

LAW ON PUBLIC PROCUREMENT CONTRACTS

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LAW ON PUBLIC PROCUREMENT CONTRACTS

CHAPTER ONE

General Provisions

SECTION ONE

Purpose, Scope, Definitions, and Principles

Purpose

ARTICLE 1.- The purpose of this Law is to establish the principles and procedures that pertain to making and implementing public procurement contracts under Public Procurement Law.

Scope

ARTICLE 2.- This Law shall apply to contracts concluded as result of tender processes carried out by public entities and institutions subject to the Law on Public Procurement in accordance with the provisions of the said Law.

Definitions

ARTICLE 3- The definitions as stated in the Law on Public Procurement shall apply in implementation of this Law.

Principles

ARTICLE 4- In contracts to be made pursuant to this Law, no provisions may be included in a contract contrary to the tender documents.

Contract provisions shall not be amended, nor shall supplementary contracts be made, other than the cases specified in this Law.

The parties to public procurement contracts made under this Law shall have equal rights and obligations in implementing the contractual provisions. Any articles contrary to this principle shall not be included in provisions of either the tender documents or contracts. This principle shall be kept in view in any interpretation of this Law as well as in its implementation.

SECTION TWO

Contract Making

Form Contracts

ARTICLE 5- Form contracts shall be published in the Official Gazette in order to assure uniformity in implementation of this Law in connection with procurement of goods, services, and works.

(Annexed: 4964/Article 42) Any contracts to be made by the contracting entities shall be drawn up in accordance with the provisions of the form contract. In procurements of goods and services the contracts customarily prepared by tenderers may be used provided that those contracts are not contrary to the provisions of the form contracts and Authority approves.

Contract Categories

ARTICLE 6- Consequent to tender processes carried out in accordance with the Law on Public Procurement, contracts shall be made in various categories as stated below:

a) In procurement of works; turn key lump-sum contracts shall be made over the total tender price for the entire work proposed by the tenderer on the basis of application projects and site lists thereof.

b) In procurement of goods or services; lump-sum contracts shall be made over the total tender price proposed by the tenderer for the entire work, the detailed specifications and quantities of which are pre-determined by the contracting entity.

c) Unit price contracts shall be made over the total price calculated by multiplying the quantity for each work of item specified in the schedule prepared by the contracting entity, with unit prices proposed by the tenderer for each corresponding work of item, on the basis of, preliminary or final projects and site lists thereof along with unit price definitions in procurement of works whereas on the basis of detailed specifications of the work involved in procurement of goods or services.

Matters That Must Be Covered In the Contracts

ARTICLE 7.- It shall be mandatory to cover the issues listed below in the contracts to be made under this Law:

- a) Title, specification, category and quantity of work; description of work in procurement of services.
- b) Name and address of the contracting entity.
- c) Name or business title and address for notification of the contractor.
- d) Information on sub-contractors, if any, and their obligations.
- e) Price, category and duration of contract.
- f) Terms and place of payment; amount and place of advance payment, if any.
- g) Method of payment of price difference, if any, for business under contract.
- h) Statement of cost items that are to be included in the contract price from among transportation, insurance, taxes, duties and charges payable.
- i) Statement of the parties that would pay for cost items from among taxes, duties, and charges payable and other expenses under the contract.
- j) Terms and conditions concerning such auxiliary services as installation, commissioning, training, repair-maintenance, and spare parts.
- k) Amount of performance security and conditions pertaining to returning of it.
- l) Guarantee periods, where any is required, and any conditions pertaining to such guarantee.
- m) The place of performance, and procedure and conditions of delivery and receiving.
- n) Penalties applicable in case of delays.
- o) **(Amendment: 4964/Article 43)** Force majeure and conditions for granting time extensions, mutual obligations in work increases and decreases which may be made under the scope of the contract
- p) Conditions pertaining to control, inspection and acceptance procedures.
- r) In procurement of works; conditions pertaining to insurance coverage of works and works site along with control of works and construction liability.
- s) Conditions pertaining to amendments of contract.
- t) Conditions pertaining to termination of contract.

- u) Contractor's liability pertaining to personnel in which the contractor would employ under the contract..
- v) Statement that all documents included in the tender documents are attachment to contract
- y) Resolution of disputes.

CHAPTER TWO

Contract Implementation

SECTION ONE

Price Difference, Insurance, Force Majeure, Control, Inspection and Acceptance Procedures

Eligibility for Price Difference

ARTICLE 8.- Council of Ministers, upon recommendation of The Public Procurement Authority, shall have the authority to establish the principles and procedures governing payment of price differences for different contract categories.

Any principles or procedures stated in a contract concerning payment of price difference shall not be amended after the contract has been signed.

Insurance Coverage of Works and Works Site

ARTICLE 9.- In works contracts; the contractor shall be obliged to take out insurance for all kinds of equipment at works site including any machinery for construction or service along with any materials, vehicles, and facilities as well as completed portions of works against natural disasters such as earthquake, flood, land-slide, storm, fire, and other risks such as theft and sabotage, with such insurance coverage to be valid from the date of commencement of construction to the date of final acceptance, depending on the properties and characteristics of the works involved, as stated in the tender documents.

Force Majeures

ARTICLE 10.- Circumstances that may be considered as force majeure shall be as stated below:

- (a) Natural disasters.
- (b) Legal strikes.
- (c) Epidemic cases.
- (d) Announcement of partial or general mobilization.

- (e) Other similar circumstances that may be determined by the Authority when necessary.

For the contracting entity to be able to accept any of the circumstances stated above as force majeure, including cases of time extension and contract termination; it shall be absolutely necessary that the concerned case did not arise from the contractor's fault, that it constituted an obstacle in fulfilling the contractual obligations, that the contractor could not afford to remove such obstacle, that the contractor has notified the contracting entity in writing within twenty days as of the date which the force majeure has occurred, and that it has been documented / certified by competent authorities.

Control, Inspection, and Acceptance Procedures

ARTICLE 11- Inspection and acceptance commissions consisting of at least three persons to be formed by the contracting entities shall perform inspection and acceptance procedures on delivered goods, services or works or on completed work. Inspection and acceptance procedures shall not be performed unless the goods or any work done has been delivered to the contracting entity by the contractor.

However, where there is a relevant provision in the contract; the related contracting entity may perform inspections in certain stages and intervals on works requiring production or manufacturing processes, for purposes of determining whether such processes are being carried out in compliance with the quality and specifications set forth in tender documents, with the condition that such inspections shall not in anyway relieve the authorities and responsibilities of inspection and acceptance commissions.

Partial acceptance may be done for the parts that have been completed under the contract and that are available for use independently.

SECTION TWO

Provisions Concerning Performance Security

Supplementary Performance Security

ARTICLE 12.- (Amendment: 4964/Article 44) In contract awards involving price difference, supplementary performance security shall be obtained in the amount of 6 % of the price difference to be paid; and in cases where the contract price has increased, a supplementary performance security which amounts to 6 % of the increased value shall also be obtained over assets acceptable as security. Supplementary performance security calculated over the price which to be paid as price difference may also be obtained through deductions from remunerations.

Returning of Performance Security and Supplementary Performance Security

ARTICLE 13.- Once it has been determined that the contractual obligations have been fulfilled in accordance with provisions of contract and tender documents

and that the contractor is not involved in debt to the contracting entity in any way in connection with the concerned contract, the performance security and supplementary performance security, if any, shall be returned as follows:

(a) In works, half of the performance security shall be returned following elimination of the deficiencies and errors, if any, and the approval of minutes of provisional acceptance, and the remaining portion shall be returned upon furnishing of a document from Social Security Institution which certifies having no further connection with and after the minutes of final acceptance has been approved.

(b) In contracts other than works, once it has been determined that a document from the Social Security Institution which certifies having no further connection with has been submitted; half of the performance security shall be returned in cases where a guarantee period has been envisaged for goods received or work performed and the remaining half shall be returned upon expiration of such guarantee period, while the entire performance security shall be returned in cases where no period of guarantee has been envisaged.

In case the contractor's debts to the contracting entity or Social Security Institution or taxes owed on wages or payments considered as wages have not been paid until the date of final acceptance in works contracts, and until the date of final acceptance or the date of expiration of guarantee period, if any, in contracts other than works; the performance security shall be converted into money without need for filing protest or obtaining writ and such amounts shall be held against the debts, and remaining amount, if any, shall be returned to the contractor.

In case the subject of the contract involves off-the-shelf goods, obtaining a document from Social Security Institution certifying no binding relations shall not be required.

Securities Not Returned

ARTICLE 14.- In cases where a deduction pursuant to Article 13 does not need to be made; any letters of guarantee furnished as performance security and not yet returned due to lack of a request (from the contractor) despite a written notice from the contracting entity, within two years counting from the date of approval of minutes of final accounts and final acceptance in works contracts, and from the date of acceptance or the date of expiration of guarantee period, if any, in other contracts; such letters of guarantee shall become void and returned to the issuing bank. Securities in forms other than letter of guarantee shall be credited to Treasury as revenue at the end of their terms.

SECTION THREE

Contract Amendments, Assignment and Termination of Contract

Contract Amendments

ARTICLE 15.- The contract provisions on matters as stated below may be amended after contract signing , provided that the contract price is not exceeded and that the contracting entity and the contractor mutually agree:

a) Location of performance of work or place of delivery.

b) Duration of work and conditions of payment in accordance with such duration provided that it is completed or delivered before its time (as originally specified in the contract).

Assignment of Contract

ARTICLE 16.- A contract may be assigned to third parties where absolutely necessary and with written permission from the contracting officer. However, it shall be mandatory for such third parties to take over (the contract) possess the qualifications as originally specified in the tender process. Furthermore, contract assignments other than those effected consequent to change of business title or charter, a contractor having assigned a contract may not assign or take over still another contract for a period of three years counting from the date of such assignment of contract. Any contracts assigned without due permission, as well as contracts assigned or taken over within three years following the assignment date shall be terminated and provisions of Articles 20, 22, and 26 shall apply to assignors and assignees.

Contractor's Death, Bankruptcy, Falling Seriously Ill, or Being Arrested or Convicted:

ARTICLE 17- The provisions as stated below shall apply in case the contractor becomes deceased, bankrupt, falls seriously ill, or is arrested or convicted:

a) In case the contractor becomes deceased, work already done shall be wound up by terminating the contract, and the performance security and any other receivable due to the contractor shall be handed to inheritors. However, the contracting entity may, where it deems it appropriate, transfer the contract to any willing inheritors bearing the same qualifications (as required in tender documents), provided that they furnish performance security as necessary for the entire commitment under the contract including supplementary security, if any, within 30 days following the date of death.

b) In case of contractor's bankruptcy, the contract shall be terminated and action shall be taken in accordance with Articles 20 and 22, except prohibition.

c) If the contractor enters a situation of being unable to carry out its commitments due to severe illness, being arrested or receiving a freedom-restricting court sentence, then the contract may be proceeded on the condition that the contractor designates a proxy acceptable to the relevant contracting entity within 30 days following the date of the occurrence of such situation. If the contractor is deprived of the means to designate a proxy on its own free will, then whomever the matter concerns may request that a trustee be designated instead in accordance with general provisions within the same period of time. In case none of such provisions

can be applied, the contract shall be terminated and action shall be taken in accordance with Articles 20 and 22, except prohibition.

Death, Bankruptcy, Serious Illness, Arrest, or Conviction, in Case the Contractor is a Joint Venture

ARTICLE 18- (Amendment: 4964/Article 45) In contracts undertaken by joint ventures; death, bankruptcy, serious illness, becoming arrested or sentenced to freedom-restricting penalty, or dissolution of one of the persons constituting the joint venture shall not be an obstacle to contract effectiveness. If, however, in a jointly undertaken engagement, one of the contractors has been pointed to the contracting entity as the pilot or the coordinator, then in case of bankruptcy, serious illness, arrest, of freedom-restricting conviction, or dissolution (of the pilot or coordinator firm), depending on whether the pilot or coordinator is a natural or legal person, the contract shall be terminated and action shall be taken in accordance with Articles 20 and 22, except prohibition. In case the pilot or coordinator becomes deceased, the contract shall be annulled with work already done being wound up and the performance security shall be returned. Upon the proposition of the other joint venture partners within 30 days following the date when such state of affairs has emerged, and with consent of the contracting entity, business may be continued by renewing the contract provided that obligations for the business that had (originally) been undertaken by the (previous) pilot or coordinator are fully undertaken, including any security thereof.

In case of the death, bankruptcy, serious illness, being arrested or sentenced to a freedom-restricting penalty, or dissolution of any partner other than the pilot or coordinator in the joint venture, other partners of the group shall undertake all obligations of that outgoing partner, including performance security, and carry on the contract.

Termination of Contract by the Contractor

ARTICLE 19.- In case the contractor serves notice in writing after the contract has been signed to the effect that it is unable to perform its obligations for reason of insolvency, outside of force majeure, also stating the justifications in such notice; performance security along with supplementary security, if any, shall be entered into accounts as revenue, without need for filing a protest, and the contract shall be terminated with any accounts thereof being wound up in accordance with general provisions.

Termination of Contract by the Contracting Entity

ARTICLE 20.- The contracting entity shall terminate a contract under the circumstances described below:

a) In case the contractor fails to perform its obligations in compliance with provisions of the contract and tender documents or fails to complete works within the period as prescribed, and such state of affairs continues to persist despite contracting entity's warning clearly stating reasons for warning and offering at least 20 days'

advance notice, with penalty for delay to apply on the basis of the ratio as stated in the tender document.

b) In case it is determined that the contractor has engaged in deeds or behaviors outlawed as stated in Article 25,

performance security along with supplementary security, if any, shall be entered into accounts as revenue, without need for filing a protest, and the contract shall be terminated with any accounts thereof being wound up in accordance with general provisions.

Termination of Contract for Reason of Outlawed Deeds or Behaviors Prior to Contract Signing

ARTICLE 21.- In case it is determined after a contract has been signed that the contractor has engaged in the course of the tender process in deeds or behaviors outlawed under the Law on Public Procurement; performance security along with supplementary security, if any, shall be entered into accounts as revenue, without need for filing a protest, and the contract shall be terminated with any accounts thereof being wound up in accordance with general provisions.

However, provided that at least 80 percent of the obligations under the contract have been completed and public benefit is seen in having the contract completed, the contracting entity may refrain from terminating the contract and require the contractor to complete its obligations under the contract, in case;

a) There is not sufficient time to carry out a new tender process for the remaining portion of works, because of urgency of business,

b) It is not possible to have a different contractor carry out the contract

c) The contractor has engaged in such outlawed deeds or behavior that would not prevent from completion of its remaining obligations.

Under such circumstances, the contractor shall be obliged to complete its obligations under the contract as required by the contracting entity. In this case, however, action shall be taken against the contractor in accordance with provisions of Article 26 and penalty shall be collected from the contractor in the same amount as the sum total of its performance security and supplementary security amounts, if any. This penalty may be collected through deductions from the contractor's remuneration.

Dispositions Pertaining To Termination Of Contract

ARTICLE 22.- The contract shall be considered to have been terminated; as of the date of arrival of the contractor's request for termination of contract to the contracting entity pursuant to Article 19; or as of the date of expiration of the period specified in Paragraph (a) of Article 20; or as of the date of determination of relevant state of affairs pursuant to Paragraph (b) of Article 20 or pursuant to Article 21. The contracting entity shall produce the decision for termination of contract within seven

days of the said dates. The contractors shall be notified of such decision within five days following the date of the said decision.

In case of termination of contract pursuant to Articles 19, 20, or 21, performance security and supplementary security, if any, shall be updated in accordance with monthly wholesale price index published by DIE, the State Institute of Statistics, from the date which such security has been furnished to the date when it is entered into accounts as revenue. The difference between the amount updated and the amount of performance security and supplementary security, if any, shall be collected from the contractor.

In case security is obtained through deductions from remuneration, while the amount withheld shall be entered into accounts as revenue, the amount of security that corresponds to the amount of works not completed posterior to date of contract termination shall also be collected from the contractor after updating (security) pursuant to the first Paragraph above.

Any security entered into accounts as revenues shall not be deducted from the debt of the contractor.

In case of contract termination pursuant to Articles 19, 20, or 21, action shall be taken against contractors in accordance with provisions of Article 26. The contractor shall further be caused to pay compensation for any losses or damages the contracting entity may have incurred due to termination of contract.

Termination of Contract Due To Force Majeure

ARTICLE 23.- In case a contract is terminated due to force majeure, the accounts of the contract shall be wound up in accordance with general provisions and performance security and any supplementary security shall be returned.

Additional Works to be Made Under the Contract, Work Decreasing and Winding-Up Contract [\[1\]](#)

ARTICLE 24.- (Amendment: 4964/ Article 46) In case any work increase is inevitable due to unforeseen reasons, provided that;

- a) work increase is kept within the project subject to the contract,
- b) it is not technically and economically possible to separate additional work from the main contract without burdening the contracting entity,

the contracting entity may have the same contractor perform the work increase up to the amount of 10 % of the main contract's price in turn-key lump-sum works contracts and up to the amount of 20 % of the main contract's price in unit price goods, services and works contracts in accordance with the provisions specified in the original (main) contract and tender documents except the provisions on contract duration.

In works contracts based on unit price, Council of Ministers is authorized to raise this ratio up to the 40 % of the related contract.

In case it is determined that the work can not be completed under these circumstances the accounts (of the contract) shall be wound up in accordance with general provisions without any increase. However, under such circumstances, it shall be compulsory that the entire work be fulfilled in accordance with provisions of tender documents and of contract.

In case it has been determined that the work may be completed with a price lower than 80 % of the contract price, the contractor shall be obliged to complete the work. In such case, as a reward for the real expenses realized by the contractor and contractor's profit, the 5 % of the difference between 80 % of the (total) contract price and the amount of work performed on the basis of contract prices shall be paid to the contractor over the prices current on provisional acceptance date.

CHAPTER THREE

Prohibitions and Liabilities

Deeds and Behaviors Outlawed

ARTICLE 25.- During the course of implementing a contract, prohibited shall be;

a) Corrupting any transactions pertaining to the contract through fraud, intrigue, promises, threats, using influence, seeking of personal interest, agreement arranging, malversation, bribery or through other means or attempting to those

b) Drawing up or using forged documents or attempting to

c) Using adulterated materials, means or methods or engaging in production contrary to rules of science or the trade or (otherwise) deficient or faulty, in process of carrying out business under the contract or making deliveries thereof

d) Causing damage to the contracting entity in process of performing its obligations under the contract

e) Using its knowledge and experience to the detriment of the contracting entity or acting in violation of the provisions of Article 29

f) Failing, outside of force majeure, to perform its obligations in accordance with provisions of contract and tender documents.

g) Assigning or taking over a contract in violation of provisions of Article 16.

Prohibition from Participating in Tenders

ARTICLE 26.- (Amendment: 4964/ Article 47) Those who are determined to have been engaged in deeds or behaviors as specified in Article 25; shall be

prohibited from participating in tender processes carried out by all public entities and institutions including the ones stated as exceptions in 2nd and 3rd articles of Law no:4734, for a period of up to two years, not being less than one year, depending on the nature of the said deeds and behaviors. Prohibition decisions shall be taken by the Ministry implementing the contract or by the Ministry which the contracting entity is subordinate to or associated with, or by contracting officers of contracting entities 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, organizations, enterprises.

In case the legal person prohibited pursuant to the first Paragraph above happen to be a sole proprietorship the prohibition shall apply to all partners in that company; while in case of capita) stock company the prohibition shall apply to all shareholders, natural or legal persons, who own more than half of the capital in the subject company. Depending on whether the parties prohibited are natural or legal persons; where they are at the same time partners in another sole proprietorship , the prohibition shall apply to such companies as well; and where the prohibited parties are shareholders in stock companies, the prohibition shall also apply to such stock companies if the prohibited parties own more than half of the capital in the subject company.

Those parties that are determined to have engaged in such deeds and behaviors shall not be allowed to participate in any tender processes that may be carried out by the same contracting entity until the date when the decision for prohibition becomes effective.

(Amendment: 4964/ Article 47) Decisions for prohibition shall be produced within latest 45 days counting from the date when deed or behavior that warranted the prohibition decision has been determined to have taken place. The decision for prohibition produced thus shall be forwarded within latest 15 days for publication in Official Gazette and it shall become effective on the date it is thus published. The Public Procurement Authority shall monitor the said decisions and maintain a registry on the parties that have been prohibited from participating in public procurement tender processes.

In case a contracting entity encounters circumstances warranting a decision to prohibit as stated in Article 25, it shall be responsible for reporting such circumstances to the Ministry which it is sub-ordinate to or associated with.

Criminal Liability of Contractors

ARTICLE 27.- Notification of crime shall be filed with the Office of Public Prosecutor against natural and legal persons that have been determined to have engaged in those deeds and behavior that are specified in Article 25 and that also constitute crime under Turkish Criminal Code, along with the partners or proxies of the said parties in the subject business, for purposes of prosecution in accordance with Turkish Criminal Code, even if such determination is made after business (under the contract) has been completed and final acceptance has taken place. Along with the criminal sentence, the court shall also rule that these parties, along with those listed in Article 26, be prohibited from participating in all tender processes that may

be carried out by any public entity or institution subject to this Law, for a period of up to three years, not being less than one year and being effective as of the expiration date of prohibition decision which has been produced pursuant to Article 26.

The courts shall prohibit permanently from participating in public tenders those parties that have received recurring convictions because of their deeds or behaviors outlawed under this Law, along with stock companies in which the said parties own more than half of the capital and sole proprietorships that the said parties own.

Concerning the parties that have been prohibited pursuant to provisions of this Article and having received court sentences; Office of the Public Prosecutor shall notify the Public Procurement Authority and the occupational organizations for purposes of appropriately updating the records of the said parties in relevant registries.

Public Procurement Authority shall advertise court rulings concerning the parties that have been prohibited permanently from participating in public tenders by having the said rulings published in the Official gazette within fifteen days counting from the date of notification.

Criminal Liability of (Public) Officials

ARTICLE 28.- (Amendment: 4964/Article 48) Any chairpersons, members and other officials of control and acceptance commissions, works control/inspection officials, or others in charge at any stage of procurement process; in case they are determined not to have carried out their duties in accordance with legal requirements in an impartial manner and to have acted in negligent or deficient ways that would cause damages to any one of the parties involved, they shall receive disciplinary penalties pursuant to relevant legislation. Furthermore, depending on the nature of their deeds and behaviors, they shall also be prosecuted under criminal law and, along with any penalty as ruled (by the court), they shall also be caused to compensate in accordance with general provisions for any damages and losses they may have caused any parties to have incurred. Those contracting entity officials who were sentenced due to deeds or behaviors contrary to this Law shall not be charged with any duties that fall under the domain of this Law.

Public entities or institutions subject to this Law shall not appoint any persons who have received any penalties as ruled by judicial organs because of business that fall in the domain of this Law to any positions in charge of implementing this Law or any other relevant legislation.

Prohibition of Disclosure of Information and Documents

ARTICLE 29.- Persons in charge of implementing this Law and those who offer consulting services; shall not disclose any confidential information or documents pertaining to contractor's business or transactions or their technical or financial structures and shall not use them for their own or any third parties' benefit. Sanctions stated in Articles 26 and 28 according to relevance shall apply to those who act contrary to this (aforementioned rule).

Contractor's and Sub-contractor's Liability in Works Contracts

ARTICLE 30.- Contractors and sub-contractors in works contracts shall be liable successively (severally) for any loss or damage stemming from failure to construct in accordance with technical and trade rules or use of adulterated materials or similar reasons, not only from the date of commencement of construction to the date of final acceptance, but also for a period of fifteen years counting from the date of final acceptance. Contractor and sub-contractors shall be caused to complete and compensate for any such loss or damage pursuant to general provisions, and furthermore provisions of Article 27 shall apply to the said parties.

Liability of Control / Inspection Officials

ARTICLE 31.- Contracting entity officials carrying out control/inspection functions (in works) shall be liable successively (severally) with the contractor for any loss or damage stemming from failure to construct in accordance with technical and trade rules as emergent because of deficient inspection and control, for a period of fifteen years. Furthermore, the provisions of Article 28 shall apply to such officials.

Liability of Consulting Service Providers

ARTICLE 32.- For a period of fifteen years; the consultant (service provider) shall be directly liable for loss or damage stemming from design errors, implementation errors, deficiency of control and inspection, erroneous cost estimation, failure to construct in compliance with current legislation, failure to comply with rules of professional ethics, failure to use knowledge and experience to the benefit of the contracting entity, and similar reasons; and successively (severally) liable with the contractor and sub-contractors where the consultant has undertaken control and inspection services on works.

The consultant shall be caused to complete and compensate for any such loss or damage pursuant to general provisions and furthermore, provisions of Article 27 shall apply to the consultant.

Liability of Suppliers

ARTICLE 33.- Suppliers shall be directly liable in the framework of their undertaking for any loss or damage stemming from supplying or using deficient or sub-standard materials or failure to perform obligations in accordance with provisions of contract and tender documents or similar reasons. The supplier shall be caused to complete and compensate for any such loss or damage pursuant to general provisions and furthermore provisions of Article 27 shall apply to the supplier.

Liability of Service Providers

ARTICLE 34.- Service providers shall be directly liable in the framework of their undertaking for any loss or damage stemming from selection, supply or use of deficient or sub-standard materials, design errors, implementation errors, deficiency of inspection and control, failure to perform obligations in accordance with provisions of contract and tender documents, or similar reasons. The service provider shall be

caused to complete and compensate for any such loss or damage pursuant to general provisions and furthermore provisions of Article 27 shall apply to the service provider.

CHAPTER FOUR

Miscellaneous Provisions

Performance Security

ARTICLE 35.- In cases where this Law does not contain provisions (relevant to performance security), the provisions of the Law on Public Procurement concerning securities shall apply.

Cases Where (Relevant) Provisions Are Absent

ARTICLE 36.- In cases where this Law does not contain relevant provisions, the provisions of the Code of Obligations shall apply.

Notification

ARTICLE 37.- For notifications to be served in case there is no relevant provision in this Law, the provisions of the Code of Notification shall apply.

Amendments

ARTICLE 38.- Amendments to provisions of this Law shall only be arranged through annexing provisions or making changes.

CHAPTER FIVE

Final Provisions

Provisions Not Applicable

ARTICLE 39.- a) Provisions of Law No: 2886, the State Tender Act dated September 8, 1983 shall not apply to contracts made in the context of contract awards made pursuant to the Public Procurement Law.

b) Provisions in other legislation stipulating exemption from Law No: 2886 the State Tender Act dated September 8, 1983, and any provisions not compliant with this Law, shall not apply.

c) (Annexed: 4964/Article 49) For contracts to be made under the Law no:2985, on Collective Housing, Council of Ministers is authorized to establish the

rules and principles on special contracts, provided that criminal sanctions and prohibition from participation in tenders are subject to this Law.

Preparation of Form Contracts

INTERIM ARTICLE 1.- The Public Procurement Authority shall prepare the form contracts to be issued for purposes of implementation of this Law, having obtained opinion of relevant entities and institutions, and publish in the Official Gazette, by the time this Law is scheduled to become effective.

Contracting entities shall continue to implementing the existing contract principles and provisions until they (form contracts) come into force.

Enforcement

ARTICLE 40.- This Law shall become effective on January 1st, 2003.

Execution

ARTICLE 41.- Council of Ministers shall execute this Law.

Provisions of Law no: 4964 not applicable to the Law no: 4735 on Public Procurement Contracts

INTERIM ARTICLE 1.- Standard tender documents, form contracts and regulations need to be rearranged due to 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 Authority within the framework of the principles of article 67 of Law no: 4734 as to the date 1.1.2003, by considering those limits were current on 22.01.2002. Contracting entities 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 interim 4th articles of Law no:4734 shall be prepared within 30 days as of publication date of this law and put into force. Till those arrangements have been published, contracting entities shall continue to implementing the principles and procedures which had been prepared and become effective based on formerly executed 3rd and interim 4th articles of Law no: 4734 prior to amendments made by this law. Works procurements, in which the institutions benefiting from the exception provision in paragraph (g) of the 3rd article of Law no: 4734 are contractors under contracts, shall be subject to the exception provisions proposed in the same paragraph for a period of ten years.

ARTICLE 50.- Article 41 of this law shall become effective on January 1st, 2004, while the others shall come into force on publication date.

ARTICLE 51.- Council of Ministers shall execute this Law.