CONGRESS OF THE REPUBLIC
LAW 80 OF 1993

(October 28)

"Whereby the general stature for the procurement of the public administration is enacted".

(Note: Repealed the expressions "contest" and "terms of reference" included throughout the text of this law, as well as the expression: "When the contract's purpose is technical, intellectual or specialized studies or works, the selection process will be called contest and will be also made by public invitation" by Law 1150 of 2007 article 32 as from its enactment – see article 33)

I. The general provisions

ART. 1 — The Purpose. The purpose of this law is to set the rules and principles that govern the contracts of the State's entities.

ART. 2 — The definition of entities, servants and public services. For the purposes of this law only:

1. **Are called state's entities:**

   a) The Nation, the regions, the departments, the provinces, the capital district and the special districts, the metropolitan areas, the municipalities' associations, the indigenous territories and the municipalities; the public establishments, the industrial and commercial enterprises of the State, the companies partially owned by the state in which the State has a share of more than fifty per cent (50%), as well as the indirect decentralized entities and any other legal entities in which such majority share is present, notwithstanding the designation adopted by them, in all orders and levels.

   b) The Senate of the Republic, the House of Representatives, the Superior Judicial Council, the Office of the General Prosecutor of the Nation, the Office of the General Controller of the Republic, the offices of the departmental, district and municipal controllers, the Office of the Attorney General of the Nation, the National Civil State Registration Office, the ministries, the administrative departments, the superintendence agencies, the special administrative units and, in general, the bodies or instrumentalities of the State to which the law grants contracting powers.

2. **Are called public servants:**

   a) The individuals that are employed by the bodies and entities the subject matter of this article, with the exception of the associations and foundations partially owned by the State in which such designation will be applicable only to their legal representatives and to the officers of the director, consultant or executive levels or their equivalents who are delegated to enter into contracts on their behalf.

   b) The members of the public corporations that have the power to enter into contracts on their behalf.

3. **Are called public services:**
   Those the purpose of which is to satisfy collective needs in a general, permanent and continuous manner, under the direction, regulation and control of the State, as well as those whereby the State seeks to preserve the order and ensure that its goals are met.

PAR — (Repealed). * Only for the purposes of this law, are also called state's entities the cooperatives and associations made up by territorial entities, which will be subject to the provisions of this statute, particularly when, pursuant to inter - administrative agreements the same enter into contracts on behalf of those entities.

***(Note: Repealed the paragraph of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

ART. 3 — The purposes of the state's contracting. The public servants shall take into account that when they enter into contracts and with the performance thereof, the entities seek the compliance with the purposes of the State, the continuous and efficient provision of the public services and the effectiveness of the rights and interests of those governed that help them to meet such purposes.

The private parties, on their part, shall take into account, when they enter into and perform contracts with the state's entities that, (besides obtaining the profits, the protection of which is guaranteed by the State)*, cooperate with them to achieve their purposes and that have a social function that, as such, entails obligations.

***(Note: Repealed the expression "besides obtaining the profits, the protection of which is guaranteed by the State" of the second part of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

ART. 4 — The rights and duties of the state's entities. To accomplish the purposes set forth in the previous article, the state's entities:

1. Will demand from the contractor the adequate and timely performance of the purpose of the contract. The same demand can be made from the guarantor.

2. Will do everything required for the recognition and collection of the penalties and guarantees, as the case may be.

3. Will request the update or the review of the prices when there are phenomena that alter, to its detriment, the economic or financial balance of the contract.

4. Will carry out periodical reviews of the works done, services rendered or goods supplied to verify that the same meet the quality conditions offered by the contractors, and will promote the liability actions against them and their guarantors when such conditions are not met.

   a) The periodical reviews subject matter of this section must be made at least once every six (6) months throughout the term of validity of the guarantees.

5. Will demand that the quality of the goods and services acquired by the state's entities agrees with the minimum requirements set forth in the mandatory technical standards, without prejudice to the power to demand that such goods or services meet the Colombian technical standards or,

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otherwise, international standards made by internationally recognized bodies or foreign standards accepted in the international agreements entered into by Colombia.

6. Will perform all actions to obtain the settlement of damages suffered by them pursuant to or because of the contract signed.

7. Without prejudice to the impleader, they will fly a recovery claim against the public servants, against the contractor or the liable third parties, as the case may be, for the damages that must be paid by them as a result of the contractual activity.

8. Will adopt all measures necessary to maintain, throughout the performance and execution of the

   a) contract the technical, economic and financial conditions existing at the time of proposing in the cases in which a tender or (contest)* process took place, or to contract in the cases of direct contracting. For this, they will use the prices' adjustment and review mechanisms, will resort to the procedures for the review and correction of such mechanisms if the assumptions or hypotheses for the execution fail and they will agree late payment charges.

   b) Without prejudice to the update or review of prices, in case that no late payment charges were agreed, the rate equivalent to twice the legal civil interest will be applied on the updated historic value.

9. Will act in a way in which for reasons attributable to them no further costs arise in the compliance with the obligations to cargo of the contractor. For these purposes, in the shortest time possible, will fix the maladjustments that could occur, and they will agree the pertinent mechanisms and procedures to forestall or solve, in a quick and efficacious manner, the differences or dispute situations that may occur.

(Note: Added by the Law 1150 of 2007 article 19 as from its enactment see article 33) Will respect the order of presentation of the payments of the contractors. Only due to public interest reasons, the head of the entity may amend said order, leaving evidence of such activity.

For these purposes, the entities must keep a record of the filing by the contractors of the document required to make effective the payments derived from the contracts, in a way that the same can verify the strict compliance with the aforementioned order. The record will be public.

The provisions of this sub – section will not be applicable to the payments the supports of which have been filed in an incomplete manner or those regarding which the compliance of the requirements set forth in the contract from which they are derived is pending.

***(Note: Repealed the expression "contest")**

ART. 5 — Rights and duties of the contractors. To achieve the purposes the subject matter of the 3rd article of this law, the contractors:

1. Shall have the right to receive, in a timely manner, the remuneration agreed and also to have the intrinsic value thereof unaltered or unchanged throughout the term of the contract.

   In consequence they shall have the right, upon request, to the administration's reestablishment of the economic equation of the contract to a point of no – loss due to the occurrence of unforeseen

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situations that are not attributable to the contractors. If said balance is broken due to the nonperformance of the contracting state's entity, the equation that arose when the contract came into existence must be reestablished.

2. Shall cooperate with the contracting entities whenever necessary so the purpose of the contract is performed and that the same is of the best possible quality; will obey the orders given by them throughout the contract and, in a general manner, will act loyally and in good faith throughout the different contractual stages, avoiding any delays and hindrances that may occur.

3. May resort to the authorities in order to obtain the protection of the rights derived from the contract and the sanction for those who disregard or breach them.

   The authorities will not be able to condition the participation in tender processes or (contests)*, or the awarding, addition or amendment of contracts, or the settlement of monies due to the contractor, to the waiver, abandonment or withdrawal of petitions, actions, lawsuits and claims by the latter.

4. Will guarantee the quality of the goods and services contracted and will be answerable for them.

5. Will not give in to petitions or threats made by persons outside the law in order to force them to do or omit any act or fact.

When such threats or petitions occur, the contractors must give immediate notice of the occurrence to the contracting entity and to the other competent authorities for the latter to take all measures and make the corrections that may be necessary. The failure to comply with this obligation and the entering into of forbidden pacts will lead to the declaration of forfeiture of the contract.

***(Note: Repealed the expression "contest")**

ART. 6 — Contracting Capacity. Are able to enter into contracts with the state's entities the persons considered as legally capable in the legal provisions in force. Are also able to enter into contracts with the state's entities, the consortia and joint ventures.

The domestic and foreign legal entities must evidence that their term will not be of less than the term of the contract and one (1) year more.

ART. 7 — Consortia and joint ventures. For the purposes of this law it is construed as:

1. **Consortium:** when two or more persons jointly submit the same offer for the awarding, execution and performance of a contract, being jointly and severally liable for each and all of the obligations derived from the offer and from the contract. In consequence, the activities, acts and omissions occurring because of the offer and of the contract, will affect all the members thereof.

2. **Joint venture:** when two or more persons jointly submit the same offer for the awarding, execution and performance of a contract, being jointly and severally liable for the total performance of the offer and of the contracted purpose, but the sanctions for the noncompliance with the obligations derived from the offer and of the contract will be imposed according to the participation in the performance of each one of the members of the joint venture.

PAR. 1 — The bidders will state whether their participation is as a consortium or joint venture and, in this last case, will determine the terms and extent of the participation in the offer and its performance, which cannot be amended without the prior consent of the state's contracting entity.

The members of the consortium and of the joint venture must designate the person that, for all purposes, will represent the consortium or joint venture and will determine the basic rules that govern the relationships between them and their liability.

PAR. 2 — For tax purposes, the consortia and joint ventures will be subject to the regime established in the tax statute for corporations but, under no circumstances, will be subject to dual taxation.

(Note: Repealed)

PAR. 3 — In the cases in which companies are incorporated under any of the modalities set forth in the law with the sole purpose of making an offer, entering into and performing a state contract, the liability and its effects will be governed by the provisions of this law for the consortia.

ART. 8 — Disqualifications and incompatibilities to enter into contracts

1. Are disqualified to take part in tenders or (contests)* and to enter into contracts with the state's entities:

    a) The persons that are disqualified to contract by the Constitution and the laws.

    b) Those who took part in the tenders or (contests)* or entered into the contracts the subject matter of the preceding sub - section anterior while disqualified.

    c) Those who caused the declaration of forfeiture.

    d) Those who have been convicted, by court ruling, to the accessory punishment of interdiction of rights and public functions as well as those who have been the subject of the disciplinary sanction of dismissal.

    e) Those that, without cause, refrain from entering into the awarded state contract.

    f) The public servants.

    g) Those who are spouses or partners and those that fall within the second degree of consanguinity or second of affinity with any other person who has formally submitted an offer for the same tender or **(contest)*.**

    h) The companies other than open public companies, in which the legal representative or any of its members has a kinship relationship, in the second degree of consanguinity or second of affinity with the legal representative or with any of the members of a company that has formally made a bid for the same tender or **(contest)*.**

    i) The members of partnerships regarding which the forfeiture has been declared, as well as the partnerships of which they are members after such declaration.

j) **(Amended). * (Note: Added by the Law 1474 of 2011 article 1) as from its enactment see article 33)** The individuals that have been declared legally responsible for the commission of crimes against the Public Administration that have imprisonment sentences or that affect the State's Assets, or those who have been convicted for crimes related to the membership, promoting or funding of illegal groups, crimes against humanity, drug dealing Colombia or abroad or transnational bribes, with the exception of negligent offences.

This disqualification will extend to the companies of which such persons are members, their parents and subordinates, wit the exception of the open joint stock companies.

The disqualification established in this sbsection will be in force for a term of twenty (20) years.

***(Note: Amended by Law 1474 of 2011 article 1°)**

k) **(Note: Added by the Law 1474 of 2011 article 2°)** The persons that have funded political campaigns to the Presidency of the Republic, the governors' offices or the mayors' offices with contributions of more than two point five per cent (2.5%) of the maximum amounts that can be invested by the candidates in the election campaigns in each election district, who will not be able to enter into contracts with the public entities, even of the decentralized level, of the respective administrative level for which the candidate was elected.

The disqualification will be in force for the entire term for which the candidate was elected. This cause will also operate for persons within the second degree of consanguinity, second of affinity or first civil degree with the person that financed the political campaign.

This disqualification will also comprise the existing companies or those that are incorporated, other than open joint stock companies, in which the legal representative or any of the members have funded, directly or otherwise, political campaigns to the Presidency of the Republic, the governors' offices or the mayors' offices. The disqualification contemplated in this provision shall not be applicable to the contracts for the provision of professional services.

(Note: Added by the Law 1474 of 2011 article 84)

The disqualifications the subject matter of the sub - sections c), d) and i) will be in force for a term of five (5) years as from the date of firmness of the act that declared the forfeiture, or from the court order imposing the penalty, or of the act that ordered the dismissal; those set forth in the sub - sections b) and e), will be in force for a term of five (5) years as from the date of occurrence of the fact of the participation in the tender or (contest)*, or of the execution of the contract, or of the of expiration of the term for its signature.

2. Likewise, will not be able to take part in tenders or **(contests)*** or enter into state contracts with the respective entity:

a) Those who were members of the council or board of directors or public servants of the contracting entity. This incompatibility only covers those who had functions of the directive, advisory or executive levels and it is for a term of one (1) year, as from the date of termination.

b) The persons that have kinship relationships up to the second degree of consanguinity, second of affinity or first civil degree with the public servants of the directive, advisory or

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executive levels or with the members of the council or board of directors, or with the persons who are in charge of the internal or fiscal control of the contracting entity.

c) The spouse or permanent partner of the public servant of the directive, advisory or executive levels, or of a member of the council or board of directors, or of whoever discharges internal control or fiscal control duties.

d) The corporations, associations, foundations, and the joint stock companies, that are not publicly quoted, as well as the limited liability companies and the other partnerships in which the public servant of the directive, advisory or executive levels or the member of the council or board of directors, the spouse or permanent partner or the relatives up to the second degree of consanguinity, affinity or civil of any of them, has a share or discharges directive or management duties.

e) The members of the councils or boards of directors. This incompatibility is applicable only to the entity in which they serve and of the of the administrative sector to which the same belongs or is attached.

f) **(Note: Added by Law 1474 of 2011 article 4°)** Directly or indirectly, the persons that have filled positions of the directive level in State's entities and the companies of which they are part or are related to at whatever title. during a term of two (2) years after the retirement form the public position, when the object to be performed is related to the sector to which they rendered their services.

This incompatibility will also operate persons within the second degree of consanguinity, second of affinity or first civil degree of the former public servant.

PAR. 1 — The disqualification set forth in sub - section d) of item 2 of this article shall not be applicable in respect to the corporations, associations, foundations and companies therein mentioned when, pursuant to a legal or statutory provision, the public servant of the aforementioned levels must occupy in them direction or management positions.

(Note: Added part to the following paragraph 1 by Law 1150 of 2007 article 18 as from its enactment article 33)

PAR. 2 — For the purposes established in this article, the National Government shall determine what must be construed as open or publicly quoted joint stock companies.

***(Note: Repealed the expressions "contest" by the Law 1150 of 2007 article 32)**

(Note: The expressions "permanent partners" and "permanent partner" contained in this article are declared as enforceable by the Constitutional Court in Ruling C - 29 of 2009, Issuing Judge Rodrigo Escobar Gil, under the understanding that, pari passu, the same also comprise the members of same – sex couples.)

(Note: See Constitutional Court Plenum in Ruling C - 630 of 2012, Issuing Judge Mauricio González Cuervo)

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ART. 9 — Supervening disqualifications and incompatibilities. If a disqualification or incompatibility of the contractor occurs, the same will assign the contract with the prior written authorization of the contracting entity or, if this is not possible, will quit its performance.

When the supervening disqualification or incompatibility occurs for a bidder in a tender or (contest)*, it shall be construed that the same resigns its participation in the selection process and to the rights arising from it.

If the supervening disqualification or incompatibility occurs for one of the members of a consortium or joint venture, the same will assign its participation to a third party with the prior written authorization of the contracting entity. It is not possible, under any circumstances whatsoever, to assign the contract among the members of the consortium or joint venture.

***(Note: Repealed the expression "contest" by Law 1150 of 2007 article 32)**

ART. 10 — Exceptions to the disqualifications and incompatibilities. Are not covered by the disqualifications and incompatibilities the subject matter of the preceding articles, the persons who enter into contracts by virtue of a legal obligation or who do so to use the goods or services that the entities to which this statute refer offer to the public in equal conditions to those who request them, or the non – profit legal entities the legal representatives of which are members of the councils or boards of directors by virtue of their charge or by legal or statutory provision, as well as those who enter into contracts pursuant to the provisions of article 60 of the National Constitution.

ART. 11 — Competence to manage tenders or (contests)* and to enter into state contracts. In the state's entities the subject matter of the 2nd article:

1. The competence to order and to direct the performance of tender processes or (contests)*, and to choose contractors will be of the head or representative of the entity, as the case may be.

2. Is competent to enter into contracts on behalf of the Nation, the President of the Republic.

3. Are competent to enter into contracts on behalf of the respective entity:

    a) The ministers of state, the directors of administrative departments, the superintendents, the heads of special administrative units, the president of the Senate of the Republic, the president of the House of Representatives, the presidents of the administrative chamber of the Superior Judicial Council and of its sectional councils, the General Prosecutor of the Nation, the General Controller of the Republic, The Attorney General of the Nation and the National Recorder of the Civil State.

    b) At a territorial level, the governors of the departments, the municipal mayors and those of the capital and special districts, the departmental, district and municipal controllers, and the legal representatives of the regions, the provinces, the metropolitan areas, the indigenous territories and the municipalities' associations, in the terms and conditions of the legal provisions that govern the organization and the functioning of such entities.
    c) The legal representatives of the decentralized entities of all orders and levels.

    ***(Note: Repealed the expression "contest" by Law 1150 of 2007 article 32)**

ART. 12 —The delegation to enter into contracts. The heads and the legal representatives of the state's entities may delegate, in whole or in part, the competence to enter into contracts and disperse the performance of tender processes or **(contests)*** on the public servants who occupy positions of the directive or executive level or their equivalent.

(Note: Added part 2 and one paragraph to this article by Law 1150 of 2007 article 21 as from its enactment see article 33)

***(Note: Repealed the expression "contest" by Law 1150 of 2007 article 32)**

ART. 13 — Regulations applicable to the state contracts. The contracts entered into by the entities the subject matter of article 2 of this statute will be governed by the relevant commercial and civil provisions, excepting in the matters specifically regulated by this law.

The performance of contracts signed abroad may be governed by the rules of the country in which it was signed, excepting if the same must be performed in Colombia.

The contracts entered into in Colombia and that must be performed or complied abroad may be subject to the foreign law.

The contracts financed with funds of the multilateral credit bodies or entered into with foreign state – owned persons or cooperation, assistance or international aid bodies, may be subject to the regulations of such entities in anything related to formation and awarding procedures and special clauses of execution, performance, payment and adjustments.

(Note: The third part of this article is declared as conditionally enforceable by the Constitutional Court in Ruling C - 249 of 2004, in the understanding that both the execution and the part of the execution that takes place in Colombia are subject to the Colombian law and the fourth part, in the understanding that the discretion therein established can only be validly exercised in respect to the contracts related to resources received from international entities or bodies, that is to say, in relation to loan, donation, technical assistance or cooperation contracts entered into by the respective state's entities with international entities or bodies.)

(Note: Repealed the part 4º of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)

ART. 14 —Means that can be utilized by the state's entities for the performance of the contractual purpose. For the compliance with the purposes of the procurement, when the state's entities enter into a contract:

1. Shall have the general direction and the responsibility of exercising the control and oversight of the performance of the contract. In consequence, with the sole purpose of preventing the halting of or a serious impact on the public services in its charge, as well as to ensure the immediate, continuous and adequate provision, they may, in the cases set forth in the second section of this article, construe the contractual documents and the stipulations therein agreed, make amendments to what was contracted and, when the particular conditions of the provision of the service so require, terminate, in a unilateral manner, the contract signed.

In the acts in which some of these exceptional powers are exercised, the acknowledgement and order of payment of compensations and indemnifications to which the persons the subject of such measures are entitled will take place, and the mechanisms of adjustment of the conditions and contractual terms, as the case may be, will be applied, all of the foregoing in order to maintain the initial equation or balance.

Against the administrative decisions that order the unilateral interpretation, amendment and termination, the reversal appeal may be brought, without prejudice to the contractual action that the contractor may bring as per the provisions of article 77 of this law.

2. Shall include the exceptional clauses to the common law of unilateral termination, interpretation and amendment, of submission to the national laws and forfeiture in the contracts the purpose of which is the exercise of an activity that constitute a monopoly of the state, the provision of public services (utilities) or the exploitation and concession of goods owned by the State, as well as in the works' contracts. In the contracts of exploitation and concession of goods owned by the State the reversion clause will be included.

   The state's entities may include these clauses in the supply contracts as well as in those of provision of services.

   In the cases established in this section, the exceptional clauses are deemed as agreed even if the same are not expressly stated.

PAR — In the contracts entered into with international public persons, or with cooperation, aid or assistance bodies; in the inter – administrative ones; in the loan, donation and lease contracts as well as in the contracts the purpose of which are commercial or industrial activities or of the state's entities that do not correspond to those mentioned in the second section of this article, or those the purpose of which is the direct performance of scientific or technological activities, as well as in the insurance contracts taken by the state's entities, the utilization of the exceptional clauses or stipulations will not apply.

ART. 15 — Unilateral Interpretation. If during the performance of the contract there are discrepancies between the parties regarding the interpretation of some of its stipulations that may lead to the halting of or to a serious negative impact on the public service that is to be satisfied with the contracted purpose, if no agreement is reached, the state entity will interpret, in an administrative decision duly reasoned, the stipulations or clauses the subject of the dispute.

ART. 16 — Unilateral Amendment. If during the term of execution of the contract and in order to prevent the halting of or to a serious negative impact on the public service that is to be satisfied with it, it is necessary to introduce variations in the contract and the parties do not reach the respective agreement beforehand, the entity, in an administrative decision duly reasoned, will amend it by means of the suppression or addition of works, workings, supplies or services.

If the amendments alter the value of the contract by twenty per cent (20%) or more of the initial value, the contractor may renounce to the continuation of the performance. In this event, the winding up of the contract will be ordered and the entity will adopt, in an immediate manner, the measures that may be necessary to ensure the termination of the purpose thereof.

ART. 17 — Unilateral Termination. The entity, in an administrative decision duly reasoned, will order the early termination of the contract in the following events:

1. When the demands of the public service so require or the public order situation so demands.

2. Due to the death (or permanent physical disability)* of the contractor, if it is a natural person, or due to the dissolution of the legal entity of the contractor.

3. Due to the judicial interdiction or declaration of bankruptcy of the contractor.

4. Due to the cessation of payments, arrangement with creditors or judicial attachments of the contractor that affect the compliance with the contract in a serious manner.

   However, in the cases the subject of sections 2 and 3 of this article the execution may be continued with the guarantor of the obligation.

   The start of insolvency or creditors' arrangement proceedings will not lead to the unilateral termination. In such event the execution will proceed subject to the rules regarding the management of business of a debtor under creditors' arrangement proceedings. The entity shall determine that the measures of inspection, control and oversight necessary to ensure the compliance with the contractual purpose and to prevent the halting of the service.

   (Note: The text in brackets was declared enforceable by the Constitutional Court in Ruling C - 454 of 1994, to the extent that the permanent physical disability prevents, in an absolute manner, the compliance with the specifically contractual obligations, when the same depend of the physical capabilities of the contractor).

ART. 18 — The forfeiture and its effects. The forfeiture is the stipulation by virtue of which if any of the facts that constitute breach of the obligations on the charge of the contractor occurs, affecting in a serious and direct manner the execution of the contract and that evidences that can lead to its halting, the entity in an administrative decision duly reasoned will terminate it and will order its winding up in the state in which it is at that time.

In case that the entity decides to refrain from declaring the forfeiture, it will adopt the control and intervention measures that may be necessary to guarantee the compliance with the purpose of the contracted purpose. The declaration of forfeiture will not prevent that the contracting entity takes possession of the works or continues in an immediate manner with the execution of the contracted purpose, either through the guarantor or through another contractor, to which the forfeiture can be also declared when the circumstances so warrant.

If the forfeiture is declared, no indemnification will be due to the contractor, who will be the subject of the sanctions and disqualifications set forth in this law.
The declaration of forfeiture will be deemed as breach of contract.

ART. 19 — The Reversion. In the contracts of exploitation or concession of goods owned by the state it will be agreed that at the end of the term of the exploitation or concession, the elements and goods directly attached to it will become the property of the contracting entity, and no compensation must be given by it for such items.

ART. 20 — Reciprocity. In the state's contracting processes the bidders for goods and services of foreign origin will receive the same treatment and in the same conditions, requirements, procedures

and awarding criteria than the treatment granted to the domestic one, exclusively under the reciprocity principle.

It is construed as reciprocity principle, the commitment made by another country, by means of a treaty or convention signed with Colombia, in the sense that the offers of Colombian goods and services will receive in that country the same treatment than those of its nationals, in terms of the conditions, requirements, procedures and awarding criteria of the contracts entered into with the public sector.

PAR. 1 — The National Government, in the agreements, treaties or conventions entered into for such purposes, must establish all the mechanisms necessary to enforce the equal treatment for the national and foreign bidder both in Colombia and in the territory of the country with which such agreement, convention or treaty has been signed.

PAR. 2 — When for the purposes set forth in this article no agreement, treaty or convention has been signed, the bidders for goods and services of a Colombian origin may be able to take part in the contracting processes in the same conditions and with the same requirements established for the Colombian nationals, provided that in their respective countries the bidders of goods and services have the same opportunities. The National Government will establish the mechanisms to ensure the compliance with the reciprocity set forth in this paragraph.

ART. 21 — Treatment and preference of the national offers. The state's entities will ensure the participation of the bidders of goods and services of a national origin, in competitive conditions of quality, opportunity and price, without prejudice to the objective selection process utilized and provided that there is offer of a national origin.

Regarding the execution of investment projects the technological breakdown will be established.

In the loan agreements and other forms of financing other than vendor credit, it will be preferred that the employment or the acquisition of goods or the provision of services of a specific foreign origin is not demanded, or that the awarding is conditioned to it. Also, the incorporation of conditions that ensure the participation of bidders of goods and services of a national origin will be sought.

In the same conditions to contract, the offer of goods and services of a national origin will be preferred. For the foreign bidders that are in equal conditions, the one preferred will be the one that has a greater incorporation of national human resources, a greater national component and better conditions for the transfer of technology.

The Foreign Trade Superior Council will determine the regime in force for the imports of the state's entities.

PAR. 1 — The National Government will determine what must be construed as goods and services of a national origin and of a foreign origin and as technological breakdown. The National Government also has the duty to design mechanisms to facilitate the timely information of the offer of goods and services of a national origin, as well as of the demand of the state's entities.

PAR. 2 — The National Government will regulate the national component to which the state's entities must be subject, to ensure the participation of the offers of goods and services of a national origin.

ART. 22 — (Repealed) * Bidders' registries. All the individuals and legal entities who aspire to sign with the state's entities, works, consultancy, supply and chattels' sale and purchase contracts, will

have themselves registered with the Chamber of Commerce of their jurisdiction and must be classified and qualified according to the provisions of this article.

The National Government will adopt a single form and will determine the documents strictly indispensable that the chambers of commerce may demand to proceed with the registration. Also, it will adopt the certification form that must be used by the chambers of commerce.

Based on the forms and on the documents submitted, the chambers of commerce will establish a special registry of those registered by specialties, groups or classes according to the nature of the goods or services offered, and they will issue the certificates or information requested from them regarding the same.

The certification will be the evidence of the existence and representation of the contractor and of the powers of its legal representative and it will also include the information related to the classification and qualification of the person registered.

Regarding the contracts done, it will include the amount, expressed in terms of updated amount, and the respective terms and additions. The certification will also include the data and information regarding the performance of previous contracts, experience, technical and administrative capacity, list relation of equipment and its availability, fines and sanctions imposed and the term thereof.

This registry will not be required, nor the qualification or classification, in the cases of urgent contracting the subject matter of article 42 of this law; small - amount contracts the subject matter of article 24 of this law; contracting for the direct development of scientific or technological activities; contracts for the provision of services and concession contracts of any kind, as well as in the case of the acquisition of goods the price of which is regulated by the National Government.

The bidders' registry will be public and therefore any person may request and receive certifications about registrations, qualifications and classifications that it may contain.

22.1. Information on contracts, fines and sanctions of those registered. The state's entities will send, twice a year, to the Chamber of Commerce with jurisdiction over the place of domicile of the registered entity, the information related to the contracts performed, amount, compliance and the fines and sanctions that may have been imposed in respect to them. It will be considered that the public servant that fails to comply with this obligation has committed an act of misconduct.

22.2. Renewal, update and amendment. The registration with the Chamber of Commerce will be renewed on an annual basis, for which those registered must ill and submit the form determined for such purposes by the National Government, together with the updated documents therein determined. In said form those registered will inform about the variations related to their activity in order to take note of them in the respective registration.

The persons registered may ask the Chamber of Commerce to proceed with the update, amendment or cancelation of their registration every time they deem it convenient, through the use of the forms that the National Government establishes for such purposes.

22.3. Classification and qualification of those registered. The classification and qualification will be made by the same individuals or legal entities interested in contracting with the state's entities, strictly abiding by the regulation enacted by the National Government according to criteria of experience, financial and technical capacity, organization, availability of equipment, and it will be

presented to the respective Chamber of Commerce simultaneously with the registration request. The contracting entity will reserve the power of verifying the information contained in the certificate issued by the Chamber of Commerce and in the classification and qualification form.

The financial capacity of the person registered will be determined based on the last income tax return and in the last commercial balance sheet with its attachments for the national persons and in the documents equivalent to the foregoing, for the foreign persons.

The qualification will determine the maximum contracting capacity of the person registered, and it will be valid before all the state's entities of all orders and levels.

22.4. Registration of foreign persons. Regarding foreign individuals with no domicile in the country or foreign private legal entities that do not have a branch office established in Colombia, who intend to make offers or to enter into contracts for which it is required to submit the registration determined in this law, they will have to submit the document that evidences the registration in the corresponding registry of the country in which it has its main place of business, as well as the documents that accredit its existence and its legal representatives, as the case may be. If no such registration document exists, they must submit a certification of registration in the registry established in this law. In addition, they must accredit in the country an attorney domiciled in Colombia duly empowered to make the offer and sign the contract, as well as to represent them before the courts and otherwise.

The documents granted abroad must be submitted duly legalized as per the provisions of the regulations in force in this regard. The provisions of this article will be without prejudice to the duty of the respective state's entity to require that those persons submit documents or information that accredit their experience, capacity and suitability.

22.5. Contesting the classification and qualification. Any person that disagrees with the qualification and classification of those registered, may contest them before the respective Chamber of Commerce. The administrative decision of the Chamber of Commerce that decides about such opposition may be the subject of the reversal appeal and of the nullity and reestablishment of rights' action in the terms of the Contentious Administrative Code. For the opposition to be admissible a bond issued by a bank or insurance company must be submitted, as security of the damages that may be caused to the registered person. The state's entities must contest the classification and qualification of any person registered when they are aware of irregularities or serious inconsistencies. The government will regulate the compliance with the provisions of this article.

22.6. Sanctions. When it is proven that the person registered in bad faith filed documents or information for the registration, qualification or classification that do not correspond to reality, the cancellation of the registration will be ordered, after a hearing with the affected party has been held, who in all cases will be disqualified to enter into contracts with the state's entities for the term of ten (10) years without prejudice to the criminal actions that must be started.

22.7. Tender processes' information bulletins. The state's entities must send to the chambers of commerce of their jurisdiction, the information general of each tender or **(contest)***** that they intend to open in the manner and within the terms established by the regulations.

Based on this information the chambers of commerce will make and publish a monthly bulletin, which will be public, without prejudice to the provisions of the third section of article 30 of this law.
It will be considered that the public servant that fails to comply with this obligation has committed an act of misconduct.

22.8. (Amended). * Determination of Fees. The National Government will establish the amount of the fees that must be paid in favor of the chambers of commerce for the registration in the bidders' registry, as well as for its renovation and update and for the certifications requested from them regarding said registration. Likewise, it will determine the cost of the publication of the information bulletin and of the proceedings for contesting the qualification and classification. For these purposes, the government must bear in mind the costs of the registration operation incurred by the chambers of commerce, as well as of the issuance of certificates, of the publication of the information bulletin of and of the contesting proceedings.

22.9. Registration Validity. The registration, qualification and classification the subject matter of this article, will be in force one year after the enactment of this law. The registrations currently in force, as well as the registrations' renewal regime will continue until the moment in which bidders' registry the subject matter of this article is in force.

(Note: Amended by Decree 1122 of 1999 article 247 of the Ministry of the Interior).

(Note: It must be taken into account that Decree 1122 of 1999, was declared unenforceable as from the date if its enactment, by the Constitutional Court in Ruling C - 923 of 1999).

***(Note: Section 22.8 was amended by Decree 266 of 2000 article 122 of the Presidency of the Republic).**

(Note: It must be taken into account that Decree 266 of 2000, was declared unenforceable as from the date if its enactment, by the Constitutional Court in Ruling C - 1316 of 2000).

***(Note: Repealed this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

****(Note: Repealed the expression "contest" by Law 1150 of 2007 article 32)**

II. Principles of the state's contracting

ART. 23 — Principles regarding the contractual activities of the state's entities. The activities of those who take part in the state's contracting will be carried out according to the principles of transparency, economy and responsibility and according to the postulates that govern the administrative function. Likewise, the provisions that govern the conduct of the public servants, the contracting interpretation rules, the general principles of the law and the particular ones of the administrative law will be applied to them.

ART. 24 — Transparency Principle. By virtue of this principle:

1. **(Repealed).** *The choice of contractor will always be made through public tender or (contest)*** , with the exception of the following cases, in which the contracting can be made directly:

    a) Small amount. It shall be small amount the quantities listed below, determined as a function of the annual budgets of the entities to which this law is applicable, expressed in minimum legal monthly salaries.

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For the entities that have an annual budget higher than or equal to 1.200.000 minimum legal monthly salaries, the small amount will be of up to 1.000 minimum legal monthly salaries; for those that have an annual budget higher than or equal to 1.000.000 and lower than 1.200.000 minimum legal monthly salaries, the small amount will be of up to 800 minimum legal monthly salaries; for those that have an annual budget higher than or equal to 500.000 and lower than 1.000.000 of minimum legal monthly salaries, the small amount will be of up to 600 minimum legal monthly salaries; for those that have an annual budget higher than or equal to 250.000 and lower than 500.000 minimum legal monthly salaries, the small amount will be of up to 400 minimum legal monthly salaries; for those that have an annual budget higher than or equal to 120.000 and lower than 250.000 minimum legal monthly salaries, the small amount will be of up to 300 minimum legal monthly salaries; for those that have an annual budget higher than or equal to 12.000 and lower than 120.000 minimum legal monthly salaries, the small amount will be of up to 250 minimum legal monthly salaries; for those that have an annual budget higher than or equal to 6.000 minimum legal monthly salaries and lower than 12.000 minimum legal monthly salaries, the small amount will be of up to 100 minimum legal monthly salaries and for those that have an annual budget inferior to 6.000 minimum legal monthly salaries, the small amount will be of up to 25 minimum legal monthly salaries.

(Note: See Decree Law 2150 of 1995 article 38 and Decree 62 of 1996).

(Note: See Decree 2434 of 2006 article 1º, article 2º and article 3º of the National Planning Department)

b) Loans.

c) Inter – administrative ones, with the exception of the insurance contract.

d) For the provision of professional services or for the execution of artistic works that can only be entrusted to determined individuals or legal entities, or for the direct performance of scientific or technological activities.

e) Lease or acquisition of real estate.

f) Substantial urgency.
(Note: See Decree 2434 of 2006 article 3º of the National Planning Department)

g) Declaration of deserted of the tender or **(contest)***.**
(Note: See Decree 2434 of 2006 article 2º and article 3º of the National Planning Department)

h) When no offer is made or none of the offers is according to the statement of conditions, or (terms of reference)*** or, in general, when there is no willingness to take part.
(Note: See the Decree 2434 of 2006 article 2º and article 3º of the National Planning Department)

i) Goods and services required for the defense and national security.
(Note: See the Decree 2434 of 2006 article 1º, article 2º and article 3º of the National Planning Department)

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j) When there is not plurality of bidders.

k) Products of agricultural origin or destination offered in the products' exchanges legally established.

l) The contracts entered into by the state's entities for the provision of health services. The relevant internal regulations will determine the guarantees on the charge of the contractors. The respective payments can be made through trust funds.

m) The acts and contracts the direct purpose of which are the commercial and industrial activities typical of the industrial and commercial enterprises of the state and of the companies partially owned by the state, with the exception of the contracts that are identified in article 32 of this law, but not limited to them.

***(Note: Repealed the section 1 of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

2. In the contractual processes the interested parties will have the opportunity to know and contest the reports, opinions and decisions rendered or made, for which stages will be determined that allow the knowledge of such activities and that give the chance to make observations.

3. The acts of the authorities will be public and the files that contain them will be open to the public, allowing, in the case of tender, the exercise of the right of the subject matter of article 273 of the National Constitution.

4. The authorities will issue, at the expense of the persons who evidence a legitimate interest, copies of the acts and proposals received, respecting the reserve legally granted to patents, procedures and privileges.

5. The statements of conditions or **(terms of reference)***:**

a) Will state the objective requirements necessary to take part in the respective selection process.

b) Will define objective, fair, clear and complete rules that allow making offers with the same characteristics, that assure an objective choice and that prevent the declaration of deserted of the tender or (contest)***.

c) Will define, with precision, the conditions of cost and quality of the goods, works or services necessary for the execution of the purpose of the contract.

d) Will not include conditions and demands impossible to meet, or releases of the responsibility derived from the data, reports and documents furnished.

e) Will define rules that do not lead the bidders and contractors to error and that prevent the formulation of unlimited extension offers or that depend of the exclusive will of the entity.

f) Will define the term for the liquidation of the contract, when such is the case, taking into account its purpose, nature and quantity.

Will be inefficacious by operation of law the stipulations of the statements or conditions or **(terms of reference)*** ** and of the contracts that contravene the provisions of this section, or that establish waivers to claims for the occurrence of the facts herein listed.

(Note: section 5º, sub - section b) of this article was declared unenforceable by Ruling C - 932 of 2007 Issuing Judge Marco Gerardo Monroy Cabra, in the understanding that the principles of transparency, objective selection and equality allow that within the factors to decide or weighing criteria, the statements of conditions include affirmative measures actions.)

6. The notices of publication of the opening of the tender or (contest)*** and the statements of conditions or **(terms of reference)*** ** will determine the rules for the awarding of the contract.

7. The administrative decisions made throughout the contractual activity or because of it, unless those that are merely procedural, will be reasoned in a detailed and precise manner and, the same will apply to the evaluation reports, the awarding act and the declaration of deserted of the contracting process.

8. The actions of the authorities will not be deviated and they will not abuse their power and they will exercise their duties exclusively for the purposes set forth in the law. Likewise, it will be forbidden for them to elude the procedures of objective selection and the other requirements set forth in this statute.

9. The notices of any kind informing or announcing of the execution or performance of contracts by the state's entities cannot include any reference whatsoever to the name or position of any public servant.

PAR. 1 — (Repealed). * The cases of direct contracting the subject matter of section 1 of this article will not prevent the exercise of the control by the competent authorities regarding the behavior of the public servants that have intervened in those procedures and in the execution and performance of the contract.

***(Note: Repealed paragraph 1 of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

PAR. 2 — The National Government will issue, within a term of six (6) months after the enactment of this law, a set of rules for direct contracting, the provisions of which ensure and develop the principles of economy, transparency and objective selection set forth in them.
If the government does not issue the respective rules, no directly contract whatsoever can be entered into by any state's entity under pain of nullity.

(Note: The Constitutional Court in Ruling C - 508 of 2002, declared enforceable, in a conditioned manner, this paragraph, under the understanding that the term of six months set to the National Government for the enactment of the direct contracting rules does not limit the exercise of the regulatory power of the President of the Republic, as has been determined in the arguments of this judgment)

PAR. 3 — When the sale of the goods of the state's entities must be made by auction, it shall be done through the auction process carried out by the banking institutions duly authorized for such purposes and that are under the control and oversight of the Banking Superintendence.

The selection of the selling entity will be made by the respective state's entity, according to the principles of transparency, economy, responsibility and objective selection and taking into account the administrative capacity that each financial entity can employ to proceed with the auctions.

ART. 25 — Principle of economy. By virtue of this principle:

1. The rules of selection as well as in the statements of conditions or (terms of reference)* for the choice of contractors, will comply with and establish the procedures and stages strictly necessary to ensure the objective selection of the most favorable offer. For these purposes, it will establish preclusive and peremptory terms for the different stages of the selection and the authorities will promote, ex – officio, the activities.

   ***(Note: Repealed the expression "terms of reference" by Law 1150 of 2007 article 32)**

2. The rules of the contractual procedures will be construed in a way that they do not give the chance to follow proceedings different and additional to those expressly established or that allow taking advantage of the formal defects or of the inobservance of requirements not to decide or to proffer inhibitory decisions.

3. It will be taken into account that the rules and procedures are in fact mechanisms of the contractual activity the purpose of which is to further the purpose of the state, the adequate, ongoing and efficient provision of the public services and the protection and guarantee of the rights of those governed.

4. The proceedings will be carried out with austerity in terms of time, means and expenses and the dilations and delays in the execution of the contract will be avoided.

5. Procedures will be adopted so as to ensure the prompt resolution of the differences and controversies that may arise because of the execution and performance of the contract s.

6. The state's entities will open tender processes or (contests)*** and will start proceedings for the execution of contracts, when the respective budget availabilities or items are in existence.

7. The convenience or inconvenience of the object to be contracted and the authorizations and approvals for it will be analyzed or given before the start of the process for the selection of the contractor or before the process of signature of the contract, as the case may be.

8. The act of awarding and the contract will not be subject to subsequent approvals or reviews, or to any other kind of demands or requirements, other than those established in this statute.

9. In the procurement processes, the head and the advisory and executive units and of the entity that have been determined in the respective rules about the entity's organization and functioning will take part.

10. The heads or representatives of the entities to which this law is applied may delegate the power to enter into contracts in the terms set forth in article 12 of this law and subject to the amounts set forth by their respective councils or boards of directors. In all other cases, such quantities will be determined by the rules.

11. The popular election corporations r and the of control and oversight bodies will not intervene in the contracting processes, excepting regarding the request of public hearing for the awarding in the case of tender.

    According to the provisions of articles 300, section 9, and 313, section 3, of the National Constitution, the departmental assemblies and the municipal councils will authorize the governors and mayors, respectively, for the execution of contracts.

12. **(Amended). *** Enough time before the opening of the selection process or of the signature of the contract, as the case may be, as well as to make the studies, designs and projects required, and the statements of conditions or (terms of reference)**.

    (The demand of the designs will not be in force when the purpose of the contract is the construction or manufacture with designs of the bidders.)*

    ***(Note: Repealed the expression "the demand of the designs will not be in force when the purpose of the contract is the construction or manufacture with designs of the bidders" of the second part of section 12 of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

    ****(Note: Repealed the expression "terms of reference" by Law 1150 of 2007 article 32)**

    ***(Note: Amended by Law 1474 of 2011 article 87)** Projects' maturity: Prior to the opening of a selection process, or to the execution of the contract in the case in which the selection modality is the direct contracting, the studies, designs and projects required must be made, as well as the statements of conditions, as corresponds.

    When the purpose of the contracting includes the performance of works, a the same moment set forth in the first part, the contracting entity must have all the designs and studies that allow establishing the viability of the project and its social, economic and environmental impact. This condition will be applicable even for the contracts that include design in their purpose.

13. The authorities will establish the reserves and budget commitments necessary, using as base the amount of the obligations at the time of entering into the contract and the estimation of the adjustments resulting from the application of the prices' update clause.

    The entities will include in their annual budgets a global appropriation the purpose of which is to cover the unforeseen costs caused by the delays in the payments, as well as those originated in the review of the prices agreed because of the changes or alterations of the initial conditions of the contracts entered into by them.

14. The authorities will not demand stamps, authentications, original or authenticated documents, recognition of signatures, official translations or any other kind of formalities or ritual demands, unless when it is expressly required by special laws.

15. The absence of requirements or the lack of documents related to the future contracting or to the bidder that are not necessary for the comparison of offers, will not be sufficient title for the rejection of the offerings made.

(Note: Repealed part 2 of section 15 of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)

16. Regarding the applications made in the course of the performance of the contract, if the state's entity does not make a pronouncement within the term of the next three (3) months, it will be construed that the decision is favorable to the claims of the applicant by virtue of the positive administrative silence. Anyway, the officer or officers competent to give the answer will be answerable in the terms of this law.

17. The entities shall not reject the applications made in writing arguing the applicant's inobservance of the formalities established by the entity to process them and they will proceed, ex officio, to amend them and to fix the defects found in them. Likewise, they shall have the obligation to file the minutes or invoices on the date in which the same are submitted by the contractor, they will correct them or adjust them ex officio if it is required and, if this is not possible, they will return them as soon as practicable explaining, in writing, the reasons to do so.

18. The declaration of deserted of the tender or **(contest)*** ** will only proceed for reasons or causes that prevent the objective choice and it will be declared in an administrative decision which must expressly state, in a detailed manner, the reasons that led to making that decision.

19. **(Repealed). *** The contractor will give a sole guarantee as security for the compliance with the obligations arising from the contract, which shall remain in force throughout its life and winding up and it will be adjusted to the limits, existence and extension of the risk covered. Likewise, the bidders will give bid bonds regarding the offers made by them.

    The guarantees will consist of insurance policies issued by insurance companies legally authorized to operate in Colombia or of bank guarantees.

    The guarantee will be deemed as in force until the winding up of the contract covered by it and the prolongation of its effects and, in the case of insurance policies, will not expire due to the lack of payment of the premium or due to unilateral revocation.

    The guarantees will not be mandatory in loan agreements, inter – administrative contracts and insurance contracts.

    The state's entities may release the national associated work cooperative organizations that have been legally incorporated from the granting of guarantees in the contracts entered into with them, provided that the purpose, amount and modality thereof, as well as the specific characteristics of the relevant organization justify it, as the case may be. Such decision will be made in a reasoned resolution.

    (Note: Repealed the section 19 of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)

20. The funds destined to the settlement of obligations derived from state contracts may be put in trusty management or under any other type of management that allows obtaining financial benefits and advantages and the timely payment of the monies owed.

    ***(Note: Repealed the expression "contest" by Law 1150 of 2007 article 32)**

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ART. 26 —Principle of responsibility. By virtue of this principle:

1. The public servants have the obligation to seek the compliance with the purposes of the contracting, to oversee the correct performance of the contracted purpose and to protect the rights of the entity, of the contractor and of the third parties that may be affected by the execution of the contract.

2. The public servants shall be answerable for their unlawful acts and omissions and must indemnify the damages caused because of them.

3. The entities and the public servants shall be answerable when they open tenders or (contests)* without having previously written the respective statements of conditions, (terms of reference)*, designs, studies, blueprints and evaluations that may be necessary, or when the statements of conditions or (terms of reference)* have been made in an incomplete, ambiguous or confusing manner that leads to interpretations or decisions of a subjective nature by them.

4. The acts of the public servants will be governed by the rules on the administration of goods of others and by the orders and postulates that govern a conduct according to the ethics and justice.

5. The responsibility of the direction and management of the contractual activity and that of the selection processes will be of the head or representative of the state's entity, who will not be able to assign it to the councils or boards of directors of the entity, or to the popular election corporations, to the advisory committees, or to the bodies that exercise the control and oversight thereof.

6. The contractors will be answerable when they make offers in which they determine financial and contracting conditions that are artificially low in order to obtain the awarding of the contract.

7. The contractors will be answerable for the concealing, when they enter into contracts, disqualifications, incompatibilities or prohibitions, or for giving false information.

8. The contractors will be answerable for, and the entity will see to, the good quality of the contracted purpose.

   ***(Note: Repealed the expressions "contest" and "terms of reference" by Law 1150 of 2007 article 32)**

ART. 27 — The contractual equation. In the state contracts the equality or equivalence between the rights and obligations that arose at the time of bidding or contracting, as the case may be will be maintained. If such equality or equivalence is broken for reasons not attributable to the party that results affected, the parties will adopt, in the shortest term possible, the measures necessary to reestablish it.

For such purposes, the parties will execute all agreements and covenants that may be required regarding the amount, conditions and terms of payment of additional expenses, acknowledgement of financial costs and interests, if such is the case, adjusting the cancelation to the availabilities of the appropriation the subject of section 14 of article 25. In any case, the entities must take all measures necessary to ensure the effectiveness of these payments and acknowledgements to the contractor in the same or in the next fiscal period.

ART. 28 — Interpretation of the contractual rules. In the interpretation of the rules regarding state contracts related to the procedures of selection and the choice of contractors and in that of the clauses and stipulations of the contracts, the purposes and the principles the subject matter of this law will be taken into consideration, as well as the considerations of the good faith and the equality and balance between duties and rights that are the characteristic of the commutative contracts.

ART. 29 — (Repealed). * The duty of objective selection. The selection of contractors will be objective.

Is objective the selection in which the choice falls on the offer that is most favorable to the entity and to the purposes thereof, without taking into consideration factors of affection or of interest and, in general, any type of subjective motivation.

The most favorable offer is the one which, taking into account the choice factors, such as compliance, experience, organization, equipment, term, price and the precise, detailed and concrete weighing thereof, contained in the statements of conditions or (terms of reference)* or in the analysis prior to the execution of the contract, in the case of direct contracting, is found to be more advantageous for the entity, but the favorability will not be made up by factors other than those contained in those documents, only some of them, the lowest price or the term offered. The lower term offered lower than the one requested in the statements, will not be the subject of evaluation.

The administrator will make the relevant comparisons by analyzing the different offers received, the consultation of market prices or conditions and the studies and deductions of the entity or of the consulting or advisory bodies appointed for such purposes.

In case of comparison of national and foreign offers, these will include the costs necessary for the delivery of the end product in the place in which it will be utilized.

***(Note: Repealed the expression "terms of reference" by Law 1150 of 2007 article 32)**

***(Note: Repealed this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

(Note: The expression "the choice factors, such as compliance, experience, organization, equipment, term, price and the precise, detailed and concrete weighing thereof, contained in the statements of conditions or terms of reference", this article was declared unenforceable in Ruling C - 932 of 2007 Issuing Judge Marco Gerardo Monroy Cabra.)

ART. 30 —Structure of the selection procedures. The tender or (contest)*** will be made according to the following rules:

1. The head or representative of the state's entity will order to open it in a reasoned administrative decision.

   Pursuant to the provisions of section 12 of article 25 of this law, the resolution of opening must be preceded by a study made by the respective entity which analyzes the convenience and opportunity of the contract and its suitability for the investment, acquisition or purchasing plans, budget and appropriations' law, as the case may be. Whenever it is necessary, the study must also be accompanied by the designs, plans and pre - feasibility or feasibility evaluations.

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2. The interested entity will make the respective statements of conditions or (terms of reference)***, according to the provisions of section 5º of article 24 of this law, in which they will particularly detail the issues related to the purpose of the contract, its legal regulation, the rights and obligations of the parties, the determination and weighing of the objective factors of selection and all other time, mode and place circumstances that are deemed as necessary to guarantee objectives, clear and complete rules.

3. **(Amended). *** Within the ten (10) to twenty (20) calendar days prior to the opening of the tender or **(contest)*** ** up to three (3) adverts will be published with intervals of between two (2) and five (5) calendar days, as required by the nature, purpose and amount of the contract, in the website of the contracting entity and in the Public Procurement Electronic System - SECOP.

   In the absence of such communications media in small towns, according to the criteria established by the regulations, the same will be read out loud by crier and noticed will be posted on the main public places for a term of seven (7) calendar days, which must include one market day in the respective town or village.

   ***(Note: Amended by Decree 19 of 2012 article 224 of the Administrative department of the Public function)**

   The adverts will contain information about the object and essential characteristics of the respective tender or **(contest)***.**

4. **(Amended). ***

   Within three (3) business days after the start of the term for the submission of offers and upon request of any of the persons interested in the process, a hearing will be held in order to clarify the contents and scope of the statements of conditions, of which minutes will be written and signed by those who took part in it. In the same hearing, the allocation of risks the subject matter of article 4 of Law 1150 of 2007 will be reviewed in order to determine their classification, estimation and final allocation.

   As a result of what was discussed in the hearing and whenever it is convenient, the head or representative of the entity will issue the relevant amendments of those documents and will extend, if necessary, the term of the tender or contest for up to six (6) business days.

   The foregoing does not prevent that within the term of the tender process, any interested party may request additional clarifications that will be answered by the contracting entity in a written letter, which will be sent to the interested party and also published in the SECOP for public knowledge**.*(Note: Amended by Decree 19 of 2012 article 220 of the Administrative department of the Public function)**

5. The term of the tender or **(contest)***,** construed as the term that must lapse between the date as of which offers may be submitted and the closing date, will be determined in the statements of conditions or **(terms of reference)***,** according to the nature, purpose and amount of the contract.

   Whenever the interested entity deems it convenient, ex officio or upon request of a plural number of possible bidders, said term may be extended before its expiration for a term that cannot exceed one half f the term initially established. In any case, no addendums ay be issued within three (3)

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days before that in which the closing of the selection process is to take place, not even to extend the term thereof. The publication of these addendums can only be made in business days and in working hours. **(Note: Amended part 2 of this section 5 of this article by Law 1474 of 2011 article 89)**

6. The bids must refer to and abide by each and all of the points contained in the statement of conditions or **(terms of reference)***.** The bidders may submit alternative offers as well as technical or economic exceptions provided that the same do not mean the imposition of conditions for the awarding.

7. According to the nature, purpose and amount of the contract, the statements of conditions or **(terms of reference)***,** will establish a reasonable term within which the entity must make the technical, economic and legal studies necessary for the evaluation of the offers and to ask the bidders to submit the clarifications and explanations that are deemed as indispensable.

8. The reports of evaluation of the bids will remain in the entity's secretary office for a term of five (5) business days for the bidders to submit the observations that they deem as pertinent. Pursuant to this power, the bidders cannot complement, add to, amend or improve their offers.

9. The terms to make the awarding and for the signature of the contract will be determined in the statements of conditions or **(terms of reference)***,** taking into account their nature, purpose and quantity.

   The head or representative of the entity may extend such terms before their expiration and for a total term that shall not exceed one half of the one initially established, whenever the requirements of the administration so demand.

   Within the same term for the awarding, the tender or (contest)*** may be declared as deserted according to the provisions of this statute.

10. In the event set forth in article 273 of the National Constitution, the awarding will be made in a public hearing. In said hearing the head of the entity or the person to which, according to the law, the awarding power was delegated will be present and, it will also be possible that the public servants who made the studies and carried out assessment attend, as well as the bidders and any other persons who wish to attend.

    Minutes of the hearing will be written which will evidence the deliberations and decisions made in the same.

11. **(Repealed). *** The act of awarding will be made in a reasoned resolution that will be personally notified to the successful bidder in the manner and terms established for the administrative decisions and, in the event that no public hearing was held, it will be informed to the non – successful bidders within the next five (5) calendar days.

    The act of awarding is irrevocable and is binding for both the entity and the awardee.

    ***(Note: Repealed the section 11 of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

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12. If the awardee does not sign the respective contract within the term established, it will accrue in favor of the contracting entity, as sanction, the amount of the deposit or guarantee established to ensure the seriousness of the bid, without prejudice to the legal actions aimed to the acknowledgement of damages caused and not covered by the value of the aforementioned deposit or guarantee.

    In this event, the state's entity, in an administrative decision duly reasoned, may award the contract, within the next fifteen (15) days, to the bidder that was in second place, provided that its offer is likewise favorable for the entity.

PAR — For the purposes of this law, it is construed as public tender the procedure whereby the state's entity makes a public calling for, in equal conditions, interested parties to submit their offers and selects among them the most favorable. When the object of the contract refers to technical, intellectual or specialized studies or works, the selection process will be called **(contest)***** and will also be made by public invitation.

*****(Note: Repealed the expressions "contest" and "terms of reference" by Law 1150 of 2007 article 32)**

(Note: The paragraph of this article was declared enforceable by Ruling C - 932 of 2007 Issuing Judge Marco Gerardo Monroy Cabra, in the understanding that the principles of transparency, objective selection and equality allow that according to the factors of awarding or weighing criteria, the statements of conditions include affirmative action measures.)

ART. 31 — (Amended). * Publication of the acts and sanctioning decisions. The decision part of the sanctioning acts, once firm, will be published in SECOP and will be communicated to the Chamber of Commerce in which the sanctioned contractor is registered. It will also be published in the Official Gazette and will be informed to the Office of the Attorney General of the Nation.

In the event that these means of communication are not available, it will be announced by public crier in two (2) different market days.

The publication the subject matter of this article will be paid for by the sanctioned party. If it does not perform such obligation, the same will be made by the state's entity, which will sue for its recovery against the obligor.

III. The State Contract

***(Note: Amended by Decree 19 of 2012 article 218 of the Administrative department of the Public function)**

ART. 32 — The state contracts. Are state contracts all the legally binding acts that generate obligations entered into by the entities the subject matter of this statute, determined by the private law or by special provisions, or derived from the exercise of the autonomy of the will, as well as those that, without limitation, are defined below:

1. Works' Contracts

Are works' contracts those entered into by the state's entities for the construction, maintenance, installation and, in general, for the performance of any other material work on real property, notwithstanding the modality of execution and payment.

In the works' contracts that were entered into as a result of a public tender process or (contest)**, the inspectors must be hired with a person independent from the contracting entity and of the contractor, who will be answerable for the facts and omissions that may be attributable to it in the terms set forth in article 53 of this statute.

2. Consultancy contract

Are consultancy contracts those entered into by the state's entities related to the studies necessary for the execution of investment projects, diagnostic, prefeasibility or feasibility studies for specific programs or projects, as well as to the technical coordination, control and supervision advisory contracts.

Are also contracts of consultancy those the purpose of which is the inspectorships, advice, works' management, project management, direction, programming and execution of designs, blueprints, preliminary drafts and projects.

No order of the inspector of a work can be given in a verbal manner. It is mandatory for the inspector to give written orders or suggestions and the same must fall within the terms of the respective contract.

3. Contract for the provision of services

Are contracts for the provision of services or services' contracts, those entered into by the state's entities in order to carry out activities related to the administration or functioning of the entity. These contracts can only be entered into with individuals when such activities (cannot be done with the staff or)* if they require specialized knowledge.

(Under no circumstances)* These contracts (generate an employment relationship or benefits)* and will be entered into for the term strictly indispensable.

(Note: This section was amended by Decree 165 of 1997 article 2º of the Presidency of the Republic).

***(Note: the text in brackets was declared enforceable by the Constitutional Court in Ruling C - 154 of 1997, unless there is evidence of a subordinated labor relationship.**

4. Concession Contract

Are concession contracts those that the state's entities enter into in order to grant to a person, called concessionaire, the total or partial operation, exploitation, organization or management, of a public service, or the construction, exploitation or conservation, total or partial, of works or goods destined to public use or service, as well as all other activities necessary for the adequate provision or functioning of the works or services on the concessionaire's expense and risk and under the oversight and control of the granting entity, against a remuneration that may consists of rights, fees, rates, valorization, or of the participation granted in the exploitation of the asset,

or of a periodic, lump or percentage sum of money and, in general, of any other modality of consideration agreed by the parties.

5. (Amended). * Trust Funds and public trust fund

The state's entities can only enter into public trust fund agreements when so authorized by the law, the departmental assembly or the municipal council, as the case may be.

The purpose of the trust fund agreements entered into by the state's entities with the trust managers duly authorized by the Banking Superintendence will be the management or the administration of the resources attached to the contracts entered into by such entities; the foregoing without prejudice to the provisions of section 20 of article 25 of this law.

The trust funds and the public trust fund agreements can only be entered into by the state's entities in strict compliance with the provisions of this statute, exclusively for purposes and terms that are clearly determined. Under no circumstances the trustor public entities may delegate to the trust manager companies the awarding of the contracts entered into pursuant to the public trust fund, or agree their remuneration against the returns of the trust funds, unless the same are budgeted.

The trust funds and the commercial trust contracts that have been entered into by the state's entities as of the date of enactment of this law will remain in force and effect in the terms agreed with the trust managers.

The selection of the trust manager to be retained, either public or private, will be made in strict observance of the tender or **(contest)**** proceedings set forth in this law.

The acts and contracts carried out pursuant to a public trust fund or to a fiduciary agreement will strictly comply with the provisions set forth in this statute, as well as with the fiscal, budgetary, inspection and control provisions to which the grantor state's entity is subject.

Without prejudice to the inspection and oversight that the Banking Superintendence has the duty to exercise on trust managers and of the subsequent control that must be carried out by the Office of the General Controller of the Republic and the offices of the departmental, district and municipal controllers regarding the administration of the public funds by such trust managers, the state's entities shall exercise control over the activity of the trust company pursuant to the trust funds or fiduciary contracts, according to the National Constitution and the regulations in force in that regard.

The trust management authorized by this law for the public sector will never imply the transfer of the title of the state's goods or resources, and it will not constitute stand – alone patrimony independent from the assets of the respective official entity, without prejudice to the responsibilities typical of the expenditure authority. The provisions of the Commerce Code regarding commercial trust will be applicable to the public trust fund, to the extent in which the same are compatible with the provisions of this law.

Under pain of nullity, it is not possible to enter into trust contracts or subcontracts in contravention of article 355 of the National Constitution. If such is the case, the trustor entity must file for recovery against the individual or legal entity that is the awardee of the respective contract.

(Note: Part 1º of section 5 was declared unenforceable by Ruling C - 86 of 1995 of the Constitutional Court)

***(Note: Section 5º was amended by Law 281 of 1996 article 10).**

(Note: Amended part 4 of section 5 of this article by Law 1150 of 2007 article 25 as from its enactment see article 33)

PAR. 1 — (Amended). ** The Contracts entered into by the Credit Establishments, the insurance companies and all other financial entities of the State will not be subject to the provisions of the Public Administration's General Contracting Statute and will be governed by the legal and regulatory provisions applicable to such activities.

In any case, their contractual activity will be subject to the provisions of article 13 of this law.

****(Note: Amended by Law 1150 of 2007 article 15 as from its enactment see article 33)**

PAR. 2 — (Repealed). *** The persons interested in entering into concession contracts for the construction of public works, may submit an offer in that sense to the respective state's entity which will include, at least, the description of the works, the technical and financial prefeasibility and the evaluation of their environmental impact. Once the offer has been submitted, the state's entity to which it has been addressed will study it in a maximum term of three (3) months and if it finds that the project is not viable it will so inform, in writing, to the interested party. Otherwise, it will issue a resolution whereby it will order the opening of the tender, once the provisions of sections 2 and 3 of article 30 of this law have been complied with.

When in addition to the proposal made by the initial bidder there is at least one alternative offer, the state's entity will trigger and perform the objective selection process set forth in the aforementioned article 30.

If within the term of the tender no other offer is received, the state's entity will award the contract to the initial bidder in the term set forth in the respective statement, provided that the same fully complies with the requirements established in it.

The bidders may submit several possibilities of association with other person or persons, natural or legal, the (concourse **[Translators Note: Not "contest" as the note below would imply, which in Spanish has the same spelling but a quite different meaning in this context – *concurso*])**** of which they find indispensable for the full performance of the concession contract in its different aspects. For these purposes, they will state, in a clear and precise manner, whether or not they intend to be organized as consortium, joint venture, corporation or under any other modality of association that they deem convenient. In these cases they must attach to the offer a document in which the interested parties clearly state their intention of becoming part of the proposed association. In the same way, they must submit the documents accrediting the requirements made by the state's entity in the statement of conditions.

When the offer is to incorporate companies for the purposes set forth in this paragraph, the document of intention will be a promise to incorporate a company that will be legalized subject to the condition that the contract is awarded to them. Once the awarding resolution is issued and the relevant company has been legally incorporated, the concession contract will be signed by its legal representative.

****(Note: Repealed the expressions "contest" by Law 1150 of 2007 article 32)**

*****(Note: Repealed by Law 1508 of 2012 article 39)**

ART. 33 — Concession of the telecommunications services and activities. It is construed as telecommunications activity the establishment of a telecommunications 'network, for a particular and exclusive use, in order to satisfy private telecommunications needs, and without connection to the switched networks of the State or to any other private telecommunications' network. For all legal purposes, the telecommunications activities are assimilated to private services.

It is construed as telecommunications services those that are provided by legal entities, public or private, duly incorporated in Colombia, for profit or otherwise, in order to satisfy specific telecommunications to third parties, within the national territory or with connection with other countries.

For the purposes of this law, the classification of public services and of the telecommunications activities will be the one established by Decree - Law 1900 of 1990 or in any other provisions that clarify, amend or repeal it.

The services and the telecommunications activities will be provided through a concession granted by direct contracting or through licenses given by the competent entities, according to the provisions of the Decree - Law 1900 of 1990 or to the provisions that replace, amend or add to it.

The capacities of the individuals or legal entities, public or private, and the requirements and conditions, legal and technical, which must be met by the concessionaries of the telecommunications services and activities, will be those established in the telecommunications provisions and statutes in force.

PAR — The procedures, contracts, modalities of association and awarding of telecommunications services the subject matter of Law 37 of 1993, shall continue governed by that law and by the provisions that develop r supplement it. The television services will be awarded by contract, according to the legal provisions and the particular provisions that govern this matter.

(Note: Repealed in the pertinent parts by Law 1341 of 2009 article 73)

ART. 34 — Concession of the national and international long distance service. The concession for the provision of the basic land national and international dial - up long distance services will be awarded according to the provisions of Decree 2122 of 1992.

(Note: Repealed in the pertinent parts by Law 1341 of 2009 article 73)

ART. 35 —Sound broadcasting. The concessionaries of the sound broadcasting services may be individuals or legal entities, the selection of which will be made by means of the objective proceedings set forth in this law, according to the priorities established in the general broadcasting plan issued by the National Government.

The sound broadcasting service can only be granted in concession to Colombian nationals or to legal entities duly incorporated in Colombia.

It shall be construed that the licenses for the provision of the of sound broadcasting service incorporate the reserve of utilization of the broadcasting channels, for at least two (2) hours a day, to make distance education programs or to the broadcast of ex officio communications of a judicial nature.

PAR. 1 — The sound broadcasting community service will be considered as telecommunications activity and granted directly through license, upon the compliance with the legal, social and technical requirements and conditions determined by the National Government for such purposes.

PAR. 2 — In agreement to the provisions of article 75 of the National Constitution, the procedures related to the concession of the sound broadcasting services, the awarding will be made to the bidder that is not a concessionaire of the same services in the same band and in the same geographic space in which, according to the respective statements of conditions, the broadcasting entity is to operate, provided that it is in compliance with the legal, social and technical requirements and condition established. Any of the bidders may denounce to the granting entity as well as before any other competent authorities, the facts or actions through which the spirit of this provision is disregarded.

(Note: Repealed by Law 1341 of 2009 article 73)

ART. 36 — (Repealed).* Duration and extension of the concession. The term of duration of the concessions for the provision of the telecommunications services and activities cannot exceed ten (10) years, extendable (in an automatic manner)* for an equal term. (Within the year after the automatic extension, the formalization of the concession will proceed) *.

PAR — (Unenforceable). * The contracts in force for the provision of the sound broadcasting service are automatically extended for a term equal to the one to which they were awarded, provided that it does not exceed the term of ten (10) years.

***(Note: Are declared unenforceable by the Constitutional Court in Ruling C - 949 of 2001, the expressions "in an automatic manner", "within the year after the automatic extension, the formalization of the concession will proceed" of the first part and the paragraph of this same article.)**

(Note: Regulated by Decree 1696 of 2002 of the Communications Ministry).

***(Note: Repealed this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

ART. 37 — (Repealed). * The regime of concessions and licenses of the postal services. The postal services comprise the provision of the mail services and of the specialized courier service.

It is construed as mail service the provision of the services of postal and telegraphic drafts, as well as the receipt, classification and delivery of mail and parcels and other postal objects, transported overland and by air, within the national territory. The international mail service will be provided according to the international conventions and agreements entered into with the Universal Postal Union and the member countries.

It is construed as specialized courier service the class of postal service postal provided with independence from the official postal networks of the national and international post, which demands the application and adoption of special characteristics for the reception, collection and personalized

delivery of the objects transported, on the surface and by air, at the national level and in connection with the foreign countries.

The National Government will regulate the qualities, conditions and requirements that must be met by the individuals and legal entities for the provision of the postal services. Likewise, it will establish the rights, rates and fees that will govern the concessions and licenses for the provision of the postal services.

PAR. 1 — The provision of the mail services will be granted in concession by means of a contract, through the objective selection process the subject matter of this law.
The provision of the specialized courier service will be directly granted, by means of a license.

PAR. 2 — The term of duration of the concessions for the provision of the postal services cannot exceed of five (5) years, but it can be extended before their end by an equal term.

***(Note: Repealed this article by Law 1369 of 2009 article 50)**

ART. 38 — Special regime for the state's entities that provide telecommunications' services. In the contracts entered into by the state's entities the purpose of which is to provide telecommunications services and activities for the acquisition and supply of equipment, construction, installation and maintenance of networks and of the sites in which the same are located will not be subject to the selection procedures set forth in this law.

The internal statutes of these entities will determine the exceptional clauses that may be included in the contracts, according to the nature typical of each one of them, as well as the procedures and the amounts that are binding for them regarding their execution.

The procedures that are adopted by the aforementioned state's entities in compliance with the provisions of this article must enforce the principles of objective selection, transparency, economy and responsibility established in this law.

(Note: Repealed in the pertinent parts by Law 1341 of 2009 article 73)

ART. 39 — The form of the state contract. The contracts entered into by the state's entities will be in writing and do not require to be contained in a public deed, with the exception of those that imply the mutation of the property or the imposition of encumbrances and easements on real property and, in general, those that according to the legal provisions in force must comply with such formality.

The state's entities shall establish the measures that demand the preservation, immutability and safety of the originals of the state contracts.

PAR — (Repealed). * No contract will be entered into with full formalities regarding contracts the amounts of which correspond to those listed below, determined as a function of the annual budgets of the entities to which this law is applied, expressed in minimum legal monthly salaries.

For the entities that have an annual budget equal to or higher than 6.000.000 of minimum legal monthly salaries, when the amount of the contract is equal to or lower than 2.500 minimum legal monthly salaries; for those that have an annual budget equal to or higher than 4.000.000 of minimum legal monthly salaries and lower than 6.000.000 of minimum legal monthly salaries, when the amount of the contract is equal to or lower than 1.000 minimum legal monthly salaries; for those that have an

annual budget equal to or higher than 2.000.000 of minimum legal monthly salaries and lower than 4.000.000 of minimum legal monthly salaries, when the amount of the contract is equal to or lower than 300 minimum legal monthly salaries; for those that have an annual budget equal to or higher than 1.000.000 of minimum legal monthly salaries and lower than 2.000.000 of minimum legal monthly salaries when the amount of the contract is equal to or lower than 50 minimum legal monthly salaries; for those that have an annual budget equal to or higher than 500.000 and lower than 1.000.000 of minimum legal monthly salaries, when the amount of the contract is equal to or lower than 40 minimum legal monthly salaries; for those that have an annual budget equal to or higher than 250.000 and lower than 500.000 minimum legal monthly salaries, when the amount of the contract is equal to or lower than 30 minimum legal monthly salaries; for those that have an annual budget equal to or higher than 120.000 and lower than 250.000 minimum legal monthly salaries, when the amount of the contract is equal to or lower than 20 minimum legal monthly salaries and for those that have an annual budget inferior to 120.000 minimum legal monthly salaries, when the amount of the contract is equal to or lower than 15 minimum legal monthly salaries.

In these cases, the works, workings, goods or services the subject of the contract, must be ordered beforehand and in writing by the head or legal representative of the entity, or by the officer to whom the expenditure authority was delegated.

***(Note: Repealed the paragraph of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

ART. 40 — The contents of the state contract. The stipulations of the contracts will be those that according to the civil and commercial regulations as well as those set forth in this law, correspond to its essence and nature.

The entities may enter into the contracts and agreements allowed by the autonomy of the will and that are required for the compliance with the purposes of the state.

The contracts entered into by the state's entities may include the modalities, conditions and, in general, the clauses or stipulations that the parties consider as necessary and convenient, provided that the same are not against the Constitution, the law, the public order and the principles and finalities of this law and to those of the good management.

The loan agreements or any other form of financing of multilateral bodies may include the provisions and particulars set forth in the regulations of those entities that are not contrary to the Constitution or to the law.

PAR — The contracts entered into by the state's entities may contemplate the advanced payment as well as making advanced payments, but the amount thereof cannot exceed fifty per cent (50%) of the amount of the respective contract.
The contracts cannot be added to by more than fifty per cent (50%) of their indicial value, expressed in minimum legal monthly salaries.

ART. 41 —The legalization and perfecting of the contract. The contracts of the State are perfected once there is agreement about the purpose and the consideration and the same is evidenced in writing.

For the performance, it will be necessary to have the approval of the guarantee and of the existence of the relevant budgetary availabilities, unless in the case of contracting with funds of future fiscal

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periods according to the provisions of the organic budget law. The bidder and the contractor must accredit that they have no debts regarding the payment of para – fiscal contributions related to the Integral Social Security System, as well as those of the Sena, ICBF and Family Wellbeing Institutions (Cajas de Compensación Familiar), as the case may be.

The state contracts are intuitu personae and, in consequence, once entered into cannot be assigned with out the prior written authorization of the contracting entity.

In the case of situations of substantial urgency the subject matter of the article 42 of this law that do not allow entering into a written agreement, the same will be dispensed with and even of the agreement regarding the remuneration, but there must be written proof of the authorization given by the state's contracting entity.

In the absence of prior agreement regarding the remuneration the subject matter of the preceding part, the economic consideration will be agreed after the start of the execution of what was contracted. If no agreement is reached, the consideration will be determined by the objective fair price of the respective entity or body that discharges the duty of consultancy body of the government and, otherwise, by an expert witness appointed by the parties.

PAR. 1 — For the purposes of the provisions of this article, the administrative authority will directly make the budget's adjustments or amendments required according to the provisions of the organic budget law.

(Note: The 1st paragraph of this article was declared unenforceable by the Constitutional Court in Ruling C - 772 of 1998). The requirement established in the final section of the second part of this article, must be accredit to make each payment derived from the state contract.

The public servant that, without just cause, does not verify the payment of the contributions the subject matter of this article, will incur in bad conduct, which will be sanctioned according to the disciplinary regime in force.

PAR. 2 — (Regulated). * Public credit Operations. Without prejudice to the provisions of particular laws, for the purposes of this law are considered as public credit operations the ones the purpose of which is to provide funds to the entity with a term for the payment thereof, and include the contracting of loans, the emission, subscription and placement of bonds and securities, the supplier loans and the granting of guarantees for payment obligations in the charge of the state's entities.

In the same way, the state's entities may enter into the operations adequate for the management of debt, such as refinancing, restructuring, renegotiation, rearrangement, conversion, substitution, purchase and sale of public debt, payment agreements, coverage of risks, the purpose of which is to reduce the amount of the debt or improve its profile, as well as the of capitalization with sales of assets, securitization and other operations of a similar nature that are developed in future. For the purposes of the development of processes of securitization of assets and investments, it will be possible to create stand – alone trust funds with entities subject to the oversight of the Banking Superintendence, and also when the purpose thereof is the payment of labor liabilities.

When the operations set forth in the preceding part anterior refer to of external public credit operations or similar, it will require the prior authorization of the Ministry of Finance and Public Credit, which may be granted in a general or individual manner, depending of the amount and modality of the operation.

For the management and performance of the entire foreign credit operation and operations similar to these of the state's entities and for the operations of domestic public credit and operations similar to these of the Nation and its decentralized entities, as well as for the granting of the guarantee of the Nation the authorization of the Ministry of Finance and Public credit will be required, with the prior favorable opinion of the Conpes and of the National Planning Department.

The National Government, in a regulatory decree to be enacted no later than the 31st of December of 1993, based on the amount and modality of the operations, their incidence on the orderly management of the economy and on the organic principles of this procurement statute, may determine the cases in which the aforementioned concepts are not required, as well as to give authorizations of a general nature for such operations. In all cases, the external public credit operations of the Nation as well as those guaranteed by it, of a term of more than one year, will require the prior opinion of the inter – parliamentary commission for public credit.

The operations of domestic public credit of the territorial entities and their decentralized entities will be governed by the provisions contained in Decrees 1222 and 1333 of 1986, which remain in full force, excepting otherwise expressly stated in this law. In any case, prior to the disbursement of the funds from these operations, the same must be registered with the general division of public credit of the Ministry of Finance and Public Credit.

According to the general conditions established by the monetary authority, the issuance, subscription and placement of internal public debt securities issued by the territorial entities and their decentralized entities will require the prior authorization of the Ministry of Finance and Public credit and the prior favorable opinion of the departmental or district planning bodies, as the case may be. Each one of the opinions and authorizations required must be produced within a term of two months as from the date in which the entities that must produce them receive all the documentation required in full. Upon the expiration of this term for each body, it shall be construed that the respective opinion or authorization has been given.

Under no circumstances will the guarantee of the Nation will be given to the operations of internal public credit of the territorial entities and their decentralized entities, nor to operations of private parties.

The operations the subject matter of this article and those related to them will be contracted in a direct manner. The publication thereof, if such is the case, will be made in the Official Gazette regarding operations of the Nation and its decentralized entities. For operations of the Nation this requirement shall be deemed as complied with on the date of the order of publication given by the public credit general director of the Ministry of Finance and Public Credit; in the decentralized entities of the national level, on the date of the payment of the respective rights by the contracting entity.

Excepting as determined by the Council of Ministers, it is forbidden to make any stipulation that forces any debtor state's entity to adopt measures regarding prices, fees and in general, the commitment to assume decisions or activities regarding issues of their exclusive competence, by virtue of its public nature. Likewise, in the guarantee contracts, the Nation can only guarantee payment obligations.

The operations the subject matter of this article and that are entered into to be performed abroad will be subject to the jurisdiction agreed in the contracts.

PAR. 3 — Excepting for the provisions of the preceding paragraph anterior, once the contract has been perfected, its publication in the Official Gazette or Official Publication that corresponds to the

respective territorial entity will be requested, or, in the absence of such media, through any mechanism determined in a general way by the territorial administrative authority, which allows the inhabitants to learn of its contents. When an official divulgation media is used, this requirement is deemed as complied with the payment of the respective rights.

***(Note: Partially regulated by Decree 941 of 2002 of the Ministry of Finance and Public credit).**

(Note: Amended the second part and the 1st paragraph of this article by Law 1150 of 2007 article 23 as from its enactment see article 33)

(Note: Repealed the 3rd paragraph of this article and see Decree 19 of 2012 article 223 and article 225 of the Administrative department of the Public function)

(Note: See Decree 53 of 2012 article 3° of the National Planning Department)

ART. 42 — Substantial urgency. There is substantial urgency when the continuity of the service demands the supply of goods, or the provision of services, or the execution of works in the immediate future; when there are situations related to the exceptional states; when it is to conjure exceptional situations related with calamities or with facts that constitute force majeure or disaster that demand immediate activity and, in general, regarding similar situations that make impossible to resort to the public selection procedures or contest.

The substantial urgency will be declared by reasoned administrative decision.

PAR — In order to see to the needs and the expenses typical of the substantial urgency, it will be possible to make the internal budget transfers required within the budget of the respective body or state's entity.

***(Note: The paragraph of this article was declared enforceable under the understanding set forth by the Constitutional Court in Ruling C - 772 of 1998).**

ART. 43 — Control of the urgent contracting. Immediately after the execution of the contracts originated by the substantial urgency, these and the administrative decision that declared them, together with the dossier that contains the administrative background of the activity and of the evidences of the facts, will be sent to the officer or body that makes the fiscal control in the respective entity, which must make a pronouncement within the next two (2) months about the facts and circumstances that determined such declaration. If it appropriate, said officer or body will request from the immediate supervisor of the public servant that entered into the aforementioned contracts or from the competent authority, as the case may be, the start of the corresponding disciplinary investigation and will order to forward the subject to the competent officers for the knowledge of the other actions. The undue use of the urgent contracting will be considered as an act of misconduct.

The provisions of this article will be considered without prejudice to other control mechanisms set forth by the rules to ensure the adequate and correct utilization of the urgent contracting procedure.
IV. Nullity of the contracts

ART. 44 — Causes of absolute nullity. The contracts of the State are absolutely null in the cases set forth in the common law and also when:

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1. The same are entered into with persons that have incurred in causes of disqualification or incompatibility set forth in the Constitution and the law;

2. Are entered into against an express constitutional or legal prohibition;

3. Are entered into with abuse or deviation of power;

4. The administrative decisions in which they are based are declared null and void; and

5. Were entered into disregarding the criteria set forth in article 21 about the treatment of national and foreign offers or in breach of the reciprocity described by this law.

ART. 45 — Absolute nullity. The absolute nullity may be argued by the parties, by the agent of the attorney general's office, by any person or declared ex officio, and it is not susceptible of curing by ratification.

In the cases set forth in the sections 1, 2 and 4 of the preceding article, the head or legal representative of the respective entity must terminate the contract by administrative decision duly reasoned and will order its winding up in the conditions in which it is at that time.

ART. 46 — Relative nullity. All other defects that occur in the contracts and that according to the common law are causes of relative nullity can be cured by express ratification of the interested parties or by the lapse of two (2) years as from the date of occurrence of the fact that generated the defect.

ART. 47—Partial nullity. The nullity of any or some of the clauses of a contract will not render the entire act invalid, excepting when it cannot exist without the part affected by the defect.

ART. 48 — Effects of the nullity. The declaration of nullity of a successive performance contract will not prevent the acknowledgement and payment of what has been done up to the moment in which it is declared.

It will be appropriate to acknowledge and pay hat has been done in the contract null due to illicit object or cause when it is proven that the state's entity has benefited and only up to the amount of the benefit that it has obtained. It shall be construed that the state's entity has benefited to the extent that the work done was useful to satisfy a public interest.

ART. 49 — The curing of the procedural or formal defects. Faced with the occurrence of defects that do not constitute causes of nullity and when the needs of the service so demand or the rules of good management so advise, the head or legal representative of the entity, in a reasoned act, may cure the respective defect.

V. Contractual liability

ART. 50 — The liability of the state's entities. The entities shall be answerable for the unlawful activities, abstentions, facts and omissions that may be attributable to them and that cause damages to their contractors. Inn those cases, they must indemnify the economic loss caused, the prolongation thereof and the gain, benefit, or advantages not received by the contractor.

ART. 51 — The liability of the public servants. The public servants will be answerable in a disciplinary, civil and criminal manner for their actions and omissions in the contractual performance in the terms of the Constitution and of the law.

ART. 52 — The liability of the contractors. The contractors will be civilly and criminally answerable for their actions and omissions in the contractual performance in the terms of the law.

The consortia and joint ventures will be answerable for the actions and omissions of its members, in the terms of the article 7º of this law.

ART. 53 — (Amended).* The liability of the consultants, inspectors and advisors .The consultants, inspectors and external advisors will be civilly and criminally answerable for the compliance with the obligations derived from the consultancy, inspection or advisory contract, as well as for the acts or omissions that may be attributable to them and that cause damages or losses to the entities, derived from the execution and performance of the contracts regarding which they have exercised or exercise the functions of consultancy, inspectors or advice.

***(Note: Amended by Law 1474 of 2011 article 82)**

ART. 54 — (Repealed).* The Recovery action. In the case of a sentence against an entity for facts or omissions attributable to the willful misconduct or gross negligence of a public servant, the entity, the attorney general's office, any person or a competent judge ex officio, will start the respective recovery action, provided that the same was not the subject of impleader pursuant to the regulations in force in that regard.

***(Note: Repealed by Law 678 of 2001 article 30)**

ART. 55 — The extinction of the contractual liability actions. The civil action derived from the actions and omissions the subject matter of articles 50, 51, 52 and 53 of this law shall expire in the term of twenty (20) years as from the date of occurrence thereof. The disciplinary action will expire in ten (10) years. The criminal action will expire in twenty (20) years.

ART. 56 — The Criminal liability of the private parties that take part in the state's contracting. Fro criminal purposes, the contractor, the inspector, the consultant and the advisor are considered as private parties discharging public duties in everything related to the execution, performance and winding up of the contracts that they enter into with the state's entities and, therefore, will be subject to the liability set forth by the law in this regard for the public servants.

ART. 57 —The infraction of the contracting rules. The public servant that carries out any of the conducts described in articles 144, 145 and 146 of the Criminal Code, will be convicted to four (4) to twelve (12) years' imprisonment and will pay a fine of twenty (20) to one hundred and fifty (150) minimum legal monthly salaries.

ART. 58 — The sanctions. As a consequence of the actions or omissions attributed to them in respect to their contractual performance, and without prejudice to the sanctions and disqualifications set forth in the National Constitution, the persons the subject matter of this chapter shall be liable for:

1. In the event of declaration of civil liability, the payment of the indemnifications in the manner and amount determined by the competent judicial authority.

2. In the event of declaration of disciplinary liability, to the dismissal.

3. In the event of declaration of civil or criminal liability and without prejudice to the disciplinary sanctions, the public servants shall be disqualified to have public positions and to propose and enter into contracts with the state's entities for ten (10) years as from the dare in which the respective judgment is firm. The same sanction will be applied to the private parties declared civilly or criminally liable.

4. In the cases in which charges were pressed by firm order, or a custodial measure ordered, the competent authority may, in order to safeguard, the correct public administration, suspend, in a provisional manner, the public servant accused or charged for up to the term of duration of the custodial measure or of the disciplinary investigation.

5. In the event that a firm custodial order were issued to a private person for actions or omissions attributed to it in respect to its contractual performance, such circumstance will be informed to the respective Chamber of Commerce, which will immediately proceed to register such measure in the bidders' registry.
   The head or legal representative of the state's entity's failure to comply with this obligation, will be considered as an act of misconduct.

6. In the event that a firm custodial order were issued against the legal representative of a private legal entity, as a consequence of facts or omissions attributed to them regarding their contractual activity, the same will be disqualified to make offers and to enter into contracts with the state's entities for the entire term of duration of the custodial order. If a legal proceeding results in a conviction against said legal representative, the legal entity shall be disqualified to make offers and enter into contracts with the state's entities for ten (10) years as from the date of firmness of said judgment. The same sanction will be imposed to the legal entity that is declared as civilly liable because of facts or omissions attributed to because of its contractual performance.

ART. 59 — Contents of the sanctioning acts. The determination of the responsibility the subject matter if the preceding articles will be made by the competent authorities in a reasoned riling in which they will describe in a detailed manner the facts that generate it, the reasons and circumstances for the quantification of the indemnifications that must be made as well as the elements utilized for the dosing of the sanction. Likewise, the same will point out the means to contest and defend that may proceed against such acts, the term available to do so and the authority before which it must be brought.

VI. Winding up of the contracts

ART. 60 — (Amended). * Occurrence and Contents. The continuing – performance contracts, those the performance or compliance of which extends through time and all other that so require will be the subject of winding up by mutual consent of the contracting parties, procedure that will be carried out within the term established in the statement of conditions or (terms of reference)* or, otherwise, no later than at the end of four (4) months after the end of the contract or the issuance of the administrative decision that orders the termination, or the date of the agreement that so establishes.

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Also, in this stage the parties will agree the adjustments, reviews and acknowledgements that are relevant.

The winding up minutes will contain the agreements, the reconciliations and the transactions reached by the parties to terminate the divergences that may have arisen and to be able to declare that the other party has no issues pending under this contract.

For the liquidation the contractor may be required to extend or expand, as the case may be, the contract's guarantee for the stability of the works, for the quality of the good or service provided, for the supply of the spare parts or accessories, for the payment of salaries, benefits and indemnifications, for the civil liability and, in general, to guarantee the obligations that it must comply with after the extinction of the contract.

(Note: Repealed the 1st part with the exception of the expression "The continuing – performance contracts, those the performance or compliance of which extends through time and all other that so require will be the subject of winding up", of this article by Law 1150 of 2007 article 32 as from its enactment see article 33)

***(Note: Repealed the expression "terms of reference" by Law 1150 of 2007 article 32)**

****(Note: Amended by Decree 19 of 2012 article 217 of the Administrative department of the Public Function)**

ART. 61 — (Repealed). * The unilateral liquidation. If the contractor does not appear for the liquidation or if the parties do not reach an agreement about the contents thereof, it will be performed in a direct and unilateral manner by the entity and it will be adopted by reasoned administrative decision, which is susceptible of the reversal appeal.

***(Note: Repealed this article by Law 1150 of 2007 article 32 as from its enactment see article 33)**

VII. The control of the contractual performance

ART. 62 — Of the intervention of the Attorney General's Office. The Office of the Attorney General of the Nation and the other agents of the Attorney General's Office, ex - officio or upon request of any person, will carry out the investigations about the observance of the principles and purposes of the state's contracting and will promote the relevant actions aimed to attain the economic and disciplinary sanctions for those who violate such regulations.

ART. 63 — Visits and Reports. The Office of the Attorney shall carry out visits to the state's entities ex – officio and with the periodicity demanded by the protection of the public resources and the rule of morality, legality and honesty in the public administration.

Throughout the visits, which will be amply divulged, the trade and community associations of the place will be heard, and the opportunity will be given to the governed parties to make the denouncements and to file the claims that they consider appropriate.

The conclusions of the visits will be evidenced in written reports that will be divulged to the respective community and the same will be notified and served to the heads of the entities and to those who appear to be involved in the commission of unlawful conducts.

Copies of such reports will be forwarded to the Office of the General Prosecutor of the Nation or to the respective delegate so these, if such is the case, comply with the function the subject matter of the next article.

The visiting officer will require that the persons identify themselves, and they will be warned of the consequences of making reckless complaints.

ART. 64 — The participation of the Office of the General Prosecutor of the Nation. The Office of the General Prosecutor of the Nation, ex - officio or pursuant to a complaint, will investigate the conducts that constitute offences in the contractual activity and will accuse the alleged offenders before the competent judges.

The Office of the General Prosecutor of the Nation will create specialized units for the investigation and accusation of the offences committed because of the contractual activities the subject matter of this law.

ART. 65 — Of the intervention of the authorities that make the fiscal control. The intervention of the fiscal control authorities will be exercised after the exhaustion of the administrative proceedings for the legalization of the contracts. Likewise the subsequent control will be made on the accounts that correspond to the payments originated in the same, to verify whether or not the same were made pursuant to the legal provisions.

Once the contracts have been wound up or ended, as the case may be, the fiscal oversight will include financial control, as well as control of the performance and results, based on the efficiency, the economy, the equity and the assessment of the environmental costs.

The prior administrative control of the contracts is discharged by the internal control offices.
The fiscal control authorities may request the public servants of all levels to submit reports about their contractual performance contractual.

ART. 66 — The participation of the Community. Any contract entered into by the state's entities will be subject to the oversight and control of the citizens.

The civic, community, of professionals, charitable or common benefit associations may denounce before the competent authorities the acts, facts or omissions of the public servants or of the private persons that are criminal offences, controversies or faults regarding state's contracting.

The authorities will give special support and cooperation to the persons and associations that make campaigns for the control and oversight of the public contractual activity and will provide, in a timely manner, the documentation and information that they require to perform such tasks.

The National Government and the territorial entities shall establish systems and mechanisms to stimulate of the oversight and control by the community of the contractual activity in order to reward such labors.

The state's entities may hire the associations of professionals and trades as well as the universities and specialized research centers the study and analysis of the contractual activities done.

ART. 67 — The cooperation of the government's advisory bodies. The trade, professional or university entities that fulfill advisory duties for the government shall give all cooperation required, regarding contractual activity, by the state's entities.
Likewise, they can act as arbitrators to settle discrepancies of a technical nature that may arise pursuant to the contract or because of it.

VIII. Resolution of contractual controversies

ART. 68 — The utilization of mechanisms for the direct resolution of contractual controversies. The entities the subject matter of the 2nd article of this statute and the contractors will endeavor to solved in an straightforward, quick and forthright manner the differences and discrepancies that may arise because of the contractual activity.

For such purposes, when the differences arise, they will resort to the employment of mechanisms for the resolution of contractual controversies set forth in this law and to the reconciliation, amicable fixing and settlement procedures.

PAR — The contractual administrative decisions may be revoked at any time provided that the same have not been the subject of a final ruling.

ART. 69 — Inapplicability of forbidding the utilization of the of direct resolution mechanisms. The authorities cannot establish prohibitions regarding the utilization of the mechanisms for the direct resolution of the controversies that may arise out of the state contracts.

The entities shall not forbid the stipulation of the arbitration clause or the entering into commitments to settle the differences that may arise from the state contract.

ART. 70 — The arbitration clause. The state contracts may include the arbitration clause in order to submit to the decision of arbitrators the diverse differences that may arise because of the execution of the contract and of its performance, development, termination or winding up.

The arbitration will be in law. The arbitrators will be three (3), unless the parties decide to resort to one single arbitrator. In the small amount controversies, there will be one single arbitrator.

The appointment, requirement, establishment and functioning of the arbitration tribunal will be governed by the regulations in force on that regard.

The arbitrators may extend the term of duration of the tribunal by one half of the one initially agreed or legally established, if it is necessary to produce the respective arbitration award.

In the contracts with foreign persons as well as in those that include long - term financing, systems of payment through the exploitation of the constructed object or the operation of goods for the provision of a public service, it may be possible to agree that the differences that may arise from the contract are submitted to the decision of an arbitration tribunal appointed by an international body.

(Note: The last part was amended by Law 315 of 1996 article 4º).

(Note: Declared conditionally enforceable by the Constitutional Court in Ruling C - 1436 of 2000, under the understanding that the arbitrators appointed to solve the conflicts that may arise as a consequence of the execution, the performance, the termination and the winding up of contracts entered into by the State and private parties do not have competence to make pronouncement about the administrative decisions made by the government pursuant its exceptional powers).

(Note: Repealed by Law 1563 of 2012 article 118)

ART. 71 — Commitment. When no arbitration clause was agreed in the contract, any of the parties may ask the other to enter into a commitment to call an of arbitration tribunal in order to solve the differences that may arise because of the execution of the contract and its performance, development, termination or winding up.

The commitment document signed will determine the subject matter of the arbitration, the appointment of arbitrators, the venue in which the tribunal will function and the manner to pay the costs thereof.

(Note: Declared conditionally enforceable by the Constitutional Court in Ruling C - 1436 of 2000, under the understanding that the arbitrators appointed to solve the conflicts that may arise as a consequence of the execution, the performance, the termination and the winding up of contracts entered into by the State and private parties do not have competence to make pronouncement about the administrative decisions made by the government pursuant its exceptional powers).

(Note: Repealed by Law 1563 of 2012 article 118)

ART. 72 — The Annulment Remedy against an arbitration award. The annulment remedy may be brought against the arbitration award. The same must be filed in writing and filed with the arbitration tribunal no later than five (5) days after the notification of the award or of the decision that corrects, clarifies or supplements it, as the case may be.

The remedy will be heard by the Third Section of the Contentious – Administrative Chamber of the State Council.

The following are the causes of annulment of the arbitration award:

1. When, without legal grounds, the evidences timely requested are not gathered, or when the proceedings required to obtain them were nor carried out, provided that such omissions have incidence on the decision and the interested party filed the claim in due time and manner.

2. To have made the decision in justice when it should have been made in law, provided that such circumstance is expressly stated in the award.

3. The fact that the decision part of the arbitration award contains arithmetic errors or contradictory decisions, provided that the same have been timely argued before the arbitration tribunal.

4. The fact that the arbitration award decided about issues that were not subject to the decision of the arbitrators or to have awarded more than it was requested.

5. The lack of decision on issues that were the subject of the arbitration.

   The proceeding and effects of the remedy will be governed by the provisions in force about this matter.

(Note: Amended by Law 1150 of 2007 article 22 as from its enactment see article 33)

(Note: Repealed by Law 1563 of 2012 article 118)

ART. 73 — The cooperation of the associations of professionals and of the chambers of commerce. It is possible to agree to resort to conciliation centers and to institutional arbitration of the professional or trade associations and of the chambers of commerce to settle the differences that may arise from the contract.

ART. 74 — The technical arbitration or expert witnesses. The parties may agree that the differences of an exclusively technical matter are submitted to the criteria of experts appointed directly by them or that they defer to the opinion of a government's advisory body, to that of a professional association or to a university or higher education institution. The decision adopted will be final.

ART. 75 — The competent judge. Without prejudice to the provision of the preceding articles, the judge competent to decide the controversies derived from the state contracts and from the enforcement or performance proceedings shall be the one of the contentious - administrative jurisdiction.

PAR. 1 — Once the evidences have been assessed in the proceedings, the judge will summon the claimants and the respondents to appear in person or through an attorney, to a conciliation hearing. Said hearing will be subject to the rules set in article 101 of the Civil Procedure Code and it will endeavor to have it heard by persons other than those who took part in the production of the acts or in the situations that gave birth to the discrepancies.

PAR. 2 — In the event of convictions in proceedings originated in contractual controversies, if the judge finds that there was recklessness in the non – conciliatory stance of any of the parties, it shall convict that party or the public servants that took part in the corresponding talks, to the payment of fines in favor of the National Treasury of between five (5) and two hundred (200) minimum legal monthly salaries.

PAR. 3 — In any of the processes derived from controversies of a contractual nature, the costs shall be charged to any of the parties provided that it falls in the conduct described in the preceding paragraph.

IX. Miscellaneous Provisions

ART. 76 — The contracts for the exploration and exploitation of the natural resources. The contracts for the exploration and exploitation of renewable and non – renewable natural resources, as well as those related to the commercialization and other commercial and industrial activities typical

of the state's entities to which the competences for such issues correspond, will continue being governed by the special legislation that may be applicable. The state's entities dedicated to those activities will determine in their internal regulations the process for the selection of the contractors, the exceptional clauses that may be agreed, the amounts and the proceedings to which the same are bound.

The procedures adopted by the mentioned state's entities shall develop the duty of objective selection and the principles of transparency, economic and responsibility established in this law.

Under no circumstances there will be administrative approvals or reviews by the council of ministers, the State Council or by the administrative tribunals.

ART. 77 — The Regulations applicable in the administrative activities. Provided that the same are compatible with the purpose and the principles of this law, the regulations that govern the procedures and performances in the administrative function will be applicable to the contractual activities. In the absence thereof, the provisions of the Civil Procedure Code will apply.

The administrative decisions that are made because of the contractual activity shall only be susceptible of reversal appeal and of the exercise of the contractual action, according to the rules of the Contentious Administrative Code.

PAR. 1 — The act of awarding will not have remedies before the administration. The same can be contested through the exercise of the nullity and reestablishment of rights' action, according to the rules of the Contentious Administrative Code.

PAR. 2 — For the exercise of the actions against the administrative decisions of the contractual activity it is not necessary to sue the contract that originates them.

ART. 78 — The contracts, proceedings and processes in progress. The contracts, the selection procedures and the judicial proceedings in progress at the time of enactment of this law will continue being subject to the regulations in force at the time of their enactment or start.

ART. 79 — The regulation of the bidders' registry. The functioning of the bidders' registry in the chambers of commerce, will regulated by the National Government within six (6) months after the enactment of this law.

ART. 80 — The adjustment statutes. Within six (6) months after the date of enactment of this law, the competent authorities will adopt all measures required to adapt the statutes of the state's entities to the provisions of this law.

ART. 81 — Repeal and validity. As from the date of enactment of this law, the following provisions are repealed: Decree - Law 2248 of 1972; Law 19 of 1982; Decree - Law 222 of 1983, with the sole exception of articles 108 to 113; Decree - Law 591 of 1991, with the sole exception of articles 2º, 8º, 9º, 17 and 19; Decree - Law 1684 of 1991; the procurement provisions of Decree 700 of 1992, and articles 253 to 264 of the Contentious Administrative Code; as well as any other provisions that are contrary to it.

The following provisions will be in force as from the date of enactment of this law: the paragraph to the 2nd article; the sub - section l) of the 1st section and the 9th section of article 24; the provisions of this statute related to the concession contract; the 8th section of article 25; the 5th section of article

32 about public trust fund and trusts; and articles 33, 34, 35, 36, 37 and 38, about telecommunications services and activities.

All other provisions of this law will be in force and effect as from the 1st of January of 1994 with the exception of the provisions on registration, classification and qualification of bidders, which will gain force one year after the enactment of this law.

PAR. 1º TRANS — This law will be in force regarding the company called Sociedad de Acueducto, Alcantarillado y Aseo de Barranquilla S. A., and for everything related to the provision of water, sewage and sanitation services, three (3) years after its enactment.

PAR. 2º TRANS — As from the enactment of this law, the government will carry out, with the cooperation of the Higher Public Administration School - ESAP, and of the other state's entities, as well as of the trade and professional bodies, pedagogical activities as well as activities for the divulgation of this statute.

To be published and enforced.

Given at Santafé of Bogotá, D.C., on the 28th day of the month of October of 1993.

(Note: Repealed the expressions "contest" and "terms of reference" included throughout the text of this law, as well as the expression: "When the contract's purpose is technical, intellectual or specialized studies or works, the selection process will be called contest and will be also made by public invitation" by Law 1150 of 2007 article 32 as from its enactment see article 33)

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