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## **Draft revised text of the Model Law**

### **Note by the Secretariat**

#### **Addendum**

This note sets out a proposal for chapter II (Methods of procurement and their conditions for use. Solicitation and notices of the procurement) of the revised Model Law, comprising articles 26-34, and for chapter III (Open tendering) of the revised Model Law, comprising articles 35-43.



## **CHAPTER II. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE. SOLICITATION AND NOTICES OF THE PROCUREMENT**

### **SECTION I. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE**

#### **Article 26. Methods of procurement<sup>1</sup>**

- (1) The procuring entity may conduct procurement by means of:
  - (a) Open tendering;
  - (b) Restricted tendering;
  - (c) Request for quotations;
  - (d) Request for proposals without negotiation;
  - (e) Two-stage tendering;
  - (f) Request for proposals with dialogue;
  - (g) Request for proposals with consecutive negotiations;
  - (h) Competitive negotiations;
  - (i) Electronic reverse auction; and
  - (j) Single-source procurement.
- (2) The procuring entity may engage in a framework agreement procedure in accordance with the provisions of chapter VII of this Law.

#### **Article 27. General rules applicable to the selection of a procurement method**

- (1) Except as otherwise provided for in articles 28 to 30 of this Law, a procuring entity shall conduct procurement by means of open tendering.
- (2) A procuring entity may use a method of procurement other than open tendering only in accordance with articles 28 to 30 of this Law, shall select the other method of procurement to accommodate the circumstances of the procurement concerned, and shall seek to maximize competition to the extent practicable.
- (3) If the procuring entity uses a method of procurement other than open tendering, it shall include in the record required under article 24 of this Law a

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<sup>1</sup> States may choose not to incorporate all the methods of procurement listed in this article into their national legislation, though an appropriate range of options, including open tendering, should be always provided for. On this question, see the Guide to Enactment of the UNCITRAL Model Law on Public Procurement (A/CN.9/...). States may consider whether, for certain methods of procurement, to include a requirement of a high-level approval by a designated organ. On this question, see the Guide to Enactment.

statement of the reasons and circumstances upon which it relied to justify the use of that method.

**Article 28. Conditions for use of methods of procurement under chapter IV of this Law (restricted tendering, request for quotations and request for proposals without negotiation)**

(1) The procuring entity may engage in procurement by means of restricted tendering in accordance with article 44 of this Law when:

(a) The subject matter of the procurement, by reason of its highly complex or specialized nature, is available only from a limited number of suppliers or contractors; or

(b) The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the subject matter of the procurement.

(2) A procuring entity may engage in procurement by means of a request for quotations in accordance with article 45 of this Law for the procurement of readily available goods or services that are not specially produced or provided to the particular description of the procuring entity and for which there is an established market, so long as the estimated value of the procurement contract is less than the threshold amount set out in the procurement regulations.

(3) The procuring entity may engage in procurement by means of request for proposals without negotiation in accordance with article 46 of this Law where the procuring entity needs to consider the financial aspects of proposals separately and only after completion of examination and evaluation of quality and technical aspects of the proposals.

**Article 29. Conditions for use of methods of procurement under chapter V of this Law (two-stage tendering, request for proposals with dialogue, request for proposals with consecutive negotiations, competitive negotiations and single-source procurement)**

(1) A procuring entity may engage in procurement by means of two-stage tendering in accordance with article 47 of this Law where:

(a) The procuring entity assesses that discussions with suppliers or contractors are needed to refine aspects of the description of the subject matter of the procurement and to formulate them with the precision required under article 10 of this Law and in order to allow the procuring entity to obtain the most satisfactory solution to its procurement needs; or

(b) Open tendering was engaged in but no tenders were presented or the procurement was cancelled by the procuring entity pursuant to article 18 (1) of this Law and where, in the judgement of the procuring entity, engaging in new open tendering proceedings or a procurement method under chapter IV of this Law would be unlikely to result in a procurement contract.

(2) (Subject to approval by the [name of the organ designated by the enacting State to issue the approval]),<sup>2</sup> a procuring entity may engage in procurement by means of request for proposals with dialogue in accordance with article 48 of this Law where:

(a) It is not feasible for the procuring entity to formulate a detailed description of the subject matter of the procurement in accordance with article 10 of this Law, and the procuring entity assesses that dialogue with suppliers or contractors is needed to obtain the most satisfactory solution to its procurement needs;

(b) The procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish their commercial viability or to recover research and development costs;

(c) The procuring entity determines that the selected method is the most appropriate method of procurement for the protection of essential security interests of the State; or

(d) Open tendering was engaged in but no tenders were presented or the procurement was cancelled by the procuring entity pursuant to article 18 (1) of this Law and where, in the judgement of the procuring entity, engaging in new open tendering proceedings or a procurement method under chapter IV of this Law would be unlikely to result in a procurement contract.

(3) A procuring entity may engage in procurement by means of request for proposals with consecutive negotiations in accordance with article 49 of this Law where the procuring entity needs to consider the financial aspects of proposals separately and only after completion of examination and evaluation of quality and technical aspects of the proposals, and it assesses that consecutive negotiations with suppliers or contractors are needed in order to ensure that the financial terms and conditions of the procurement contract are acceptable to the procuring entity.

(4) A procuring entity may engage in competitive negotiations, in accordance with the provisions of article 50 of this Law, in the following circumstances:

(a) There is an urgent need for the subject matter of the procurement, and engaging in open tendering proceedings or any other competitive method of procurement because of the time involved in using those methods would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory conduct on its part;

(b) Owing to a catastrophic event, there is an urgent need for the subject matter of the procurement, making it impractical to use open tendering proceedings or any other competitive method of procurement because of the time involved in using those methods; or

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<sup>2</sup> The enacting State may consider enacting the provisions in parenthesis where it wishes to subject the use of this procurement method to a measure of ex ante control.

(c) Where the procuring entity determines that the use of any other competitive method of procurement is not appropriate for the protection of essential security interests of the State.

(5) A procuring entity may engage in single-source procurement in accordance with the provisions of article 51 of this Law in the following exceptional circumstances:

(a) The subject matter of the procurement is available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the subject matter of the procurement, such that no reasonable alternative or substitute exists, and the use of any other procurement method would therefore not be possible;

(b) Owing to a catastrophic event, there is an extremely urgent need for the subject matter of the procurement, and engaging in any other method of procurement would be impractical because of the time involved in using those methods;

(c) The procuring entity, having procured goods, equipment, technology or services from a supplier or contractor, determines that additional supplies must be procured from that supplier or contractor for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the procuring entity, the limited size of the proposed procurement in relation to the original procurement, the reasonableness of the price and the unsuitability of alternatives to the goods or services in question;

(d) Where the procuring entity determines that the use of any other method of procurement is not appropriate for the protection of essential security interests of the State; or

(e) Subject to approval by the [name of the organ designated by the enacting State to issue the approval], and following public notice and adequate opportunity to comment, where procurement from a particular supplier or contractor is necessary in order to implement a socio-economic policy of this State, provided that procurement from no other supplier or contractor is capable of promoting that policy.

### **Article 30. Conditions for use of an electronic reverse auction**

(1) A procuring entity may engage in procurement by means of an electronic reverse auction in accordance with the provisions of chapter VI of this Law, under the following conditions:

(a) Where it is feasible for the procuring entity to formulate a detailed and precise description of the subject matter of the procurement;

(b) Where there is a competitive market of suppliers or contractors anticipated to be qualified to participate in the electronic reverse auction, such that effective competition is ensured; and

(c) Where the criteria to be used by the procuring entity in determining the successful submission are quantifiable and can be expressed in monetary terms.

(2) A procuring entity may use an electronic reverse auction as a phase preceding the award of the procurement contract in a procurement method as appropriate under the provisions of this Law. It may also use an electronic reverse auction for award of a procurement contract in a framework agreement procedure with second-stage competition in accordance with the provisions of this Law. An electronic reverse auction under this paragraph may be used only where the conditions of paragraph (1) (c) of this article are satisfied.

### **Article 31. Conditions for use of a framework agreement procedure**

(1) A procuring entity may engage in a framework agreement procedure in accordance with chapter VII of this Law where it determines that:

(a) The need for the subject matter of the procurement is expected to arise on an indefinite basis during a given period of time; or

(b) By virtue of the nature of the subject matter of the procurement, the need for it may arise on an urgent basis during a given period of time.

(2) The procuring entity shall include in the record required under article 24 of this Law a statement of the reasons and circumstances upon which it relied to justify the use of a framework agreement procedure and the type of framework agreement selected.

## **SECTION II. SOLICITATION AND NOTICES OF THE PROCUREMENT**

### **Article 32. Solicitation in open tendering, two-stage tendering and in procurement by means of an electronic reverse auction**

(1) An invitation to tender in open tendering or two-stage tendering and an invitation to an electronic reverse auction under article 52 of this Law shall be published in ... (the enacting State specifies the official gazette or other official publication in which the solicitation is to be published).

(2) The invitation shall also be published in a language customarily used in international trade, in a newspaper of wide international circulation or in a relevant trade publication or technical or professional journal of wide international circulation.

(3) The provisions of this article shall not apply where the procuring entity engages in pre-qualification proceedings in accordance with article 17 of this Law.

(4) The procuring entity shall not be required to cause the invitation to be published in accordance with paragraph (2) of this article in domestic procurement and in procurement proceedings where the procuring entity decides, in view of the low value of the subject matter of the procurement, that only domestic suppliers or contractors are likely to be interested in presenting submissions.

**Article 33. Solicitation in restricted tendering, request for quotations, competitive negotiations and single-source procurement.**

**Requirement for an advance notice of the procurement**

(1) (a) When the procuring entity engages in procurement by means of restricted tendering on the grounds specified in article 28 (1) (a) of this Law, it shall solicit tenders from all suppliers and contractors from which the subject matter of the procurement is available;

(b) When the procuring entity engages in procurement by means of restricted tendering on the grounds specified in article 28 (1) (b) of this Law, it shall select suppliers or contractors from which to solicit tenders in a non-discriminatory manner, and it shall select a sufficient number of suppliers or contractors to ensure effective competition.

(2) Where the procuring entity engages in procurement by means of request for quotations in accordance with article 28 (2) of this Law, it shall request quotations from as many suppliers or contractors as practicable, but from at least three.

(3) Where the procuring entity engages in procurement by means of competitive negotiations in accordance with article 29 (4) of this Law, it shall engage in negotiations with a sufficient number of suppliers or contractors to ensure effective competition.

(4) Where the procuring entity engages in single-source procurement in accordance with article 29 (5) of this Law, it shall solicit a proposal or price quotation from a single supplier or contractor.

(5) Prior to direct solicitation in accordance with the provisions of paragraphs (1), (3) and (4) of this article, the procuring entity shall cause a notice of the procurement to be published in ... (the enacting State specifies the official gazette or other official publication in which the notice is to be published). The notice shall contain at a minimum the following information:

(a) The name and address of the procuring entity;

(b) A summary of the principal required terms and conditions of the procurement contract or the framework agreement to be entered into in the procurement proceedings, including the nature and quantity, and place of delivery of the goods to be supplied, the nature and location of the construction to be effected, or the nature of the services and the location where they are to be provided, as well as the desired or required time for the supply of the goods or for the completion of the construction, or the timetable for the provision of the services;

(c) A declaration pursuant to article 8 of this Law; and

(d) The method of procurement to be used.

(6) The requirements of paragraph (5) shall not apply in the case of urgency as referred to in articles 29 (4) (b) and 29 (5) (b).

### **Article 34. Solicitation in request for proposals proceedings**

(1) An invitation to participate in the request for proposals proceedings shall be published in accordance with article 32 (1) and (2), except where:

(a) The procuring entity engages in pre-qualification proceedings in accordance with article 17 of this Law or in preselection proceedings in accordance with article 48 (3) of this Law; or

(b) The procuring entity engages in direct solicitation under the conditions set out in paragraph (2) of this article; or

(c) The procuring entity decides not to cause the invitation to be published in accordance with article 32 (2) of this Law in the circumstances referred to in article 32 (4) of this Law.

(2) The procuring entity may engage in direct solicitation in request for proposals proceedings if:

(a) The subject matter to be procured is available only from a limited number of suppliers or contractors, provided that the procuring entity solicits proposals from all those suppliers or contractors; or

(b) The time and cost required to examine and evaluate a large number of proposals would be disproportionate to the value of the subject matter to be procured, provided that the procuring entity solicits proposals from a sufficient number of suppliers or contractors to ensure effective competition; or

(c) The procurement involves classified information, provided that the procuring entity solicits proposals from a sufficient number of suppliers or contractors to ensure effective competition.

(3) The procuring entity shall include in the record required under article 24 of this Law a statement of the reasons and circumstances upon which it relied to justify the use of direct solicitation in request for proposals proceedings.

(4) The procuring entity shall cause a notice of the procurement to be published in accordance with the requirements set out in article 33 (5) where it engages in direct solicitation in request for proposals proceedings.



## **CHAPTER III. OPEN TENDERING**

### **SECTION I. SOLICITATION OF TENDERS**

#### **Article 35. Procedures for soliciting tenders**

The procuring entity shall solicit tenders by causing an invitation to tender to be published in accordance with the provisions of article 32 of this Law.

#### **Article 36. Contents of invitation to tender**

The invitation to tender shall include the following information:

- (a) The name and address of the procuring entity;
- (b) A summary of the principal required terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings, including the nature and quantity, and place of delivery of the goods to be supplied, the nature and location of the construction to be effected, or the nature of the services and the location where they are to be provided, as well as the desired or required time for the supply of the goods or for the completion of the construction, or the timetable for the provision of the services;
- (c) The criteria and procedures to be used for ascertaining the qualifications of suppliers or contractors, and any documentary evidence or other information that must be submitted by suppliers or contractors to demonstrate their qualifications, in conformity with article 9 of this Law;
- (d) A declaration pursuant to article 8 of this Law;
- (e) The means of obtaining the solicitation documents and the place where they may be obtained;
- (f) The price, if any, charged by the procuring entity for the solicitation documents;
- (g) If a price is charged for the solicitation documents, the means and currency of payment;
- (h) The language or languages in which the solicitation documents are available;
- (i) The manner, place and deadline for presenting tenders.

#### **Article 37. Provision of solicitation documents**

The procuring entity shall provide the solicitation documents to each supplier or contractor that responds to the invitation to tender in accordance with the procedures and requirements specified therein. If pre-qualification proceedings have been engaged in, the procuring entity shall provide a set of solicitation documents to each supplier or contractor that has been pre-qualified and that pays the price, if any, charged for those documents. The price that the procuring entity may charge for

the solicitation documents shall reflect only the cost of providing them to suppliers or contractors.

### **Article 38. Contents of solicitation documents**

The solicitation documents shall include the following information:

- (a) Instructions for preparing tenders;
- (b) The criteria and procedures, in conformity with the provisions of article 9 of this Law, that will be applied in the ascertainment of the qualifications of suppliers or contractors and in any further demonstration of qualifications pursuant to article 42 (6) of this Law;
- (c) The requirements as to documentary evidence or other information that must be presented by suppliers or contractors to demonstrate their qualifications;
- (d) The description of the subject matter of the procurement, in conformity with article 10 of this Law; the quantity of the goods; services to be performed; the location where the goods are to be delivered, construction is to be effected or services are to be provided; and the desired or required time, if any, when goods are to be delivered, construction is to be effected or services are to be provided;
- (e) The terms and conditions of the procurement contract, to the extent they are already known to the procuring entity, and the contract form, if any, to be signed by the parties;
- (f) If alternatives to the characteristics of the subject matter of the procurement, contractual terms and conditions or other requirements set out in the solicitation documents are permitted, a statement to that effect, and a description of the manner in which alternative tenders are to be evaluated;
- (g) If suppliers or contractors are permitted to present tenders for only a portion of the subject matter of the procurement, a description of the portion or portions for which tenders may be presented;
- (h) The manner in which the tender price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the subject matter of the procurement itself, such as any applicable transportation and insurance charges, customs duties and taxes;
- (i) The currency or currencies in which the tender price is to be formulated and expressed;
- (j) The language or languages, in conformity with article 13 of this Law, in which tenders are to be prepared;
- (k) Any requirements of the procuring entity with respect to the issuer and the nature, form, amount and other principal terms and conditions of any tender security to be provided by suppliers or contractors presenting tenders in accordance with article 16 of this Law, and any such requirements for any security for the performance of the procurement contract to be provided by the supplier or contractor that enters into the procurement contract, including securities such as labour and material bonds;

(l) If a supplier or contractor may not modify or withdraw its tender prior to the deadline for presenting tenders without forfeiting its tender security, a statement to that effect;

(m) The manner, place and deadline for presenting tenders, in conformity with article 14 of this Law;

(n) The means by which, pursuant to article 15 of this Law, suppliers or contractors may seek clarifications of the solicitation documents, and a statement as to whether the procuring entity intends, at this stage, to convene a meeting of suppliers or contractors;

(o) The period of time during which tenders shall be in effect, in conformity with article 40 of this Law;

(p) The manner, place, date and time for the opening of tenders, in conformity with article 41 of this Law;

(q) The criteria and procedure for examining tenders against the description of the subject matter of the procurement;

(r) The criteria and procedure for evaluating tenders in accordance with article 11 of this Law;

(s) The currency that will be used for the purpose of evaluating tenders pursuant to article 42 (5) of this Law and either the exchange rate that will be used for the conversion of tenders into that currency or a statement that the rate published by a specified financial institution prevailing on a specified date will be used;

(t) References to this Law, the procurement regulations and other laws and regulations directly pertinent to the procurement proceedings, including those applicable to procurement involving classified information, and the place where these laws and regulations may be found;

(u) The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly with and to receive communications directly from suppliers or contractors in connection with the procurement proceedings, without the intervention of an intermediary;

(v) Notice of the right provided under article 63 of this Law to challenge or appeal decisions or actions taken by the procuring entity that are allegedly not in compliance with the provisions of this Law, together with information about the duration of the applicable standstill period and, if none will apply, a statement to that effect and reasons therefor;

(w) Any formalities that will be required once a successful tender has been accepted for a procurement contract to enter into force, including, where applicable, the execution of a written procurement contract pursuant to article 21 of this Law, and approval by another authority and the estimated period of time following the dispatch of the notice of acceptance that will be required to obtain the approval;

(x) Any other requirements established by the procuring entity in conformity with this Law and the procurement regulations relating to the preparation and presentation of tenders and to other aspects of the procurement proceedings.

## **SECTION II. PRESENTATION OF TENDERS**

### **Article 39. Presentation of tenders**

- (1) Tenders shall be presented in the manner, at the place and by the deadline specified in the solicitation documents.
- (2) (a) A tender shall be presented in writing, and signed, and:
  - (i) If in paper form, in a sealed envelope; or
  - (ii) If in any other form, according to requirements specified by the procuring entity in the solicitation documents, which ensure at least a similar degree of authenticity, security, integrity and confidentiality;
- (b) The procuring entity shall provide to the supplier or contractor a receipt showing the date and time when its tender was received;
- (c) The procuring entity shall preserve the security, integrity and confidentiality of a tender, and shall ensure that the content of the tender is examined only after its opening in accordance with this Law.
- (3) A tender received by the procuring entity after the deadline for presenting tenders shall not be opened and shall be returned unopened to the supplier or contractor that presented it.

### **Article 40. Period of effectiveness of tenders; modification and withdrawal of tenders**

- (1) Tenders shall be in effect during the period of time specified in the solicitation documents.
- (2) (a) Prior to the expiry of the period of effectiveness of tenders, the procuring entity may request suppliers or contractors to extend the period for an additional specified period of time. A supplier or contractor may refuse the request without forfeiting its tender security;
- (b) Suppliers or contractors that agree to an extension of the period of effectiveness of their tenders shall extend or procure an extension of the period of effectiveness of tender securities provided by them or provide new tender securities to cover the extended period of effectiveness of their tenders. A supplier or contractor whose tender security is not extended, or that has not provided a new tender security, is considered to have refused the request to extend the period of effectiveness of its tender.
- (3) Unless otherwise stipulated in the solicitation documents, a supplier or contractor may modify or withdraw its tender prior to the deadline for presenting tenders without forfeiting its tender security. The modification or notice of withdrawal is effective if it is received by the procuring entity prior to the deadline for presenting tenders.

### **SECTION III. EVALUATION OF TENDERS**

#### **Article 41. Opening of tenders**

- (1) Tenders shall be opened at the time specified in the solicitation documents as the deadline for presenting tenders. They shall be opened at the place and in accordance with the manner and procedures specified in the solicitation documents.
- (2) All suppliers or contractors that have presented tenders, or their representatives, shall be permitted by the procuring entity to be present at the opening of tenders. Suppliers or contractors shall be deemed to have been permitted to be present at the opening of the tenders if they have been given opportunity to be fully and contemporaneously apprised of the opening of the tenders.
- (3) The name and address of each supplier or contractor whose tender is opened and the tender price shall be announced to those persons present at the opening of tenders, communicated on request to suppliers or contractors that have presented tenders but that are not present or represented at the opening of tenders, and included immediately in the record of the procurement proceedings required by article 24.

#### **Article 42. Examination and evaluation of tenders**

- (1) (a) The procuring entity may ask a supplier or contractor for clarifications of its tender in order to assist in the examination and evaluation of tenders;  
(b) The procuring entity shall correct purely arithmetical errors that are discovered during the examination of tenders. The procuring entity shall give prompt notice of any such correction to the supplier or contractor that presented the tender;  
(c) No change in a matter of substance in the tender, including changes in price and changes aimed at making an unresponsive tender responsive, shall be sought, offered or permitted.
- (2) (a) Subject to subparagraph (b) of this paragraph, the procuring entity shall regard a tender as responsive if it conforms to all requirements set out in the solicitation documents in accordance with article 10 of this Law;  
(b) The procuring entity may regard a tender as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set out in the solicitation documents or if it contains errors or oversights that are capable of being corrected without touching on the substance of the tender. Any such deviations shall be quantified, to the extent possible, and appropriately taken account of in the evaluation of tenders.
- (3) The procuring entity shall reject a tender:
  - (a) If the supplier or contractor that presented the tender is not qualified;
  - (b) If the supplier or contractor that presented the tender does not accept a correction of an arithmetical error made pursuant to paragraph (1) (b) of this article;
  - (c) If the tender is not responsive;

- (d) In the circumstances referred to in article 19 or 20 of this Law.
- (4) (a) The procuring entity shall evaluate the tenders that have not been rejected in order to ascertain the successful tender, as defined in subparagraph (b) of this paragraph, in accordance with the criteria and procedures set out in the solicitation documents. No criterion or procedure shall be used that has not been set out in the solicitation documents;
- (b) The successful tender shall be:
  - (i) Where price is the only award criterion, the tender with the lowest tender price; or
  - (ii) Where there are price and other award criteria, the most advantageous tender ascertained on the basis of the criteria and procedures for evaluating tenders specified in the solicitation documents in accordance with article 11 of this Law.
- (5) When tender prices are expressed in two or more currencies, for the purpose of evaluating and comparing tenders the tender prices of all tenders shall be converted to the currency specified in the solicitation documents according to the rate set out in those documents, pursuant to article 38 (s) of this Law.
- (6) Whether or not it has engaged in pre-qualification proceedings pursuant to article 17 of this Law, the procuring entity may require the supplier or contractor presenting the tender that has been found to be the successful tender pursuant to paragraph (4) (b) of this article to demonstrate its qualifications again, in accordance with the criteria and procedures conforming to the provisions of article 9 of this Law. The criteria and procedures to be used for such further demonstration shall be set out in the solicitation documents. Where pre-qualification proceedings have been engaged in, the criteria shall be the same as those used in the pre-qualification proceedings.
- (7) If the supplier or contractor presenting the successful tender is requested to demonstrate its qualifications again in accordance with paragraph (6) of this article but fails to do so, the procuring entity shall reject that tender and shall select the next successful tender from among those remaining in effect, in accordance with paragraph (4) of this article, subject to the right of the procuring entity to cancel the procurement in accordance with article 18 (1) of this Law.

### **Article 43. Prohibition of negotiations with suppliers or contractors**

No negotiations shall take place between the procuring entity and a supplier or contractor with respect to a tender presented by the supplier or contractor.

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