Article 58 and for a period of at least one year and up to 3 years, together with the those stated in paragraph 2 of Article 58.

Those for whom a decision to file a public lawsuit is made following the criminal prosecution held in accordance with paragraph 1 due to tenders conducted within the scope of this Law, and those mentioned in paragraph 2 of Article 58, can not participate in the procurement held by public institutions and authorities included within the scope of this Law, until the end of judgment proceedings. Those who are decided to be subject to a public lawsuit shall be informed to the Public Procurement Authority by the Public Prosecutor's Office for recording.

Those who are convicted for repeated times for prohibited acts and conducts set forth under this Law, and the companies with shared capital in which these persons own more than half of the capital, or the sole proprietorships to which these persons are partner, shall be prohibited permanently from participation in public procurements by court decision.

In accordance with the provisions of this Article; those, who are prohibited and convicted by court decision shall be notified by the Public Prosecutors to the Public Procurement Authority in order to be entered the records and to the relevant professional chambers in order to be entered in their professional records.

The court decisions pertaining to those who are prohibited permanently from participation in public procurements shall be announced by publication in the Official Gazette within fifteen days following the notification by the Public Procurement Authority.

Penal Liability of Officers

Article 60- In case it is established that the contracting officer, the chairperson and the members of the tender commissions and other related persons assigned at any stage of the procurement proceedings from the beginning until the signing of contract, have committed acts or conducts specified in Article 17; have failed to fulfil their duties in accordance with the legal requirements or failed to act impartially; or have been involved in defaults or negligent acts which inflict loss upon one of the parties, these persons shall be given a disciplinary punishment in accordance with the related legislation. Criminal prosecution shall also apply for these persons depending on the nature of their acts or conducts, and in addition to the punishment rendered by the court, these persons shall compensate for all the loss and damage inflicted upon the parties in accordance with the general provisions. The persons who have been convicted for the acts and conducts contrary to this Law shall not be assigned to duties within the scope of this Law.

The personnel who have been incurred to any punishment by judicial bodies due to acts and conducts included within the scope of this Law shall not be appointed and assigned by any Public institutions and authorities covered in this Law, to any duties or authorized positions related with the implementation of this Law or other related regulations.

The sanctions mentioned above shall also apply to those who permit and carry out procurement proceedings in violation of the principles set forth under Article 5 and the instructions stipulated under the Article 62.

Confidentiality of Information

Article 61- Those who are assigned with the implementation of this Law and those who provide consultancy services cannot disclose any of the confidential information or

documents relating to all proceedings about the procurement process; jobs and transactions of the tenderers, technical and financial structures of the tenders as well as the estimated costs of the procurements or use these information for the benefit of their own or of third persons. Depending on their relevance, the sanctions stipulated under Article 58 and 60 shall apply in case of violation.

CHAPTER V Various Provisions

Other Rules for Contracting Authorities

Article 62- It is mandatory for contracting authorities to comply with the principles set below within the scope of this Law, before conducting a tender proceeding for goods, services or works.

a) With the aim of completing investment projects in the planned time period and presenting them to the service of the economy, in order for a procurement to be conducted for any work that covers a period exceeding one year, it is compulsory that a program be established to ensure that there is an appropriation in the budget on a yearly basis distributed according to the time period of the work. The appropriation contemplated for the first year shall not be less than 10 % of the project cost, and the appropriation portions which are initially put in the program for the coming years cannot be decreased in the years to follow.

b) In consideration of the time period in which the planned appropriations can be used, it is essential that the procurement be conducted in due time and for the procurements covering a period of more than one year and having investment characteristic (excluding those that must be carried out due to natural disasters), it is essential that the tenders be concluded within first nine months of the year. However, the procurements of goods and services to be realized in the following fiscal year and having continuous characteristic, may be carried out before the end of previous fiscal year.

c) In construction works, it is not allowed to initiate the procurement proceedings without obtaining building site, without completing ownership, expropriation and if required development transactions and without establishing application projects. Where the technical and financial characteristics can not be precisely determined due to the originality and complexity of the works, the procurement may be carried out through preliminary or final project. In construction works where application projects exist, it is obligatory the procurement be carried out through receiving turnkey lump-sum price proposal. However, for works, which have no sufficient time to establish an application project due to natural disasters, the procurements may be conducted with preliminary or final projects; and for all types of repair works and works which the application project can not be established before the procurement since land and soil surveys are required in some certain stages during construction, or a development or route change is probable, except for the building works, the procurement may be conducted with final project. In those works, the procurement may be carried out on turn-key lump-sum basis for the parts of works where the application project can be implemented, and on unit price basis for each item of work for the parts where the application project can not be implemented. The conditions regarding to availability of building site and completion of ownership and expropriation transactions shall not be required in projects relating to dams and large-scale irrigations, drinking water conduit lines, energy transmission lines, substations, transformer stations, switchyards, captures, water tanks, highways, harbours and airports, railways, oil and natural gas pipelines.

d) The estimated cost; which determined to be used in programming of the budget by the contracting authorities and to be used in comparing the proposals submitted by tenderers participating in the procurement shall not be disclosed to tenderers.

e) If the personnel employed by the contracting authorities pursuant to laws, statutes, and regulations does not bear adequate qualities or is not in sufficient number, it may be put out to tender for the services specified in this Law. However, the condition of lacking of adequate qualifications or not being in sufficient number is not required in consultancy services procurements.

f) No advertisement shall be published without preparing the tender documents. In determining the notice periods, the day of publication of the notice shall be taken into account, and the date of opening of tenders or the deadline for applications shall not be taken into account. It is mandatory to send the texts of the notices where they will be published in advance, taking into consideration the time that will elapse until the publication of the notice, in order to ensure compliance with the time limits set forth in Article 13.

g) In case the date determined for the tender falls on a holiday, the tender shall be realized on the first working day following the holiday at the same place and time with no further requirement of a notice, and the tenders which have been submitted until this time shall be accepted. The time of the tender shall be determined with regard to the working hours. Even if there is a change in the working hours after the notice, the tender shall be held at the hour announced before.

h) Where engineers or architects without work experience apply for works procurements compatible with their undergraduate education, the years after their graduation shall be taken into consideration as similar work experience within the scope of article 10 by calculating each year as one hundred and twenty two thousand three hundred and eighty seven New Turkish Liras (one hundred forty-one thousand one hundred and forty-three Turkish Liras)*, provided that the total period does not exceed fifteen years. This period shall not apply for architects and engineers who have work experience. The experience obtained under the scope of this subparagraph may also be used by legal entities, where the concerned engineer or architect has owned more than 51 % of the relevant legal entity or both partners are engineers each holding 50% - 50% share of the legal entity, for five years.

i) The annual total of the expenses to be used up within the monetary limits specified in 21st and 22nd articles of this Law, can not exceed 10 % of the appropriations to be allocated in contracting authorities' budgets for this purpose, unless otherwise is approved by Public Procurement Authority.

Arrangements regarding domestic tenderers

Article 63- The contracting authorities may insert some provisions to the tender documents with regard to; in procurement of services and works, a price advantage would apply to domestic tenderers up to 15%, and in procurement of goods, a price advantage up to 15 %, would apply to domestic tenderers who offer products which are accepted as domestic products by the Authority by taking the opinions of Ministry of Industry and Trade and of other relevant organisations and institutions, and in cases where the estimated costs are below the threshold values, only domestic tenderers can participate in procurements. In order to be deemed as domestic tenderers, all partners of the joint ventures must be domestic tenderers.

Calculation of time limits

Article 64- In case there is no provision regarding the calculation of the time limits written in this Law, the provisions of the Code of Obligations shall apply.

* has been published in Official Gazette which is numbered 27824 and dated 23.01.2011 by Communiqué of Public Procurement Authority, numbered 2011/1 and has covered the period of **01.02.2011 – 31.01.2012**

Announcement and Notification Principles

Article 65- It is compulsory to obey the following rules for the announcements and notifications to the candidates, tenderers and potential tenderers.

a) Notifications shall be conducted with one or more of the following ways by the contracting authorities or the Authority.

- 1- by hand in return of signature
- 2- by registered mail
- 3- in electronic environment
- 4- by fax

In notifications by registered mail, the seventh day, and in case of foreign tenderers the nineteenth day, following the mailing of the registered letter shall be deemed as notification date of the decision to the tenderer. When notification is arrived to whom concerned before that time, actual notification date shall be taken.

b) Notifications made by the contracting authorities or by the Authority in electronic environment or by fax as well as the price offers submitted in electronic environment by tenderers involved in a framework agreement must be confirmed on the same day. In notifications in electronic environment or by fax, the actual notification date shall be deemed as the legal notification date.

However, in transactions realised between contracting authorities or the Authority and candidates, tenderers and potential tenderers by using electronic signature or transactions regarding the procurement process executed via Public Procurement Platform, including those related to complaint applications, confirmation shall not be required.

c) The tools to be used in electronic communication and their technical features shall be compatible with the commonly used and easily available communication and information technology products and shall ensure equality principle.

d) It is essential to preserve integrity of data and the confidentiality of tenders and participation requests, in all kinds of exchange and storage of information.

In case there is no relevant provision in this Law for notifications to be served, the provisions of the Code of Notification shall apply.

Amendments

Article 66- Amendments to provisions of this Law shall only be arranged through annexing provisions or making changes.

Updating threshold values and monetary limits

Article 67- The threshold values and monetary limits specified in this Law shall be updated yearly by the Public Procurement Authority in view of the Index of Wholesale Prices of the previous year and shall be published in the Official Gazette until the 1st of February which will be effective as of the same date. However, the updating shall not take into consideration the amounts below 1 million Turkish Liras. The threshold values and monetary limits indicated in this Law may further be updated upon the proposal of the Authority with the decision of the Council of Ministers in case of emergency.

CHAPTER VI Final Provisions

Provisions not applicable

Article 68- a) The provisions of State Procurement Law No: 2886, dated 08.09.1983 shall not be applicable in procurements covered in this Law.

b) The provisions of other laws, which provide exclusion from State Procurement Law No: 2886, dated 08.09.1983 and which are not in conformity with the Law No: 4734 shall not be implemented.

c) In projects within the scope of Law no: 2985 on Collective Housing, the procurements may be conducted without requiring the conditions stipulated in fifth and sixth paragraphs of the 5th article, in (a), (b) sub-paragraphs of 62nd article and the conditions related to expropriation, ownership, obtaining of building site, development transactions and application project stated in sub-paragraph (c) of the same (62nd) article. However, in cases where Environmental Assessment Report is obligatory, it is compulsory this report be obtained before contract signing.

Electronic public procurement platform

Additional Article 1- In procurements to be conducted within the scope of this Law; without prejudice to the article 13, stages related to procurement process, such as the tender notice, preparation and submission of the tender document, submission of the documents concerning participation and qualification, preparation, submission, and evaluation of the tenders, finalization and approval of the procurement, notification of the final tender decision, and signing of the contract as well as all sorts of notifications may be realized partly or wholly over the Electronic Public Procurement Platform established by the Authority.

The principles and procedures concerning the establishment and operation of the Electronic Public Procurement Platform as well as the use of electronic means during the procurement process shall be determined by the Authority.

All the notices to be made pursuant to article 13 of this Law shall also be published in the Electronic Public Procurement Platform.

Systems may be established over the Electronic Public Procurement Platform concerning the determination of the qualifications of candidates or tenderers in procurements that are within the scope of this Law. The Authority is authorized with regard to establishing, getting established, and supervising of these systems, cancelling the powers of the authorized authorities or taking decisions in the nature of precautions.

Framework agreements

Additional Article 2- Contracting authorities may conclude framework agreements for the procurement of required goods, services and works provided that they use open or restricted procurement procedures. Framework agreements shall not be used in such a way to prevent, restrict or distort competition.

Goods, services and works to be procured in the scope of framework agreements shall be announced in accordance with Article 13 of this Law. Estimated amounts planned to be procured under the scope of framework agreement shall be stated in the notice.

Except for the provisions with regard to receiving of securities, the framework agreement shall be signed for a period not exceeding forty-eight months in accordance with the provisions in this Law prescribing the conclusion of contracts, and the results shall be announced in Public Procurement Bulletin.

Framework agreements may also be concluded with only one tenderer provided that all the conditions are determined in advance. In framework agreements to be concluded with more than one tenderer, the number of tenderers who will become party to the framework agreement, which is not less than three, shall be stated in tender documents, on condition that adequate number of tenders meeting the requirements is submitted. The tenderers whose tenders are accepted as valid after the evaluation shall be included in the list by ranking from the economically most advantageous tender, except the cases which the framework agreement is concluded with only one tenderer. In case the number of tenderers who are party to the framework agreement falls under three, the parties shall be notified of the annulment of the current framework agreement.

In procurements under the framework agreements which all the conditions are determined in advance the tenderers may be requested to re-tender on condition not to exceed their initial tenders. In cases where all the conditions are not determined in advance the tenderers may be requested to re-tender provided that no substantial changes are made on terms of the framework agreement.

The tenderers shall be given sufficient time for preparing their tenders considering the complexity and originality of the subject matter of the contract.

The tenderers shall document every twelve months that their qualification is valid. Framework agreements of those who have lost their qualifications and those who do not submit a valid tender twice even though they have been invited to do so, shall be annulled.

The framework agreement with the tenderer who have failed to sign the individual contract within the time specified in tender documents in spite of an invitation from the contracting authority, shall be annulled and the provisions of Article 58 shall be applied for the tenderer.

Articles 6, 38, 40, 41, 42, 43, 44, 45, 46, 54, 55 and 56 of this Law shall not apply to individual contract phase. The Authority is authorized to determine the procedures and principles as well as the nature and scope of the purchases to be realized within the scope of framework agreements, including the matters specified in these articles, to impose restrictions, and to determine the form and scope of contract when such contracts are deemed necessary.

Being concluded a framework agreement does not impose the contracting authority the obligation to purchase. The contracting authority may procure its needs that are in the scope of framework agreement also by implementing the other procedures in this law.

Additional Article 3- Council Of Ministers is empowered to establish the principles on price difference and to issue the decrees allowing to amend or to wind up the contracts in order to apply to works or works-oriented services contracts which have been concluded up to the enforcement date of this article and the contracts to be concluded at foreign currency over fixed prices after this date, according to the related legislative provisions other than those of State Tender Law, numbered 2886, and are under the same scope with that of subparagraph (c) of article 3 of Public Procurement Law, no:4734.

Dynamic Purchasing System

Additional Article 4- The Dynamic Purchasing System may be used for purchasing in electronic environment of the manufactured goods available in the market. Open procedure is applied while establishing the system. The dynamic purchasing system shall not be operated in such a way to impede, restrict or distort competition.

It shall be notified by a notice in the Public Procurement Bulletin that the system is to be established. The information regarding the nature, description and quantity of the

procurement planned, as well as procurement system, electronic equipment to be used in operating this system, necessary adjustments to connect the system in technical terms, the rules regulating the system operation and other information shall be specified in tender document.

All tenderers fulfilling the qualification criteria and submitting the preliminary tenders in line with the conditions specified in the tender document shall be allowed to participate in the system. Preliminary tenders may continuously be improved as long as they comply with the rules set forth in tender document.

The evaluation of preliminary tenders shall be completed within fifteen days as of their submission. If no invitation has been issued yet for submitting the tenders, the evaluation period may be extended once up to fifteen days.

Decision to establish a dynamic purchasing system, or to abandon the establishment of such a system, and that the preliminary tenders have been accepted to the system or rejected, shall be notified to the tenderers in three days at the latest following the relating decision.

All tenderers admitted to the system shall be invited to submit their tenders for each procurement. The procurements shall be announced by simplified notice at least fifteen days before this invitation. All of the tenderers accepted to the system shall be invited to submit tender by allowing sufficient time to prepare their tenders.

The procurement shall be finalized by evaluating the tenders in accordance with the principles in the tender document and concluded by signing of the contract.

The period of dynamic purchasing system may not be longer than forty-eight months.

The Electronic Public Procurement Platform shall be used for the procurements to be conducted by dynamic purchasing system. No fee shall be collected for admitting to and operating of the system.

The Authority is empowered to determine the cases requiring contract arrangements, and the principles and rules regarding the contracts on procurements within the scope of dynamic purchasing system.

Electronic Reverse Auction

Additional Article 5- The Electronic Reverse Auction may be conducted after the completion of the evaluation phase of the open procedure, restricted procedure and negotiated procedure, conducted according to paragraphs (a), (d) and (e) of Article 21, provided that it has been stated both in tender notice and tender documents. Electronic Reverse Auction may also be applied in tenders within the scope of dynamic purchasing system and framework agreements. Electronic Reverse Auction shall not be used, however, in tenders for the procurement of consultancy services conducted pursuant to article 48.

Electronic Reverse Auction may only be used in cases where all the technical characteristics of the subject matter of procurement are precisely determined.

Before starting the Electronic Reverse Auction the initial evaluation of the tenders shall be realized in accordance with the requirements given in the tender document.

The tenderers who are accepted as qualified shall be simultaneously invited to re-tender in the electronic environment. The starting date and time of the auction and all information

necessary for tenderer to connect the electronic device being used shall be included in the invitation. A timetable indicating each stage of the Electronic Reverse Auction shall also be given in the invitation. Electronic Reverse Auction may be conducted in more than one successive step. The auction may not be launched unless two working days have passed after the date on which the invitation is sent.

In cases where economically the most advantageous tender is determined also by considering the non-price factors, the result of the initial evaluation and the mathematical formula determining the ranking according to new tenders shall be notified in the invitation. This formula shall also include the relative weights, if any, of all the factors to be used in determining economically the most advantageous tender as specified in tender notice and tender documents.

In each stage of the Electronic Reverse Auction, the tenderers are instantly provided with necessary information enabling them to learn their rank at the very moment. As long as specified in the tender documents, information about the tenders of other tenderers and the number of tenderers at any stage of the auction may be announced. However, the identities of the tenderers shall not be disclosed during the Electronic Reverse Auction.

Electronic Reverse Auction is terminated in the event that one or more of the following conditions occur:

- a) Expiration of the date and hour scheduled in the invitation for the closing of auction,
- b) Inability in receiving tenders ensuring the minimum difference range within the standstill period specified in the invitation for the placement of new tenders,
- c) Completion the number of tours indicated in the invitation.

Financial leasing

Additional Article 6- The principles and procedures to be applied in procurement of goods through financial leasing by the contracting authorities covered in this Law shall be established by the Authority.

Standard tender documents and regulations

Interim Article 1- The standard tender documents and regulations to be issued for the implementation of this Law shall be prepared by the Public Procurement Authority in view of the opinions of the relevant institutions and authorities until the enforcement date of the Law and published in the Official Gazette.

Until the enforcement of these documents, the contracting authorities shall continue to apply the existing principles and regulatory provisions.

Ongoing tenders

Interim Article 2- The procurement for which a written tender announcement or a notice has been made prior to the enforcement date of this Law shall be concluded in accordance with the relevant laws and procedures.

Updating

Interim Article 3- The threshold values and monetary limits set forth in this Law shall be updated as specified in article 67 for the period lasting between the date of publication of the Law in the Official Gazette and the date of enforcement.

Principles and procedures relating to the exclusions

Interim Article 4- Principles and procedures relating to;

a) paragraph (b) of 3rd article shall be prepared by relevant institutions,

b) paragraph (d) of 3rd article shall be prepared by the Ministries of Foreign Affairs, National Defence, Finance, and Public Works and Settlement upon the approval of Public Procurement Authority,

c) principles and procedures related to procurements of goods and services to be made pursuant to sub-paragraph (f) of 3rd article shall be prepared by relevant institutions upon the approval of Public Procurement Authority, until the date of enforcement of the Law by taking into account the opinions of relevant institutions and organisations and shall be put in force by decision of Council of Ministers.

The principles and procedures to be implemented in procurements according to sub-paragraph (e) of 3rd article of this Law, may be determined by Authority, whereas the principles and procedures of purchases from State Procurement Office may be determined by the Ministry of Finance if deemed necessary.

The goods and services within the scope of sub-paragraph (g) of 3rd article of this Law shall be determined by Authority upon the request of relevant institutions.

The principles and procedures related to sub-paragraph (h) of 3rd article of this Law shall be determined with the regulation prepared by Ministry of Finance, taking into account the opinions of Authority and Ministry of Health.

The enterprises, institutions and corporations which carry out activities in energy, water, transportation and telecommunication sectors shall be subject to sub-paragraph (g) of 3rd article of this Law until their special laws enter into force and shall be subject to other provisions of this Law for procurements of goods, services and works which are not within the scope of said sub-paragraph.

The monetary limit set forth in sub-paragraph (g) of 3rd article of this Law shall not apply to any kind of goods, services and works procurements relating to activities for searching, drilling, generating and transporting of oil and natural gas by Turkish Petroleum Corporation within Turkish territorial waters as well as international waters.

The principles and procedures regarding to paragraph (i), Article 3 of this Law shall be set forth with a regulation to be issued by the Ministry of Finance, Public Procurement Authority and the Ministry.

The principles and procedures regarding to paragraph (j), Article 3 of this Law shall be set forth with a regulation to be issued by the Ministry of Environment and Forestry by taking comments of Ministry of Finance, Public Procurement Authority and Undersecretariat of Maritime.

The principles and procedures regarding to paragraph (l), Article 3 of this Law shall be set forth with a regulation to be jointly issued by the Ministries of Justice and Interior Affairs by taking the comments from Ministry of Finance and Public Procurement Authority.

The principles and procedures regarding to paragraph (k), Article 3 of this Law shall be set forth with a regulation to be issued by the General Directorate of Foundations by taking the comments from Ministry of Finance and Public Procurement Authority.

The procedures and principles to be applied by the Scientific and Technological Research Council of Türkiye pursuant to subparagraph (f) of article 3 of this Law shall be determined with the regulations to be issued by the Scientific and Technological Research Council of Türkiye by taking the opinions of the Ministry of Finance and the Authority; and the procedures and principles with respect to subparagraph (n) shall be determined with the regulations to be prepared by the relevant ministries by taking the opinions of the Ministry of Finance and the Authority.

Establishment of Public Procurement Authority

Interim Article 5- The Public Procurement Board specified in Article 53 of this Law shall be appointed within thirty days following the publication date of this Law in the Official Gazette. For the initial appointments to the Public Procurement Board; one each member determined by the Council of Ministers selected among the candidates proposed by the Ministry of Finance and selected among the candidates proposed by the Ministry of Public Works and Settlement shall be on duty for a period of seven years.

The Board, within sixty days following appointments, shall establish its organisation and make the Authority become effective by this date for the realization of its duties defined in this Law.

Until the date at which this Law shall be effective, the principles and procedures of the procurements to be held by the Authority shall be regulated by a regulation to be issued by decision of Council of Ministers upon the request of The Board.

The regulations mentioned in Article 53 of this Law and in the third paragraph above shall be issued until the date on which the Authority begins to operate.

All expenditures of the Authority shall be financed by the general budget, until the time when they are met by Authority's own revenues.

Interim Article 6- Within 1 year from the date of execution of this article;

a) Among the staff charged in public institutions and authorities, those who are graduated from the higher education institutions defined in the scope of paragraph (h) of the article no: 53 and have obtained the profession through private competition exam, and after a certain period of on-the-job training, have been appointed to office through private qualification exam, and those who are judges, attorneys and the ones regarded as from this profession,

b) The university teaching personnel who have completed at least postgraduate education provided that their branch is in relation with the Authority's field of duty,

c) The ones having bachelor's degree in engineering and architecture and have worked in the public institutions and authorities as related to their field of study for at least 5 years, and the ones having the post graduate education in one of these fields following their bachelor's degree and who have worked in the public institutions and authorities as related to their field of study for at least 3 years, may be appointed as public procurement experts by the Board through obtaining the approval of their institutions, provided that they have not exceeded 40 years old by a day, and for the ones defined in the sub-paragraphs (a) and (c), provided that

they have worked in the field of judgment, inspection, auditing, implementing or consultancy related to public procurement legislation.

The personnel who work in the administrations with general and annexed budget, state economic enterprises and their affiliated partnerships, in institutions having juristic personality established by private laws and charged with public duties and institutions with independent budget, may be appointed to the positions of the Authority apart from the public procurement expert and expert assistant positions until 31.12.2003, upon their request and approval of their institutions.

Interim Article 7- Regarding to World Inter-university sports games to be performed in İzmir in 2005, all kinds of procurements for goods, services and works by the Executive Board and by other public authorities and authorities upon request of said Board shall be excluded from this Law, except prohibition and criminal provisions.

Ongoing procurements

Interim Article 8- Law provisions that were in force at the time of enforcement of this Law shall be continued to apply for the tenders, which were announced or notified in writing until the effective date of this Law.

The complaint applications that were submitted until the effective date of those listed in subparagraph (b) of article 35 of this Law and the applications that involve claims of contradiction to the provisions of this Law and relevant legislation shall be finalized pursuant to the provisions of the legislation effective on the date of application.

Current appointments

Interim Article 9- The appointments of those actually working from among the personnel appointed as public procurement experts in the Authority pursuant to subparagraph (i) of article 53 before 31.05.2008 may be continued depending on the needs of the Authority.

Terms of duty of the president and the members of the Board

Interim Article 10- From among the existing president and members of the Board, the terms of duty of those appointed to complete the term of another member before the effective date of this Law shall apply as five years starting from the date of their appointment.

Continuation of Board Membership

Interim Article 11- Existing board members shall remain in the office until they have completed their term of duty.

Appointment to Presidency Advisory

Interim Article 12- Duties of those who are working as Vice President, Chief Legal Adviser and Head of Department in the Authority shall be ended at the effective date of this Decree Law. They are considered to be appointed to the titles of Presidency Adviser, which are created by attached list number (3), without any further procedure. In case of any vacancy of the titles of Presidency Adviser which are created by this paragraph, the titles are deemed to be revoked without any further procedure.

For those who are considered to be appointed to the titles of Presidency Adviser as per first paragraph, as of the date of their appointment in case the total net amount of payments (this value is considered as a constant value) received at the most recent month in accordance with the related legislation for their previous titles exceeds the total net amount of payments

received in accordance with the related legislation for their new titles which they are deemed to be appointed, the amount of the difference shall be paid as difference compensation without being subjected to any tax or deduction until the difference is offset. For those who have any voluntary change at the titles which they are considered to be appointed and for those who are voluntarily appointed to other authorities, the payment of difference compensation is ended.

Those who are appointed as Presidency Adviser as per first paragraph shall execute the duties determined by the president at the departments determined by the president.

Enforcement

Article 69- Article 53, and interim Articles 1 and 5 of this Law shall be effective on the publication date, whereas the other articles shall enter into force on 1.1.2003.

Execution

Article 70- The Council of Ministers shall execute the provisions of this Law.

Provision of Law no: 4761 which is not applicable to Law no: 4734 on Public Procurement

Article 20- The salaries, financial and social rights and benefits for the President and members of the boards, supreme boards, institutions and organizations which were established or to be established until 31.12.2006, through the private laws possessing the form of public legal personalities and administrative and financial independencies, shall be determined by the Council of Ministers taking into account the functions of these boards, supreme boards, institutions and organizations, wage equity and the practice of provisional article 1 of the Decree of Law no:631. When necessary, the Council of Ministers has the authority to increase the ceiling job-lot price of representation and duty indemnities up to the amount as three times as the ones which are being paid to civil servants, and to make arrangements in the increased amount in respect to staff position and titles, in order to ensure wage equity.

Until the above mentioned arrangement is made, The President of the Public Procurement Authority, is paid as total of net amount monthly and other payments as the Chairman of the Energy Market Regulation Authority is paid, and the members of the Public Procurement Board are paid monthly on the net amount of the 97 % of the total amount paid to the Chairman of the Board.

Provision of Law no: 4964 which is not applicable to the Law no: 4734, on Public Procurement

Interim Article 1- Tender documents, form contracts and regulations which need to be rearranged because of the amendments on the Laws no: 4734 and 4735 made by this Law shall be prepared by Authority within 60 days as of publication date of this law and shall be put into force. Arrangements made by this law on monetary limits in Law no:4734 and newly added monetary limits shall be updated by the Authority as of 1.1.2003, within the framework of the principles of article 67 of Law no:4734, accepting those limits were valid on 22.01.2002. Contracting authorities shall continue to implementing the provisions of existing principles, procedures and regulations until the above mentioned arrangements become effective.

Principles and procedures need to be prepared and become effective due to the amendments made on 3rd and provisional 4th articles of Law no:4734 shall be prepared within 30 days as of publication date of this law and put into force. Contracting authorities shall continue to implementing the principles and procedures which were prepared and became

effective prior to amendments made by this law, based on formerly executed 3rd and provisional 4th articles of Law no:4734, until those arrangements are published.

Works procurements, which the institutions benefiting from the exclusion provision in paragraph (g) of the 3rd article of Law no:4734 are the awarded contractors, shall be subject to the exclusion provision specified in the same paragraph for a period of ten years.

Provision of Law no: 5398 which is not applicable to the Law no: 4734, on Public Procurement

Interim Article 2- the part calculated according to the ratios established by the institutions and authorities upon the proposal of the Ministry of Finance and the approval of the Prime Minister, of the accumulated income derived from all kinds of revenues generated by Istanbul Stock Exchange, the Radio and Television Supreme Council, the Competition Authority, the Capital Markets Board, Banking Regulation and Supervision Authority, the Telecommunications Authority, Energy Market Regulatory Authority, the Public Procurement Agency and the Tobacco, Tobacco Products and Alcoholic Beverages Market Regulatory Authority shall be deposited to the account at the Republic of Turkey Central Bank to be recorded as revenue at the scale (B) of the budget within the time period established by the Ministry of Finance. Also, cash surplus of the above listed institutions and authorities accumulated in their cashbooks until the date of 31.12.2005 shall be closed upon in accordance with the principles specified in this article and transferred to related accounts.

The above listed institutions and authorities shall notify the Ministry of Finance by 15.07.2005 about their income as well as their cash and cash balance accumulated until the date of 30.06.2005, and financial information showing the income and expenses and cash and cash balance of the each month.