

STATUTES OF THE PUBLIC PROCUREMENT AGENCY

Adopted with Decree No. 56 from 12.03.2004, published in SG No24 from 23.03.2004, amend., SG No 97 from 02.11.2004, amend. SG No 48 from 10.06. 2005, amend. SG No 78 from 30.09.2005, amend. SG No 21 from 10.03.2006, amend. SG No 81 from 06.10.2006

Chapter One GENERAL PROVISIONS

Art 1. (amend. - SG, No 97/2004) (1) The Statutes make provisions for the structure, organization of work, the activities and number of staff of the Public Procurement Agency, hereafter referred to as "the Agency".

(2) The Agency shall assist the Minister of Economy and Energy in implementing the national policy in the area of public procurement.

Art 2. (amend.-SG, No 97/2004)The Agency is a budget-funded legal entity with a head office in Sofia and a second-level spending unit for budgetary resources.

Art. 3. (1) Support of the Agency shall be provided by means of budgetary resources and revenues from its own activities.

(2) The revenues from activities shall be raised by:

1. Publishing and dissemination of catalogues, bulletins, brochures, reports, theses and other specialised publications in the field of public procurement;
2. Financing under joint programmes carried out with the European Union and other international organisations;
3. Participation in international programmes, projects and agreements;
4. Donations, grants;
5. (new -SG, No 97/2004, entered into force on 02.11.2004, amend. SG No 81 from 2006) conduct of trainings in the field of public procurement;
6. (Previous Item 5-SG, No 97/2004) other source.

Art 4. The Agency shall assist the Executive Director in performing his or her duties and shall provide technical support for his/her activities.

Chapter Two EXECUTIVE DIRECTOR

Art 5. (1) The Agency shall be managed and represented by an Executive Director.

(2) (amend. - SG, No 78/2005, entered into force on 01.10.2005) The contract with the Executive Director shall be signed, amended and terminated by the Minister of Economy and Energy in concordance with the Prime Minister.

(3) (amend.-SG, No 97/2004, entered into force on 02.11.2004) The Executive Director shall:

1. represent the Agency both in the country and abroad;

2. manage, coordinate and supervise the activities of the Agency as well as its relations with other authorities, institutions and organisations;
3. (amend.-SG, No 78/2005, entered into force on 01.10.2005, amend. SG No 81 from 2006) prepare drafts of legislation and issue statements on international contracts in the field of public procurement;
4. issue methodological instructions on implementation of the Public Procurement Law (hereafter PPL) and the related hitherto secondary legislation and regulatory instruments.
5. Repealed – SG No 81/2006);
6. (amend. SG No 81/2006) prepare drafts of standard forms of contract notices, statistical reports, contract award notices and design contests notices;
7. (amend. SG No 81/2006) approve and declare the form and the technical requirements on the documents as per Article 5, Para 1, Items 1-13 and Para 2 from the Rules for the Implementation of the Public Procurement Law(RIPPL) sent in electronic form;
8. (amend. SG No 81/2006 – in the part regarding informing the European Commission about changes in the lists – to enter into force on 01.01.2007) keep up list/s of contracting authorities as per Article 7, PPL and inform the European Commission about changes in the lists;
9. maintain, in cooperation with the professional associations and organizations from the respective branch, a list of persons who the contracting authorities may use as external experts in the conduct of public procurement award procedures;
10. (amend. SG No 81/2006) approve the standard forms under Art. 5, Para 1, Item 1, 10, 11 and 13 of the RIPPL;
11. monitor public procurement in Bulgaria;
12. (amend. SG No 81/2006) collect and summarize the practice of the application of the Public Procurement Law and the related secondary legislation hitherto;
13. keep the Public Procurement Register;
14. (amend. SG No 81/2006) participate in the international cooperation between the Republic of Bulgaria and organizations related to public procurement from other countries;
15. (amend. SG No 81/2006) coordinate the activities related to training of the stakeholders in the field of public procurement;
16. approach to the competent authorities for control on observing the PPL;
17. (amend. SG No 81/2006) challenge before the Commission for the Protection of Competition decisions for opening of procedures under the conditions of Art. 19, Para 2, item 3 PPL;
18. file claims in court for nullification of public procurement contracts in case of violation of PPL;
19. (amend. SG No 78/2006, entered into force on 01.10.2005) submit to the Minister of Economy and Energy an annual report concerning the activities of the Agency.
20. (new - SG No 81/2006) cooperate in the field of public procurement with business organizations;
21. (new - SG No 81/2006) present summarized information on the basis of requested criteria from the Public Procurement Register;
22. (new - SG No 81/2006) assist in the process of e-procurement;
23. (new - SG No 81/2006, to enter into force on 01.01.2007) inform the European Commission about all contracts under Art. 13, Para 1, Item 3 PPL;

24. (new - SG No 81/2006, to enter into force on 01.01.2007) upon request, dispatch to the European Commission the information under Art. 12, Para 4 PPL;
25. (new - SG No 81/2006, to enter into force on 01.01.2007) dispatch to the European Commission annual statistical reports;
26. (new - SG No 81/2006, to enter into force on 01.01.2007) inform the European Commission about legal and factual problems in connection with the participation of Bulgarian citizens in award procedures for public service contracts in third countries;
27. (new - SG No 81/2006, to enter into force on 01.01.2007) inform the European Commission about legal and factual problems in connection with the participation of Bulgarian citizens in public procurement award procedures in third countries, which are the result of non-observance of the provisions of the international labour legislation;
28. (new - SG No 81/2006, to enter into force on 01.01.2007) designate experts from the Agency who participate as observers in the conduct of award procedure for public contracts in the cases under Art. 19, Para 2, Item 22 PPL;
29. (new - SG No 81/2006, to enter into force on 01.01.2007) Dispatch to the European Commission the documents under Art. 118 /, Para 1 PPL;
30. (new - SG No 81/2006) promote best practices in the field of public procurement;
31. (previous Item 20 – SG No 81/2006) issue individual administrative acts within his/her competence;
32. (previous Item 21 – SG No 81/2006) endorse the job descriptions of the employees and the individual description of the positions within the administration of the Agency;
33. (previous Item 22 – SG No 81/2006) endorse the statutes regarding the work arrangements at the Agency;
34. (previous Item 23 – SG No 81/2006) appoint the civil servants in the Agency, alter and terminate their contracts;
35. (previous Item 24 – SG No 81/2006) conclude, alter and terminate contracts of employment with persons working on terms of the Labour Code in the Agency;
36. (previous Item 25 – SG No 81/2006) give permission for leaves and business trips of the Agency's staff ;
37. (previous Item 26 – SG No 81/2006) perform additional functions assigned to him/her by law or any other legislative act.
- (4) (amend. SG No 81/2006) in the absence of the Executive Director his/her functions shall be performed by a high official of the Agency appointed by the Executive Director with a written order for every single occasion.

Chapter Three

STRUCTURE, FUNCTIONS AND ORGANISATION OF WORK

Section I General Provisions

Art 6. (1) The Agency's administration shall be divided into general and specialised, depending on the activities it performs.

(2) (amend. - SG, No 97/2004, entered into force on 02.11.2004, amended SG, No 48/2005, entered into force on 10.06.2005, amend. SG No 21/2006, entered into force on 10.03.2006) The total number of staff on the payroll shall be 53 people.

(3) The allocation of staff shall be specified in the Annex.

(4) The general and specialised administration shall be organised in directorates.

(5) The Executive Director could form departments within the directorates and sectors within the departments when needed.

Section II

Secretary General

Art. 7. (1) The administrative management of the Agency's administration shall be carried out by a Secretary General.

(2) (amend. - SG, No 97/2004) The Secretary General shall:

1. direct, coordinate and control the functioning of the administration for the purposes of abiding strictly by the secondary legislation and complying with the law provisions as ordered by the Executive Director;

2. carry out general control over the implementation of tasks;

3. coordinate the Agency's financial and economic activities;

4. provide conditions for normal and efficient functioning of the Agency's administrative units;

5. endorse the job descriptions of the staff in the Agency;

6. coordinate the statutes related to the organization of work in the Agency;

7. coordinate and monitor the activities related to the training and qualification of the Agency's staff;

8. manage and be responsible for documents' processing and storage;

9. (new – SG No 81/2006) coordinate the annual report of the activities of the Agency;

10. (previous Item 9 – SG No 81/2006) perform additional tasks assigned to him/her by the Executive Director.

(3) (amend. – SG No 81/2006) the Executive Director may delegate to the Secretary General some of his prerogatives related to the employment arrangements of the civil servants and employees on labour contracts in the Agency, except for the prerogatives which cannot be delegated according the Law for the Civil Servant and the Labour Code.

Section III

Information Security Officer

Art. 8. (1) The information security officer shall report directly to the Executive Director and shall handle classified information banks. He/she shall perform the tasks assigned to him/her according to the Law for Classified Information and shall be responsible for creating, processing, keeping and submitting classified information.

(2) In fulfilling the tasks assigned by the Law for Classified Information the information security officer shall:

1. monitor the compliance with the provisions of the Law for Classified Information;
2. apply the rules related to types of protection of classified information;
3. develop a plan for protection with physical and technical means and monitor its implementation;
4. carry out periodical checks of document accounting and flow of materials and documents containing classified information;
5. apply the procedure of ordinary investigation pursuant to Article 47 of the Law for Classified Information and keep a register of persons investigated;
6. monitor the correct designation of the level of classified information at the Agency;
7. develop and update a plan for protection of classified information in state of war and emergency due to military or other circumstances;
8. organise and carry out the training of the Agency's staff in the area of protection of classified information;
9. perform additional tasks deriving from legislation that regulates the protection of classified information.

Section IV

General Administration

Art. 9. (1) The general administration is organised in 'Financial-Economic and Administrative-Legal Activities' Directorate.

(2) (amend. - SG, No 97/2004, entered into force on 02.11.2004, amend. SG No 81/2006) The general administration shall provide technical support to the activities of the Executive Director and the specialised administration, as well as the activities of providing administrative services to citizens and legal entities.

Art. 10. (amend. - SG, No 97/2004, entered into force on 02.11.2004) The 'Financial-Economic and Administrative-Legal Activities' Directorate shall:

1. compile the Agency's draft-budget for the respective year;
2. (amend. - SG, No 78/2005) prepare draft proposals to the Minister of Economy and Energy regarding necessary amendments to the Agency's budget realization;
3. take charge of the organisation of financial, accounting and bookkeeping issues at the Agency;
4. draw up the payroll and the salaries of the staff;
5. draw up monthly, quarterly and annual reports on the cash budget implementation of

the Agency;

6. draw up the Agency's annual Financial Statement;
7. assist the Agency's management in the correct and legitimate use of financial resources and the prevention of squandering property and material values;
8. organise the safekeeping and usage of the accounting archive/s;
9. organise and provide material and technical services to the Agency, repair and maintenance of the facilities;
10. monitor the safeguarding of the Agency's property by conducting annual stock-taking;
11. (amend. SG No 81/2006) organize the trainings in the field of public procurement conducted by the Agency;
12. represent the Agency in court hearings;
13. take care of the provision of legal services to the Agency;
14. draft and/or coordinate contracts and agreements to which the Agency is a party;
15. prepare and make arrangements necessary for awarding public procurement contracts as per necessity of the Agency itself;
16. organize competitions for recruitment of staff for the Agency pursuant to the Law for the Civil Servant and the Labour Code;
17. prepare acts related to the appointment, transfer and dismissal of Agency's staff according to the Law for the Civil Servant and the Labour Code;
18. compile and keep the work files of the Agency's staff;
19. draw up job description of the employees and the payroll, coordinate the job description projects for the Agency's staff;
20. perform activities related to training, qualification and re-qualification of the Agency's staff;
21. develop internal rules concerning the organisation of work in the Agency;
22. take care of the registry bookkeeping and archives in the Agency;
23. organize activities providing safe and secure working conditions for the Agency's staff;
24. perform activities related to civil defence and mobilization;
25. coordinate the PR activities of the Agency;
26. Repealed;
27. perform activities related to administrative service of citizens and legal entities;
28. (amend. SG No 81/2006) exercise preliminary control over legality of any documents and actions related to financial issues through a financial auditor or another person designated the Executive director;
29. (amend. SG No 81/2006) assist the Executive director in exercising the overall internal control in the Agency;
30. perform additional activities evolving from the orders of the Executive Director.

Section V

Specialised Administration

Art. 11. The specialised administration is organised in two directorates:

1. Monitoring, Analysis and Methodology of Public Procurement Directorate;
2. Electronic Database Directorate;

Art 12. (amended-SG, issue 97/2004) The ‘Monitoring, Analysis and Methodology of Public Procurement’ Directorate shall:

1. participate in the preparation of draft legislation and international agreements related to public procurement;
2. prepare methodological instructions concerning application of PPL and the related secondary legislation and regulatory instruments;
3. Repealed;
4. (amend. SG No 81/2006) develop standard forms of contract notices, statistical reports and contract award notices and design contest notices;
5. (amend. SG No 81/2006) draw up and keep lists of contracting authorities as per Article 7, of PPL
6. maintain, in cooperation with the professional associations and organizations from the corresponding branch, a list of persons who the contracting authorities may use of as external experts in the conduct of public procurement award procedures;
7. (amend. SG No 81/2006) prepare drafts of the standard forms for the information under Art. 5, Para 1. Items 1, 10, 11 and 13 RIPPL;
8. monitor the implementation of procurement procedures in the country;
9. compile and summarise the legal practice on implementation of the Public Procurement Law and the related secondary legislation and regulatory instruments;
10. follow any amendments in the legal provisions on public procurement in the European Union as well as the judgements passed by the Consultative Committee of Public Procurement under the European Commission, and report to the Executive Director the necessary measures to be taken;
11. (amend. SG No 81/2006) monitor the practice of legal review of the procedures for the award of public contracts in the country, as well as the practice of the EU Court of Justice on settling disputes in the field of public procurement;
12. (amend. SG No 81/2006) participate in the preparation for the joining of the Republic of Bulgaria to the World Trade Organisation Agreement on Government Procurement;
13. participate in the process of elaborating reports on implementation of the commitments undertaken by the Republic of Bulgaria under the Central European Free Trade Agreement and the European Free Trade Agreement concerning public procurement;
14. participate in the preparation, coordination and implementation of international programmes and projects in the field of public procurement;
15. (amend. SG No 81/2006) participate in trainings in the field of public procurement;
16. (new – SG No 81/2006) assists the executive director in promoting the best practices in the field of public procurement;
17. (previous Item 16, amend. SG No 81/2006) prepare proposals to the Executive Director with regard to approaching competent authorities for control on observing the PPL;
18. (previous Item 17, amend. SG No 81/2006) prepare proposals to the Executive Director to challenge before the Commission for the Protection of Competition decisions of the contracting authorities for opening of procedure in the cases under Art. 19, Para 2, Item 3, PPL;
19. (previous Item 18, amend. SG No 81/2006) prepare proposals to the Executive Director to file claims in court for declaring procurement contracts null and void in case of violation of PPL;
20. (previous Item 19, amend. SG No 81/2006) disseminate information related to public procurement through consultations, seminars, conferences and by any other appropriate means;

21. (new – SG No 81/2006, to enter into force on 01.01.2007) assist the Executive director in performing his/her powers under Art. 5, Para 3, Items 23, 24 and 29;

22. (new – SG No 81/2006, to enter into force on 01.01.2007) collect and summarize the data from the statistical reports sent by the contracting authorities and prepare a draft of the annual statistical report under Art. 11 RIPPL;

23. (new – SG No 81/2006, to enter into force on 01.01.2007) Prepare a proposal to the Executive director for informing the European Commission in the cases under Art. 5, Para 3, Items 26 and 27;

24. (new – SG No 81/2006, to enter into force on 01.01.2007) participate through observers in the procedure for the award of public contracts with values above the ones under Art. 45 a, Para 1 and 2 PPL, under the conditions of Art. 20 a PPL;

25. (previous Item 20 – SG No 81/2006) perform additional activities stemming from orders given by the Executive Director.

Art. 13. (amended-SG, issue 97/2004) The ‘Electronic Database’ Directorate shall:

1. set up and maintain a Public Procurement Register (PPR);
2. maintain a web.site of the Agency;
3. (amend. SG No 81/2006) publish and maintain information on the Agency’s web site according to Article 19, Para 5 of PPL and Article 5, Para 3, Items 6 and 7 of the present Statutes,;

4. ensure interaction with the automated informational databases functioning in other state authorities and institutions and in the European Union, as well;

5. develop standard forms for online filling in of information in the PPR;

6. make proposals regarding the form and technical requirements of the documents sent in electronic format to the Agency;

7. monitor the information to be entered in the PPR;

8. analyse the information included in the PPR;

9. (new – SG No 81/2006) provide through the web site of the Agency summarized information from the Public Procurement Register by requested criteria;

10. (previous Item 9 – SG No 81/2006) arrange and perform the programme and technical support of computer and communication equipment in the Agency;

11. (previous Item 10 – SG No 81/2006) ensure proper work of the computer network and safeguarding of information against illegal access;

12. (previous Item 11 – SG No 81/2006) participate in the drafting of regulatory instruments and issue statements on international agreements related to e-procurement;

13.(previous Item 12 – SG No 81/2006) participate in the preparation and carrying out of negotiations related to the joining the World Trade Organisation Agreement on Government Procurement;

14. (previous Item 13 – SG No 81/2006) participate in the preparation, coordination and implementation of international programmes and projects on e-procurement;

15. (previous Item 14 – SG No 81/2006) research, analyze and apply the best practice in e-procurement;

16. (previous Item 15 – SG No 81/2006) participate in training in the field of public procurement;

17.(previous Item 16 – SG No 81/2006) make arrangements for introducing new information and communication technologies in the Agency;

18.(previous Item 17 – SG No 81/2006) perform additional activities stemming from the orders given by the Executive Director.

Section VI

Organisation of work in the Agency

Art. 14. (amended-SG, issue 97/2004) The Executive Director shall endorse the Statutes for the organization of the activities of the Agency, based on a proposal by the Secretary General.

Art. 15. In fulfilment of their functions and assigned concrete tasks the Agency's administrative units shall elaborate statements, reports, analyses, concepts, informations, draft decisions on specific issues, internal regulatory acts, drafts of legislation, drafts of international contracts and other documents.

Art. 16. The executive officials of the Agency, in conformity with their assigned functions and the tasks of the unit they head shall:

1. assign tasks to the employees in the corresponding unit, monitor and hold responsibility for their timely and quality implementation;
2. ensure interaction with the other units of the Agency in accordance with the established organisational ties and the allocation of activities between them;
3. draw up an annual report on the activities of the corresponding unit and propose concrete measures for improving its performance;
4. (amend. SG No 81/2006) propose promotion, transfer, incentive, disciplinary sanctioning and discharge of staff in the corresponding unit and take part in the procedures of new appointments;

Art. 17. The Directors of the directorates shall head, organise, monitor, plan, coordinate, report back and be responsible for all activities and the fulfilment of tasks assigned to the corresponding administrative unit, in conformity with the functions prescribed by the Statutes.

Art. 18. The civil servants and the remaining staff of the Agency perform the tasks assigned to them and report back to their superior on the fulfilment of the tasks in compliance with their own job description.

Art. 19. (1) All documents received at the Agency shall be entered in a Registry for the incoming documents, with the date of their receipt.

(2) When entering the documents a check-up shall be carried out for availability of all the materials mentioned in them. An official correspondence file shall be created and presented to the attention of the Secretary General.

(3) The Secretary General shall distribute the correspondence files between the heads of units with a resolution to this effect. The addressees of the file shall be entered in a logbook. When assigning a file to more than one head of unit the one held responsible shall be indicated.

(4) The correspondence files shall be distributed as soon as the letters are received at the Agency.

(5) Complaints and claims shall be answered within a month of their receiving, unless otherwise stipulated by law. In the latter case the deadline may be prolonged, but it should not exceed two months when an inspection is needed..

Art. 20. (Amend. SG No 81/2006) Outgoing documents from the Agency shall be drawn up in three identical copies. The third copy should bear the initials and signature of the staff employee who prepared the document, and the head of the corresponding administrative unit with the date stated.

Art. 21. The office hours of the Agency shall be between 9 a.m. and 5.30 p.m., with a lunch break from 12.30 to 1.00 p.m.

Art 22. (1) The employees of the Agency may be awarded with insignia of honour, recognising employee's excellence in performance of his/her duties pursuant to the Law for the Civil Servant.

(2) Awards may be presented either cash or as gift. The kind of objects to be given out as award shall be determined by a special order of the Executive Director for awarding the employee.

(3) The amount of cash or the value of object awarded should not exceed the basic monthly salary of the employee.

(4) The resources for insignia of honour shall be paid from the Agency's budget.

Art. 23. The employees of the Agency shall identify themselves with an office ID card. The form and layout of the latter shall be specified with an order issued by the Executive Director.

FINAL PROVISIONS

§ 1. The Executive Director shall, within a month of the entering into force of the present Statutes, endorse the schedule with positions, as well as the job descriptions of the Agency staff.

§ 2. (amend. - SG, No 97/2004) The Statutes shall be endorsed pursuant to Article 55 of the Law for Administration and § 4, Para 1 of the transitional and final provisions in the Public Procurement Law.

TRANSITIONAL AND FINAL PROVISIONS

The transitional and final provisions are under Council of Minister's Decree No. 286 dated 22nd October 2004 on amendment and supplements of legal and regulatory acts of the Council of Ministers.

(SG, No97/2004, in force from 02.11. 2004)

§ 6. The financial resource necessary for implementing the Decree shall be provided within the Council of Ministers' budget for 2004.

§ 7. (amend. – SG, No 78/2005) The Minister of Finance, after due proposal by the Minister of Economy and Energy, shall introduce all the amendments required in the budget of the Council of Ministers and the budget of the Ministry of Economy and Energy.

§ 8. The present Decree shall come into effect from the date of its publication and release in the "State Gazette".

**Final Provisions
to Decree No 206 from 27.09.2005 for approval of the Statues of
the Ministry of Economy and Energy
(Published – SG No 78/2005)**

§ 2. Everywhere the words “minister of economy”, “Ministry of Economy” and “deputy-minister of economy” shall be substituted respectively with “minister of economy and energy”, “Ministry of Economy and Energy” and “deputy-minister of economy and energy” in the following legal acts of the Council of Ministers:

.....
§ 24. The minister of finance shall make the necessary changes of the budgets of the respective administrations in connection with the establishment of the Ministry of economy and energy.

.....
§ 26. The Decree shall enter into force on 01.10.2005.

**Final Provisions
to Decree No 41 from 01.03.2006 for
amendments to the legal acts of the Council of Ministers
(Published – SG No 21/2006, entered into force on 10.03.2006)**

§ 5. The Decree shall enter into force from the day of its publication in the State Gazette, except for § 3, Item 7 in its part about Art. 13, Para 1, Item 3, which shall enter into force from the date of accession of the Republic of Bulgaria to the European Union.

**Final Provisions
to Decree No 264 from 26.09.2006 for
amendments to the Statues of the Public Procurement Agency,
approved with Council of Ministers' Decree No 56/2004
(Published – SG No 81/2006)**

§ 11. § 2, Item 1 d (in relation to informing of the European Commission for changes in the lists), letter “l” (in relation to Item 23-26) and letter “m” (in relation to Items 27-29) and § 6, Item 12 shall enter into force on 01.01.2007.

Annex to Article 6, Paragraph 3

**(amend. – SG, No 97/2004, amend. - SG, No 48/2005, in force from
10th June 2005, amend. SG No 21/2006, entered into force on
10.03.2006)**

Total Number of administrative staff at the Public Procurement Agency - 53 (amend. SG No 21/2006, entered into force on 10.03.2006)

-ExecutiveDirector	1
- Secretary General	1
- Information Security Officer	1
- General administration	12
Incl. :	
- ‘Financial-Economic and Administrative-Legal Activities ’ Directorate	12
- Specialized administration	38
Incl. :	
- ‘Monitoring, Analysis and Methodology of Public Procurement’ Directorate	23
- ‘Electronic Database’ Directorate	15