



**MINISTÉRIO DA JUSTIÇA
E SEGURANÇA PÚBLICA**
Assessoria Especial Internacional

TRADUÇÃO DE LEGISLAÇÃO BRASILEIRA RELACIONADA À ÁREA DE JUSTIÇA E SEGURANÇA PÚBLICA PARA O INGLÊS E O ESPANHOL

Lei nº 8.666 de 21 de junho de 1993.

Regulamenta o art. 37, inciso XXI, da Constituição Federal, institui normas para licitações e contratos da Administração Pública e dá outras providências.

VERSÃO EM INGLÊS



Projeto da Assessoria Especial Internacional

Como forma de divulgar o arcabouço legislativo brasileiro a autoridades estrangeiras e a Organismos Internacionais e, ainda, de aprimorar a cooperação internacional, em diversas áreas, a Assessoria Especial Internacional do Ministério da Justiça e Segurança Pública desenvolveu projeto para a compilação e tradução¹, para os idiomas inglês e espanhol, de parte das legislações brasileiras relacionadas às áreas de Justiça e Segurança Pública. A seleção das leis traduzidas ficou a cargo das áreas técnicas do Ministério, levando em consideração, igualmente, trabalhos já realizados por outros órgãos brasileiros, os quais serão disponibilizados como link externo no site da Assessoria Especial Internacional.



¹Traduções não juramentadas ou oficiais.

LAW nº 8,666 of JUNE 21st, 1993.

[Veto message](#)

[\(See Decree nº 99,658 of 1990\)](#)

[\(See Decree nº 1,054 of 1994\)](#)

[\(See Decree nº 7,174 of 2010\)](#)

[\(See Provisional Measure nº 544 of 2011\)](#)

[\(See Law nº 12,598 of 2012\)](#)

[\(See Law nº 13,800 of 2019\)](#)

Regulates article 37, item XXI, of the Federal Constitution, establishes standards for Government tenders and contracts and provides other measures.

I, the **PRESIDENT OF BRAZIL**, make public that the National Congress decrees and I sanction the following Law:

Chapter I
GENERAL PROVISIONS

Section I
Principles

Art. 1. This law establishes general rules on tenders and administrative contracts relevant to construction works, services, including advertising, purchases, alienations, and leases within the Branches of the Union, States, the Federal District, and Municipalities.

Sole paragraph. In addition to the direct government bodies, special funds, autarchies, public foundations, public companies, government-controlled companies, and other entities controlled directly or indirectly by the Union, States, Federal District, and Municipalities are subject to the regime of this Law.

Art. 2 The works, services, including government advertising, purchases, alienations, concessions, permits, and leases, when contracted with third parties, shall necessarily be preceded by a bidding procedure, except in the hypotheses provided for in this Law.

Sole paragraph. For the purposes of this Law, a contract is considered any and all adjustment between Government bodies or entities and individuals, in which there is an agreement of wills for the formation of a bond and the stipulation of reciprocal obligations, whatever the denomination used.

Art. 3 The bidding procedure is intended to ensure compliance with the constitutional principle of isonomy, the selection of the most advantageous proposal for the government and the promotion of sustainable national development and shall be processed and judged in strict accordance with the basic principles of legality, impersonality, morality, equality, publicity, administrative probity, binding to the convening instrument, objective judgment, and those related to them.

[\(Wording established by Law nº 12,349 of 2010\)](#) [\(Regulation\)](#) [\(Regulation\)](#) [\(Regulation\)](#)

Paragraph 1. It is forbidden for public officials to:

I - admit, foresee, include, or tolerate, in the acts of convocation, clauses, or conditions that compromise, restrict, or frustrate their competitive character, including in the cases of cooperative societies, and establish preferences or distinctions due to the naturalness, the headquarters, or domicile of the bidders or any other circumstance impertinent or irrelevant to the specific object of the contract, except the provisions of paragraphs 5 to 12 of this article and in article 3 of Law nº 8,248 of October 23rd, 1991; [\(Wording established by Law nº 12,349 of 2010\)](#)

II - establish differentiated treatment of a commercial, legal, labor, social security, or any other nature, between Brazilian and foreign companies, including regarding the currency, modality, and place of payments, even when financing of international agencies is involved, subject to the provisions of the following paragraph and in [article 3 of Law nº 8,248 of October 23rd, 1991](#).

Paragraph 2. On equal terms, as a tiebreaker criterion, preference shall be ensured, successively, to goods and services:

I - [\(Repealed by Law nº 12,349 of 2010\)](#)

II - produced in the country;

III - produced or provided by Brazilian companies.

IV - produced or provided by companies that invest in research and technology development in the country. [\(Included by Law nº 11,196 of 2005\)](#)

V - produced or provided by companies that prove compliance with the reservation of positions provided for by law for people with disabilities or for rehabilitated social security and that meet the accessibility rules provided for in the legislation. [\(Included by Law nº 13,146 of 2015\)](#) [\(Effectiveness\)](#)

Paragraph 3. The bidding procedure shall not be confidential and the acts of its procedure shall be public and accessible to the public, except regarding the content of the bidding procedures, until their opening.

Paragraph 4. (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 5. In the bidding procedures, preference margin may be established for: [\(Wording established by Law nº 13,146 of 2015\)](#) [\(Effectiveness\)](#)

I - products manufactured and for national services that meet Brazilian technical standards; and [\(Included by Law nº 13,146 of 2015\)](#)

II - goods or services produced or provided by companies that prove compliance with the reservation of positions provided for by law for people with disabilities or for rehabilitated social security and that meet the accessibility rules provided for in the legislation. [\(Included by Law nº 13,146 of 2015\)](#)

Paragraph 6. The margin of preference referred to in paragraph 5 shall be established on the basis of periodically reviewed studies, not exceeding 5 (five) years, which consider: [\(Included by Law](#)

[nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#) [\(See Decree nº 7,709 of 2012\)](#)
[\(See Decree nº 7,713 of 2012\)](#) [\(See Decree nº 7,756 of 2012\)](#)

I - employment and income generation; [\(Included by Law nº 12,349 of 2010\)](#)

II - effect on the collection of federal, state, and municipal taxes; [\(Included by Law nº 12,349 of 2010\)](#)

III - technological development and innovation conducted in the country; [\(Included by Law nº 12,349 of 2010\)](#)

IV - additional cost of products and services; and [\(Included by Law nº 12,349 of 2010\)](#)

V - in their reviews, retrospective analysis of results. [\(Included by Law nº 12,349 of 2010\)](#)

Paragraph 7. For domestic manufactured products and services resulting from technological development and innovation conducted in the country, margin of preference additional to that provided for in paragraph 5 may be established. [\(Included by Law nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#)

Paragraph 8 The margins of preference by product, service, product group or service group, referred to in paragraphs 5 and 7, shall be defined by the Federal Executive Branch, the sum of which cannot exceed the amount of 25% (twenty-five percent) on the price of foreign manufactured products and services. [\(Included by Law nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#)

Paragraph 9. The provisions contained in paragraphs 5 and 7 of this article do not apply to goods and services whose production or delivery capacity in the country is inferior: [\(Included by Law nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#)

I - to the quantity to be acquired or contracted; or [\(Included by Law nº 12,349 of 2010\)](#)

II - to the quantity fixed on the basis of paragraph 7 of article 23 of this Law, where appropriate. [\(Included by Law nº 12,349 of 2010\)](#)

Paragraph 10. The margin of preference referred to in paragraph 5 may be extended, in whole or in part, to goods and services originating in the states parties to the Mercosur. [\(Included by Law nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#)

Paragraph 11. The bidding procedure notices for the contracting of goods, services, and works may, upon prior justification of the competent authority, require the contractor to promote, in favor of a government organ or entity or those indicated by it from an isonomic process, commercial, industrial, technological compensation measures or access to advantageous financing conditions, cumulatively or not, in the manner established by the Federal Executive Branch. [\(Included by Law nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#)

Paragraph 12. In contracts aimed at the implementation, maintenance, and improvement of information and communication technology systems, considered strategic in an act of the Federal Executive Branch, the bidding procedure may be restricted to goods and services with technology

developed in the country and produced according to the basic production process referred to in [Law nº 10,176 of January 11th, 2001](#). [\(Included by Law nº 12,349 of 2010\)](#) [\(See Decree nº 7,546 of 2011\)](#)

Paragraph 13. The list of companies favored as a result of the provisions of paragraphs 5, 7, 10, 11, and 12 of this article shall be disclosed on the internet, each financial year, indicating the volume of resources allocated to each of them. [\(Included by Law nº 12,349 of 2010\)](#)

Paragraph 14. The preferences defined in this article and in the other bidding and contracts standards shall privilege the differentiated and favored treatment to micro and small businesses in the form of the Law. [\(Included by Complementary Law nº 147 of 2014\)](#)

Paragraph 15. The preferences provided in this article prevail over the other preferences provided in the legislation when these are applied to foreign products or services. [\(Included by Complementary Law nº 147 of 2014\)](#)

Art. 4. All those who participate in bidding promoted by the bodies or entities referred to in article 1 have the subjective public right to the faithful observance of the relevant procedure established in this Law, and any citizen can follow its development, provided he/she does not interfere to disturb or prevent the performance of the works.

Sole paragraph. The bidding procedure provided for in this Law characterizes a formal administrative act, whether it is practiced in any government sphere.

Art. 5. All of the values, prices, and costs used in the bidding procedure shall have as a monetary expression the national currency, with the exception of the provisions of article 42 of this Law. Each unit of government shall obey the strict chronological order of the dates of their call, in the payment of the obligations regarding the supply of goods, leases, construction projects, and the provision of services to a source of different resources, except when there are relevant reasons of public interest and subject to prior evidence given by the competent authority, duly advertised.

Paragraph 1. The credits referred to in this article shall have their values corrected by criteria provided for in the convening act and that preserve their value.

Paragraph 2. The correction referred to in the previous paragraph, the payment of which shall be made together with the principal, shall be paid to the account of the same budgetary allocations that met the credits to which they refer. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. Subject to the provisions of the head provision, payments arising from expenses whose amounts do not exceed the limit referred to in item II of article 24, without prejudice to the provisions of its sole paragraph, must be made within 5 (five) working days, counted from the presentation of the invoice. [\(Included by Law nº 9,648 of 1998\)](#)

Art. 5- A. The bidding procedure and contracts standards shall privilege the differentiated and favored treatment to micro and small businesses in the form of the Law. [\(Included by Complementary Law nº 147 of 2014\)](#)

Section II Definitions

Art. 6. For the purposes of this Law, consider:

I - Work - all construction, renovation, manufacture, recovery, or expansion, conducted by direct or indirect execution;

II - Service - any activity aimed at obtaining a certain utility of interest to the government, such as demolition, repair, installation, assembly, operation, conservation, repair, adaptation, maintenance, transport, rental of goods, advertising, insurance, or technical-professional work;

III - Purchase - all remunerated acquisition of goods for supply at once or in installments;

IV - Alienation - all transfer of ownership of property to third parties;

V - Large-scale works, services, and purchases - those whose estimated value is superior to 25 (twenty-five) times the limit established in subitem "c" of item I of article 23 of this Law;

VI - Insurance-Warranty - the insurance that warranties the faithful fulfillment of the obligations assumed by companies in bidding procedure and contracts;

VII - Direct execution - that is done by the government bodies and entities, by their own means;

VIII - Indirect execution - to which the body or entity contracts with third parties under any of the following regimes: [\(Wording established by Law nº 8,883 of 1994\)](#)

a) contract for global price - when the execution of the work or service is contracted for the right and total price;

b) contract for unit price - when the execution of the work or service is contracted for a specific price of certain units;

c) (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

d) task - when adjusting labor for small jobs for a right price, with or without supply of materials;

e) full contract - when contracting a project in its entirety, comprising all stages of the works, services, and necessary facilities, under the full responsibility of the contracted party until its delivery to the contracting party in conditions of entry into operation, having met the technical and legal requirements for its use in conditions of structural and operational safety and with the characteristics appropriate to the purposes for which it was contracted;

IX - Basic Design - set of necessary and sufficient elements, with adequate level of precision, to characterize the work or service, or set of works or services subject to the bidding procedure, drawn up based on the indications of the preliminary technical studies, which ensure the technical feasibility and adequate treatment of the environmental impact of the enterprise, and which allows the evaluation of

the cost of the work and definition of the methods and term of execution, containing the following elements:

a) development of the chosen solution to provide an overview of the work and clearly identify all its constituent elements;

b) global and localized technical solutions, sufficiently detailed to minimize the need for reformulation or variants during the elaboration phases of the executive project and the conduction of the works and assembly;

c) identification of the types of services to be performed and materials and equipment to be incorporated into the work, as well as their specifications that ensure the best results for the enterprise, without frustrating the competitive character for its execution;

d) information that allows the study and deduction of construction methods, provisional facilities, and organizational conditions for the work, without frustrating the competitive character for its execution;

e) subsidies for the assembly of the bidding plan and management of the work, including its programming, the supply strategy, the supervision standards, and other necessary data in each case;

f) detailed budget of the global cost of the work, based on quantities of services and supplies properly evaluated;

X - Executive Design - the set of necessary and sufficient elements for the complete execution of the work according to the relevant standards of the Brazilian Association of Technical Standards (ABNT in Portuguese);

XI - Government - the direct and indirect administration of the Union, the States, the Federal District, and the Municipalities, including entities with legal personality governed by private law under the control of the public authority and the foundations established or maintained by it;

XII - Administration - body, entity, or administrative unit by which the Government operates and acts concretely;

XIII - Official Press - official vehicle for Government disclosure. For the Union, the Federal Gazette, and for the States, the Federal District, and Municipalities, whatever is defined in the respective laws; [\(Wording established by Law nº 8,883 of 1994\)](#)

XIV - Contracting Party - is the body or entity signatory to the contractual instrument;

XV - Contracted Party - the individual or legal entity signatory of a contract with the Government;

XVI - Commission - permanent or special commission, created by the Administration with the function of receiving, examining, and judging all documents and procedures relating to bidding procedures and the registration of bidders.

XVII - national manufactured products - manufactured products, produced in the national territory according to the basic production process or with the rules of origin established by the Federal Executive Branch; [\(Included by Law nº 12,349 of 2010\)](#)

XVIII - national services - services provided in the country, under the conditions established by the Federal Executive Branch; [\(Included by Law nº 12,349 of 2010\)](#)

XIX - strategic information and communication technology systems - information and communication technology goods and services whose discontinuity causes significant damage to government and which involve at least one of the following requirements related to critical information: availability, reliability, security, and confidentiality. [\(Included by Law nº 12,349 of 2010\)](#)

XX - products for research and development - goods, inputs, services, and works necessary for scientific and technological research activity, technology development, or technological innovation, detailed in research project approved by the contracting institution. [\(Included by Law nº 13,243 of 2016\)](#)

Section III Works and Services

Art. 7. Bidding procedures for the execution of works and provision of services shall comply with the provisions of this article and, especially, with the following sequence:

I - basic design;

II - executive design;

III - execution of works and services.

Paragraph 1. The execution of each stage shall be compulsorily preceded by the conclusion and approval, by the competent authority, of the works relating to the previous stages, with the exception of the executive design, which may be developed concomitantly with the execution of the works and services, provided it is also authorized by the Administration.

Paragraph 2. Works and services can only be bidden when:

I - there is a basic design approved by the competent authority and available for examination of those interested in participating in the bidding procedure;

II - there is a detailed budget in spreadsheets that express the composition of all its unit costs;

III - there is a forecast of budgetary resources that ensure the payment of obligations arising from works or services to be executed in the current financial year, according to the respective schedule;

IV - the expected product is covered by the goals established in the Multiannual Plan referred to in [article 165 of the Federal Constitution](#), when appropriate.

Paragraph 3. It is forbidden to include the obtaining of financial resources for its execution in the object of the bidding procedure, whatever its origin, except in the cases of enterprises executed and exploited under the concession regime, under the terms of the specific legislation.

Paragraph 4. It is also forbidden to include the supply of materials and services in the object of the bidding procedure, without forecasting quantities or whose quantities do not correspond to the actual forecasts of the basic or executive design.

Paragraph 5. It is forbidden to conduct a bidding procedure whose object includes goods and services without similarity or brands, exclusive characteristics and specifications, except in cases where it is technically justifiable, or even when the supply of such materials and services is made under the regime of contracted administration, provided for and detailed in the convening act.

Paragraph 6. The violation of the provisions of this article implies the nullity of the acts or contracts performed and the liability of those who gave them cause.

Paragraph 7. The monetary update of the payment obligations, from the end date of each period of measurement to that of the respective payment, shall not be calculated as the value of the work or service, for the purposes of judging the price proposals, which shall be calculated by the same criteria established compulsorily in the convening act.

Paragraph 8. Any citizen may request from the Government the quantities of the works and unit prices of a specific work executed.

Paragraph 9. The provisions of this article shall also apply, where applicable, to cases of waiver and unenforceability of bidding.

Art. 8. The execution of the works and services must always be scheduled in its entirety, with their current and final costs foreseen and considering the deadlines for their execution.

Sole paragraph. It is forbidden to delay the execution of work or service, or its parcels, without reason if there is a budget forecast for its total execution, unless financial insufficiency or proven technical reason, justified in a detailed order of the authority referred to in article 26 of this Law. [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 9. The following may not participate, directly or indirectly, in the bidding or execution of work or service and the supply of necessary goods:

I - the author of the design, basic or executive, individual or legal entity;

II - companies, alone or in a consortium, responsible for the elaboration of the basic or executive design or of which the author of the design is a director, manager, shareholder, or holder of more than 5% (five percent) of the voting or controller capital, technical responsible or subcontractor;

III - server or manager of contracting body or entity or responsible for the bidding.

Paragraph 1. The participation of the author of the design or company referred to in item II of this article is allowed in the bidding of work or service, or in the execution, as a consultant or technician, in

the functions of fiscalization, supervision, or management, exclusively at the service of the Administration concerned.

Paragraph 2. The provisions of this article do not prevent the bidding or contracting of work or service that includes the elaboration of an executive design as a charge of the contractor or at the price previously fixed by the Administration.

Paragraph 3. For the purposes of this article, indirect participation is considered the existence of any link of a technical, commercial, economic, financial, or labor nature between the author of the design, individual or legal entity, and the bidder or responsible for the services, supplies, and works, including the supplies of necessary goods and services.

Paragraph 4. The provisions of the previous paragraph shall apply to the members of the bidding commission.

Art. 10. The works and services may be performed in the following manners: [\(Wording established by Law nº 8,883 of 1994\)](#)

I - direct execution;

II - indirect execution under the following regimes: [\(Wording established by Law nº 8,883 of 1994\)](#)

a) contract by global price;

b) contract by unit price;

c) (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

d) task;

e) full contract.

Sole paragraph [\(VETOED\)](#). [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 11. The works and services intended for the same purposes shall have designs standardized by types, categories, or classes, except when the standard design does not meet the specific conditions of the site or the specific requirements of the enterprise.

Art. 12. The following requirements shall be primarily considered in the basic and executive designs of works and services: [\(Wording established by Law nº 8,883 of 1994\)](#)

I - security;

II - functionality and suitability for the public interest;

III - economy in execution, conservation, and operation;

IV - possibility of employment of labor, materials, technology, and raw materials existing on site for execution, conservation, and operation;

V - ease of execution, conservation, and operation, without prejudice to the durability of the work or service;

VI - adoption of appropriate technical of occupational health and safety standards; [\(Wording established by Law nº 8,883 of 1994\)](#)

VII - environmental impact.

Section IV Specialized Professional Technical Services

Art. 13. For the purposes of this Law, specialized professional technical services are considered works relating to:

I - technical studies, planning, and basic or executive designs;

II - opinions, expertise, and evaluations in general;

III - technical advice or consultancy and financial or tax audits; [\(Wording established by Law nº 8,883 of 1994\)](#)

IV - fiscalization, supervision, or management of works or services;

V - sponsorship or defense of judicial or administrative cases;

VI - staff training and improvement;

VII - restoration of works of art and goods of historical value.

VIII - (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 1. Except for the cases of unenforceability of bidding, contracts for the provision of specialized professional technical services shall preferably be concluded by conducting a contest, with prior stipulation of prize or remuneration.

Paragraph 2. The provisions of article 111 of this Law apply to the technical services referred to in this article.

Paragraph 3. The company providing specialized technical services that presents a list of members of its technical staff in a bidding procedure or as an element of justification of exemption or unenforceability of bidding, shall be obliged to ensure that said members perform personally and directly the services subject to the contract.

Section V Purchases

Art. 14. No purchase shall be made without the proper characterization of its object and indication of the budgetary resources for its payment, under penalty of nullity of the act and liability of those who have given it cause.

Art. 15. Whenever possible, purchases shall: [\(Regulation\)](#) [\(Regulation\)](#) [\(Regulation\)](#) [\(Effectiveness\)](#)

I - comply with the principle of standardization, which imposes compatibility of technical specifications and performance, observing, when appropriate, the conditions of maintenance, technical assistance, and warranty offered;

II - be processed through a price registration system;

III - submit to acquisition and payment conditions similar to those of the private sector;

IV - be subdivided into as many installments as necessary to take advantage of the specificities of the market, aiming at economy;

V - be based on the prices charged within the government bodies and entities.

Paragraph 1. The price registry shall be preceded by extensive market research.

Paragraph 2. The prices registered shall be published quarterly for guidance from the Administration, in the official press.

Paragraph 3. The price registration system shall be regulated by decree, observing the regional specificities and the following conditions:

I - selection made by competition;

II - prior stipulation of the control system and update of registered prices;

III - effectiveness of registration not exceeding one year.

Paragraph 4. The existence of registered prices does not oblige the Administration to sign the contracts that may arise from them, being provided with the use of other means, in compliance with the legislation relating to bidding procedures, assuring the beneficiary of the registration preference on equal terms.

Paragraph 5. The control system originating in the general pricing framework shall be computerized, where possible.

Paragraph 6. Any citizen is a legitimate party to challenge the price of the general framework on the grounds that it is incompatible with the market price.

Paragraph 7. The purchases shall also consider:

I - the complete specification of the good to be purchased without brand indication;

II - the definition of the units and quantities to be acquired according to the likely consumption and use, the estimate of which shall be obtained, where possible, by appropriate quantitative estimation techniques;

III - the conditions of storage that do not allow deterioration of the material.

Paragraph 8. The receipt of material exceeding the limit established in article 23 of this Law, for the invitation modality, must be entrusted to a commission of at least 3 (three) members.

Art. 16. The list of all purchases made by the direct or indirect administration shall be publically disclosed by an official dissemination body or in a bulletin board of ample public access to clarify the identification of the purchased good, its unit price, the quantity purchased, the name of the seller, and the total value of the operation. The purchases made with the waiver and unenforceability of a bidding procedure may be agglutinated by items. [\(Wording established by Law nº 8,883 of 1994\)](#)

Sole paragraph. The provisions of this article shall not apply to the cases of exemption from bidding provided for in item IX of article 24. [\(Included by Law nº 8,883 of 1994\)](#)

Section VI Alienations

Art. 17. The alienation of Government assets, subject to the existence of duly justified public interest, shall be preceded by evaluation and shall comply with the following standards:

I - when real estate, it shall depend on legislative authorization for direct administration bodies and municipal and foundation entities, and, for all, including parastatal entities, it shall depend on prior evaluation and bidding in the competition modality, waived in the following cases:

a) lieu of payment;

b) donation, allowed exclusively to another government body or entity, of any sphere, except the provisions of the subitems *f*, *h*, and *i*; [\(Wording established by Law nº 11,952 of 2009\)](#)

c) exchange, for another property that meets the requirements of item X of article 24 of this Law;

d) investiture;

e) sale to another government body or entity, of any sphere; [\(Included by Law nº 8,883 of 1994\)](#)

f) free or onerous alienation, rent of land, granting of property right of use, lease or permission to use residential real estate, destined or used in the framework of housing programs or land regularization of social Interest developed by government bodies or entities; [\(Wording established by Law nº 11,481 of 2007\)](#)

g) procedures for the legitimation of possession referred to in [article 29 of Law nº 6,383 of December 7th, 1976](#), by initiative and deliberation of the government bodies in whose legal competence such assignment is included; [\(Included by Law nº 11,196 of 2005\)](#)

h) free or onerous alienation, rent of land, granting of property right of use, lease or permission to use real estate for commercial use of local scope with an area of up to 250 m² (two hundred and fifty square meters) and inserted in the scope of land regularization programs of social interest developed by government bodies or entities; [\(Included by Law nº 11,481 of 2007\)](#)

i) alienation and grant of property right of use, free of charge or onerous, of rural public lands of the Union and Incra, where they affect occupations up to the limit referred to in paragraph 1 of art. 6 of Law nº 11,952 of June 25th, 2009, for land regularization purposes, observing the legal requirements; and [\(Wording established by Law nº 13,465, 2017\)](#)

II - when movable, it will depend on prior evaluation and bidding, waived in the following cases:

a) donation, allowed exclusively for purposes and use of social interest, after evaluation of its socio-economic opportunity and convenience compared to the choice of another form of alienation;

b) exchange, allowed exclusively between government bodies or entities;

c) sale of shares, which may be traded on the stock exchange, subject to specific legislation;

d) sale of securities in the form of relevant legislation;

e) sale of goods produced or marketed by government bodies or entities, by virtue of their purposes;

f) sale of materials and equipment to other government bodies or entities, without foreseeable use by those who alienate them.

Paragraph 1. The properties donated based on subitem "b" of item I of this article, after the reasons that justified their donation, shall revert to the property of the donor legal entity, with its alienation by the beneficiary prohibited.

Paragraph 2. The Administration may also grant title to property or property right to use real estate, exempt from bidding, when the use is intended: [\(Wording established by Law nº 11,196 of 2005\)](#)

I - to another government body or entity, whatever the location of the property; [\(Included by Law nº 11,196 of 2005\)](#)

II - the individual who, under the terms of law, regulation, or normative act of the competent body, has implemented the minimum requirements of culture, peaceful occupation, and direct exploitation on rural area, observing the limit referred to in [paragraph 1 of article 6 of law nº 11,952 of June 25th, 2009](#); [\(Wording established by Law nº 13,465 2017\)](#)

Paragraph 2-A. The hypotheses of item II of paragraph 2 are exempt from legislative authorization but subject to the following conditions: [\(Wording established by Law nº 11,952 of 2009\)](#)

I - application only to areas where private detention is proven before December 1st, 2004; [\(Included by Law nº 11,196 of 2005\)](#)

II - submission to the other requirements and impediments of the legal and administrative regime of the destination and regularization of public lands; [\(Included by Law nº 11,196 of 2005\)](#)

III - prohibition of concessions for exploitation hypotheses not contemplated in the agrarian law, in the laws of public land use, or in the legal or administrative norms of ecological-economic zoning; and [\(Included by Law nº 11,196 of 2005\)](#)

IV - provision of automatic termination of the concession, without notice, in case of declaration of utility, or public need, or social Interest. [\(Included by Law nº 11,196 of 2005\)](#)

Paragraph 2- B. The hypothesis of item II of paragraph 2 of this article: [\(Included by Law nº 11,196 of 2005\)](#)

I - only applies to property located in a rural area, not subject to prohibition, impediment, or inconvenience to its exploitation through agricultural activities; [\(Included by Law nº 11,196 of 2005\)](#)

II - is limited to areas of up to fifteen fiscal modules, provided it does not exceed one thousand and five hundred hectares, prohibited from bidding waiver for areas above this limit; [\(Wording established by Law nº 11,763 of 2008\)](#)

III - can be combined with the quantity of area resulting from the figure referred to in subitem "g" of item I of the head provision of this article, up to the limit provided for in item II of this paragraph. [\(Included by Law nº 11,196 of 2005\)](#)

IV – [\(VETOED\)](#) [\(Included by Law nº 11,763 of 2008\)](#)

Paragraph 3. For the purposes of this Law, investiture is considered: [\(Wording established by Law nº 9,648 of 1998\)](#)

I - the alienation to the owners of neighboring properties of area remaining or resulting from public works, an area that becomes inapproachable in isolation, for a price never inferior to the valuation and provided it does not exceed 50% (fifty percent) of the value contained in subitem "a" of item II of article 23 of this Law; [\(Included by Law nº 9,648 of 1998\)](#)

II - the alienation, to the legitimate direct owners or, in the absence of these, to the Public Authority, of real estate for residential purposes built in urban centers annexed to hydroelectric plants, provided they are considered dispensable in the operation phase of these units and do not belong to the category of reversible assets at the end of the concession. [\(Included by Law nº 9,648 of 1998\)](#)

Paragraph 4. The donation with charge shall be bidden and its instrument shall necessarily contain the charges, the term of its fulfillment, and reversal clause, under penalty of nullity of the act, waiving the bidding procedure in the case of duly justified public interest; [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 5. In the case of the previous paragraph, if the donee must offer the property as a warranty of financing, the reversal clause and other obligations shall be guaranteed by second degree mortgage in favor of the donor. [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 6. The Administration may allow the auction for the sale of movable property valued, individually or globally, in an amount not exceeding the limit provided for in article 23, item II, subitem "b" of this Law. [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 7. (VETOED). [\(Included by Law nº 11,481 of 2007\)](#)

Art. 18. In the competition for the sale of real estate, the qualification phase shall be limited to proof of collection of an amount corresponding to 5% (five percent) of the valuation.

Sole paragraph. [\(Repealed by Law nº 8,883 of 1994\)](#)

Art. 19. The immovable Government property, the acquisition of which has derived from judicial proceedings or from lieu of payment, may be alienated by an act of the competent authority, subject to the following rules:

I - valuation of disposables goods;

II - proof of the necessity or usefulness of the alienation;

III - adoption of the bidding procedure, under the modality of competition or auction. [\(Wording established by Law nº 8,883 of 1994\)](#)

Chapter II Bidding

Section I Modalities, Limits, and Waiver

Art. 20. bidding procedures shall be made at the location of the distribution concerned, except for duly justified reasons of public interest.

Sole paragraph. The provisions of this article shall not prevent the qualification of interested residents or based in other places.

Art. 21. The notifications containing summaries of notices of competitions, price announcements, bidding procedures, and auctions shall be published at least once in advance, although held at the location of the entity concerned: [\(Wording established by Law nº 8,883 of 1994\)](#)

I - in the Federal Gazette, when concerning bidding made by an agency or entity of the Federal Government and, also, when concerning works financed partially or entirely with federal resources or guaranteed by federal institutions; [\(Wording established by Law nº 8,883 of 1994\)](#)

II - in the Official Gazette of the state, or of the Federal District when appropriate, respectively, a bidding procedure conducted by an organ or entity of the State or Municipal Government, or of the Federal District; [\(Wording established by Law nº 8,883 of 1994\)](#)

III - in a daily newspaper of high circulation in the State and also, if any, in a newspaper of circulation in the Municipality or region where the work shall be conducted, serviced, provided, sold, or rented the property. The Administration may, according to the size of the bidding procedure, use other means of dissemination to expand the area of competition. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 1. The published notice shall contain the indication of the place where interested parties can read and obtain the full text of the notice and all the information about the bidding procedure.

Paragraph 2. The minimum period until the receipt of the proposals or the holding of the event shall be:

I - forty-five days for: [\(Wording established by Law nº 8,883 of 1994\)](#)

a) contest; [\(Included by Law nº 8,883 of 1994\)](#)

b) competition, where the contract to be concluded includes the full contract arrangement or where the bidding procedure is of the "best technique" or "technique and price" modality"; [\(Included by Law nº 8,883 of 1994\)](#)

II - thirty days for; [\(Wording established by Law nº 8,883 of 1994\)](#)

a) competition, in cases not specified in subitem "b" of the previous item; [\(Included by Law nº 8,883 of 1994\)](#)

b) price taking, where the bidding is of the type "best technique" or "technique and price"; [\(Included by Law nº 8,883 of 1994\)](#)

III - fifteen days for the price taking, in the cases not specified in subitem "b" of the previous item, or auction; [\(Wording established by Law nº 8,883 of 1994\)](#)

IV - five working days for the invite; [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. The deadlines established in the previous paragraph shall be counted from the last publication of the summary notice or the dispatch of the invitation, or the effective availability of the notice or the invitation and their annexes, whichever occurs later. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. Any modification of the notice requires disclosure in the same form as the original text, reopening the period initially established, except when the amendment does not, unquestionably, affect the formulation of the proposals.

Art. 22. The following are bidding modalities:

I - competition;

II - price taking;

III - invitation;

IV - contest;

V - auction.

Paragraph 1. Competition is the modality of bidding between any interested parties who, in the initial phase of preliminary qualification, prove to have the minimum qualification requirements demanded in the notice for the execution of its object.

Paragraph 2. Price taking is the bidding modality between interested parties duly registered or who meet all the conditions required for registration until the third day before the date of receipt of the proposals, observed the necessary qualification.

Paragraph 3. Invitation is the bidding modality between interested parties of the branch relevant to its object, registered or not, chosen and invited in a minimum number of 3 (three) by the administrative unit, which shall post, in an appropriate location, a copy of the convening instrument and extend it to other registered parties in the corresponding specialty who express their interest in advance of up to 24 (twenty-four) hours from the presentation of the proposals.

Paragraph 4. Contest is the form of bidding between any interested parties for the choice of technical, scientific, or artistic work, through the institution of prizes or remuneration to the winners, according to the criteria contained in the notice published in the official press with a minimum of 45 (forty-five) days in advance.

Paragraph 5. Auction is the form of bidding between any interested parties for the sale of movable property useless for the administration or products legally seized or pawned, or for the alienation of immovable property provided for in article 19, to whom offers the highest bid, equal or superior to the value of the valuation. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 6. In the case of paragraph 3 of this article, having more than 3 (three) possible interested parties in the square, it is mandatory the invitation to, at least, one more interested party, for each new invitation, made for identical or similar object, as long as there are uninvited registered parties in the last bids. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 7. When, due to market limitations or manifest disinterest of the guests, it is impossible to obtain the minimum number of bidders required in paragraph 3 of this article, these circumstances must be duly justified in the proceedings, under penalty of repetition of the invitation.

Paragraph 8. The creation of other bidding modalities or the combination of those referred to in this article is prohibited.

Paragraph 9. In the case of paragraph 2 of this article, the administration may only require from the unregistered bidder the documents provided for in articles 27 to 31, which prove the qualification compatible with the object of the bidding procedure, under the terms of the notice. [\(Included by Law nº 8,883 of 1994\)](#)

Art. 23. The bidding modalities referred to in items I to III of the previous article shall be determined according to the following limits, in view of the estimated value of the contract:

I - for engineering works and services: [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412 of 2018\)](#) [\(Effectiveness\)](#)

a) invite: up to BRL 150,000.00 (one hundred and fifty thousand reais); [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412, of 2018\)](#) [\(Effectiveness\)](#)

b) price taking: up to BRL 1,500,000.00 (one million and five hundred thousand reais); [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412, of 2018\)](#) [\(Effectiveness\)](#)

c) competition: above BRL 1,500,000.00 (one million and five hundred thousand reais); [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412, of 2018\)](#) [\(Effectiveness\)](#)

II - for purchases and services not referred to in the previous item: [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412 of 2018\)](#) [\(Effectiveness\)](#)

a) invite: up to BRL 80,000.00 (eighty thousand reais); [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412, of 2018\)](#) [\(Effectiveness\)](#)

b) price taking: up to BRL 650,000.00 (six hundred and fifty thousand reais); [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412, of 2018\)](#) [\(Effectiveness\)](#)

c) competition - above BRL 650,000.00 (six hundred and fifty thousand reais). [\(Wording established by Law nº 9,648 of 1998\)](#) [\(See Decree nº 9,412 of 2018\)](#) [\(Effectiveness\)](#)

Paragraph 1. The works, services, and purchases made by the Administration shall be divided into as many installments as they prove technically and economically viable, proceeding to the bidding with a view to the best use of the resources available in the market and to the expansion of competitiveness without loss of the economy of scale. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 2. In the execution of works and services and in the purchases of goods, divided under the terms of the previous paragraph, each stage or set of stages of the work, service, or purchase must correspond to a separate bidding procedure, preserving the relevant modality for the execution of the object to be bid. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. The competition is the form of bidding, regardless of the value of the object, in the purchase or alienation of real estate, subject to the provisions of article 19, such as the concession of the right-of-use in international biddings, admitting in the latter case the price taking, observing the limits of this article, when the body or entity that has the registration with the international vendors or invitation, when there are no suppliers of the good or service in the country. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. In cases where the invitation is appropriate, the Administration may use price taking and, in any case, competition.

Paragraph 5. The use of the "invite" or "price taking" modalities are forbidden, as the case may be, for installments of the same work or service, or for the work and services of the same type in the same location, which may be conducted jointly, and at the same time, whenever the sum of the values characterize the case of a "price taking" or "competition" respectively, pursuant to the terms of this article, except for the installments of a specific nature that may be conducted by individuals or companies in a specialty other than the executor of the work, product, or service. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 6. The industrial organizations of the direct Federal Administration, in view of their specificities, shall obey the limits established in item I of this article also for their purchases and services in general, as long as for the acquisition of materials applied exclusively in the maintenance, repair, or manufacture of military operational means belonging to the Union. [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 7. In the purchase of goods of a divisible nature and provided there is no damage to the set or complex, it is allowed to quote a quantity lower than the demanded in the bidding procedure, with a view to expanding competitiveness. The notice may set a minimum quantity to preserve the economy of scale. [\(Included by Law nº 9,648 of 1998\)](#)

Paragraph 8. In the case of public consortia, double the values mentioned in the head provision of this article shall be applied when formed by up to 3 (three) entities of the Federation, and triple, when formed by a larger number. [\(Included by Law nº 11,107 of 2005\)](#)

Art. 24. Bidding is dispensable: [\(See Law nº 12,188 of 2.010\)](#) [Effectiveness](#)

I - for engineering works and services of value up to 10% (ten percent) of the limit provided for in subitem "a" of item I of the previous article, provided they do not refer to installments of the same work or service or for works and services of the same nature and in the same place that can be conducted jointly and concomitantly; [\(Wording established by Law nº 9,648 of 1998\)](#)

II - for other services and purchases of value up to 10% (ten percent) of the limit provided for in subitem "a" of item II of the previous article and for alienations, in the cases provided for in this Law, provided they do not refer to installments of the same service, purchase, or alienation of greater magnitude that can be conducted at once; [\(Wording established by Law nº 9,648 of 1998\)](#)

III - in cases of war or serious disturbance of order;

IV - in cases of emergency or public calamity, when the urgency of assistance of a situation that may cause damage or compromise the safety of people, works, services, equipment, and other goods, public or private, is characterized, and only for the goods necessary to attend the emergency or calamitous situation and for the installments of works and services that may be completed within a maximum period of 180 (one hundred and eighty) consecutive and uninterrupted days, counted from the occurrence of respective contracts;

V - when parties interested in the previous bidding procedure and the present one justifiably do not attend, and it cannot be repeated without prejudice to the Administration, in this case, all the pre-established conditions are maintained;

VI - when the Union has to intervene in the economic field to regulate prices or normalize supply;

VII - when the proposals presented record prices manifestly higher than those practiced on the national market, or are incompatible with those fixed by the competent official bodies, cases in which, having observed the sole paragraph of article 48 of this Law and, if the situation persists, the direct award of goods or services, for a value not exceeding the value contained in the price shall be admitted; [\(See paragraph 3 of article 48\)](#)

VIII - for the acquisition of goods produced or services provided by a government body or entity and that has been created for this specific purpose on a date prior to the effectiveness of this Law, by a legal entity under internal public law, provided that the contracted price is compatible with that practiced on the market; [\(Wording established by Law nº 8,883 of 1994\)](#)

IX - when there is a possibility of compromise of national security, in the cases established by decree of the President of Brazil, having heard the National Defense Council; [\(Regulation\)](#)

X - for the purchase or lease of property intended for the fulfillment of the prior purposes of the administration, whose installation and location needs condition their choice, provided the price is compatible with the market value, according to prior assessment; [\(Wording established by Law nº 8,883 of 1994\)](#)

XI - in the contracting of remaining work, service, or supply, as a result of contractual termination, provided the order of classification of the previous bid is met and the same conditions offered by the winning bidder are accepted, including the price, duly corrected;

XII - in the purchases of vegetables, fruits, and grain, bread, and other perishable goods, in the time necessary for the conduction of the corresponding bidding procedures, conducted based directly on the price of the day; [\(Wording established by Law nº 8,883 of 1994\)](#)

XIII - in the hiring of a Brazilian institution in charge of regimental or statutory research, education, or institutional development, or of an institution dedicated to the social recovery of the prisoner, provided the contracted party has an unquestionable ethical-professional reputation and is not for profit; [\(Wording established by Law nº 8,883 of 1994\)](#)

XIV - for the acquisition of goods or services under the terms of a specific international agreement approved by the National Congress, when the conditions offered are manifestly advantageous to the Public Authority; [\(Wording established by Law nº 8,883 of 1994\)](#)

XV - for the acquisition or restoration of works of art and historical objects, of certified authenticity, provided they are compatible or inherent to the purposes of the body or entity;

XVI - for the printing of official journals, standardized forms of administration use, and official technical editions, as well as for the provision of computer services to legal entities governed by internal public law, by Government bodies or entities, created for this specific purpose; [\(Included by Law nº 8,883 of 1994\)](#)

XVII - for the acquisition of components or parts of national or foreign origin, necessary for the maintenance of equipment during the technical warranty period, from the original supplier of these

equipment, when such exclusivity condition is indispensable for the effectiveness of the warranty; [\(Included by Law nº 8,883 of 1994\)](#)

XVIII - in the purchase or hiring of services for the supply of ships, vessels, air units, or troops and their means of movement when in a short stay in ports, airports, or locations other than their headquarters, for reasons of operational movement or training, when the meager legal deadlines may compromise the normality and purposes of operations and provided their value does not exceed the limit provided for in subitem "a": [\(Included by Law nº 8,883 of 1994\)](#)

XIX - for the purchases of material for use by the Armed Forces, with the exception of materials for personal and administrative use, when there is a need to maintain the standardization required by the logistic support structure of naval, air, and land means, through the opinion of a commission established by decree; [\(Included by Law nº 8,883 of 1994\)](#)

XX - in the hiring of association of people with physical disabilities, non-profit, and with proven repute, by Government bodies or entities, for the provision of services or supply of labor, provided the contracted price is compatible with the price practiced in the market. [\(Included by Law nº 8,883 of 1994\)](#)

XXI - for the acquisition or contracting of product for research and development, limited, in the case of engineering works and services, to 20% (twenty percent) of the value referred to in subitem "b" of item I of the head provision of article 23; [\(Included by Law nº 13,243 of 2016\)](#)

XXII - in the contracting of supply of electricity and natural gas with a concessionaire authorized entity, according to the norms of specific legislation; [\(Included by Law nº 9,648 of 1998\)](#)

XXIII - in the contracting conducted by a public company or a government-controlled private company with its subsidiaries, for the acquisition or disposal of goods, provision or obtaining of services, provided the contracted price is compatible with the price practiced in the market. [\(Included by Law nº 9,648 of 1998\)](#)

XXIV - for the conclusion of contracts for the provision of services with social organizations, qualified within the framework of the respective government spheres, for activities contemplated in the management contract. [\(Included by Law nº 9,648 of 1998\)](#)

XXV - in the contracting conducted by Scientific and Technological Institution (ICT in Portuguese) or by a fostering agency for the transfer of technology and licensing of the right of use or exploitation of protected creation. [\(Included by Law nº 10,973 of 2004\)](#)

XXVI - in the conclusion of a program contract with an entity of the Federation or with an entity of its indirect administration, for the provision of public services in an associated manner under the terms authorized in a public consortium contract or in a cooperation agreement. [\(Included by Law nº 11,107 of 2005\)](#)

XXVII - in the contracting of the collection, processing, and commercialization of recyclable or reusable urban solid waste, in areas with a selective waste collection system, conducted by associations or cooperatives formed exclusively by low-income individuals recognized by the government as recyclable

materials collectors, with the use of equipment compatible with technical, environmental, and public health standards. [\(Wording established by Law nº 11,445 of 2007\).](#) [\(Effectiveness\)](#)

XXVIII - for the supply of goods and services, produced or provided in the country, that involve, cumulatively, high technological complexity and national defense, through the opinion of a commission specially appointed by the maximum authority of the body. [\(Included by Law nº 11,484 of 2007\).](#)

XXIX - in the acquisition of goods and contracting of services to meet the military contingents of the Brazilian Singular Forces employed in peace operations abroad, necessarily justified regarding the price and the choice of the supplier or performer and ratified by the Force Commander. [\(Included by Law nº 11,783 of 2008\).](#)

XXX - in the hiring of an institution or organization, public or private, with or without profit, for the provision of technical assistance and rural extension services under the National Program of Technical Assistance and Rural Extension in Family Agriculture and Agrarian Reform, established by federal law. [\(Included by Law nº 12,188 of 2,010\)](#) [Effectiveness](#)

XXXI - in contracts aimed at compliance with the provisions of articles 3, 4, 5, and 20 of Law nº 10,973 of December 2nd, 2004, observing the general principles of contracting it contains. [\(Included by Law nº 12,349 of 2010\)](#)

XXXII - in the contracting in which there is technology transfer of strategic products to the unified health system (SUS in Portuguese), within the scope of Law nº 8,080 of September 19th, 1990, as listed in the act of the national directorate of SUS, including on the occasion of the acquisition of these products during the stages of technological absorption. [\(Included by Law nº 12,715 of 2012\)](#)

XXXIII - in the hiring of private non-profit entities, for the implementation of cisterns or other social technologies of access to water for human consumption and food production, to benefit low-income rural families affected by drought or regular lack of water. [\(Included by Law nº 12,873 of 2013\)](#)

XXXIV - the acquisition by a legal entity governed by public law of the internal inputs of the strategic plan for health, produced or distributed by a foundation, that is regulatory or statutory, with the purpose of supporting a direct government body, its autarchy or foundation in education, research, and extension projects, institutional, scientific, and technological development, and encouraging innovation, including in the administrative and financial management necessary for the execution of these projects, or in partnerships that involve the transfer of technology of the products of strategic importance for the Unified Health System (SUS), under the terms of item XXXII of this article, and that have been established for this specific purpose, prior to the effectiveness of this Law, provided the agreed price is compatible with the market price. [\(Included by Law nº 13,204 of 2015\)](#)

XXXV - for the construction, expansion, reform, and improvement of criminal establishments, provided there is a situation of serious and imminent risk to public security. [\(Included by Law nº 13,500 of 2017\)](#)

Paragraph 1. The percentages referred to in items I and II of the head provision of this article shall be 20% (twenty percent) for purchases, works, and services contracted by public consortia, government-controlled private companies, public companies, and by an autarchy or foundation qualified, in the form of law, as executive agencies. [\(Included by Law nº 12,715 of 2012\)](#)

Paragraph 2. The time limit for the creation of the government body or entity established in item VIII of the head provision of this article does not apply to bodies or entities that produce strategic products for SUS, within the scope of Law nº 8,080 of September 19th, 1990, as listed in an act of the national directorate of SUS. [\(Included by Law nº 12,715 of 2012\)](#)

Paragraph 3. The hypothesis of waiver provided for in item XXI of the head provision, when applied to engineering works and services, shall follow special procedures instituted in specific regulation. [\(Included by Law nº 13,243 of 2016\)](#)

Paragraph 4. The prohibition provided for in item I of the head provision of article 9 does not apply to the hypothesis provided for in item XXI of the head provision. [\(Included by Law nº 13,243 of 2016\)](#)

Art. 25. It is impossible to bid when competition is unfeasible, especially:

I - to acquire materials, equipment, or genres that can only be supplied by producer, company, or exclusive commercial representative, the prohibited the trademark preference, and proof of exclusivity must be made through a certificate provided by the trade registration body of the place where the bidding or the work or service would be conducted, by the trade union, Federation or Employers Confederation, or equivalent entities;

II - to contract technical services listed in article 13 of this Law, of a singular nature, with professionals or companies of notorious specialization, prohibited the inexigibility for advertising and dissemination services;

III - to hire a professional from any artistic sector, directly or through an exclusive entrepreneur, provided it is consecrated by specialized criticism or public opinion.

Paragraph 1. It is of notorious specialization the professional or company whose concept in the field of specialty, arising from previous performance, studies, experiences, publications, organization, equipment, technical team, or other requirements related to its activities, allows to infer that the work is essential and arguably the most appropriate to the full satisfaction of the object of the contract.

Paragraph 2. In the case of this article and in any of the cases of waiver, if proven overbilling, the supplier or service provider and the responsible public agent are jointly and severally liable for the damage caused to the public treasury, without prejudice to other applicable legal sanctions.

Art. 26. The waivers provided for in paragraphs 2 and 4 of article 17 and item III et seq. of article 24, the situations of unenforceability referred to in article 25, necessarily justified, and the delay provided for at the end of the sole paragraph of article 8 of this Law must be communicated, within 3 (three) days, to the higher authority, for ratification and publication in the official press, within 5 (five) days, as a condition for the effectiveness of the acts. [\(Wording established by Law nº 11,107 of 2005\)](#)

Sole paragraph. The process of waiver, unenforceability, or delay, provided for in this article, shall be instructed, as appropriate, with the following elements:

I - characterization of the emergency or calamitous situation, or of serious and imminent risk to public safety that justifies the waiver, when appropriate; [\(Wording established by Law nº 13,500 of 2017\)](#)

II - reason for the choice of supplier or executor;

III - justification of the price.

IV - approval document of the research projects to which the goods will be allocated. [\(Included by Law nº 9,648 of 1998\)](#)

Section II Qualification

Art. 27. For qualifying in the bidding procedures, the interested parties shall be required, exclusively, documentation regarding:

I - legal qualification;

II - technical qualification;

III - economic and financial qualification;

IV - tax and labor regularity; [\(Wording established by Law nº 12,440 of 2011\)](#) [\(Effectiveness\)](#)

V - compliance with the provisions of the [item XXXIII of article 7 of the Federal Constitution](#). [\(Included by Law nº 9,854 of 1999\)](#)

Art. 28. The documentation relating to legal qualification, as the case may be, shall consist of:

I - identification document;

II - commercial registration, in the case of an individual company;

III - articles of association, statute, or bylaws in force, duly registered, in the case of commercial companies, and, in the case of corporations, accompanied by documents of the election of their directors;

IV - registration of the articles of association, in the case of civil societies, accompanied by proof of board of directors in office;

V - decree of authorization, in the case of a foreign company or corporation operating in the country, and act of registration or authorization for the operation issued by the competent body, when the activity so requires.

Art. 29. The documentation regarding tax and labor regularity, as the case may be, shall consist of: [\(Wording established by Law nº 12,440 of 2011\)](#) [\(Effectiveness\)](#)

I - proof of registration in the Individual Taxpayer Registrar (CPF in Portuguese) or in the Corporate Taxpayer Identification Number (CNPJ in Portuguese);

II - proof of registration in the state or municipal taxpayer registrar, if any, regarding the domicile or headquarters of the bidder, relevant to its branch of activity and compatible with the contractual object;

III - proof of regularity with the Federal, State, and Municipal Treasury of the domicile or headquarters of the bidder, or other equivalent, in the form of law;

IV - proof of regularity regarding Social Security and the Guarantee Fund for Time of Service (FGTS in Portuguese), demonstrating regular situation in compliance with the social charges instituted by Law. [\(Wording established by Law nº 8,883 of 1994\)](#)

V - proof of non-existence of defaulted debts before the Labor Court, by presenting a negative certificate, under the terms of [Title VII-A of the Consolidation of Labor Laws, approved by Decree-Law nº 5,452 of May 1st, 1943](#). [\(Included by Law nº 12,440 of 2011\)](#) [\(Effectiveness\)](#)

Art. 30. The documentation regarding the technical qualification shall be limited to:

I - registration with the competent professional entity;

II - proof of qualification for performance of relevant activity and compatible in characteristics, quantities, and deadlines with the object of the bidding procedure, and indication of the appropriate and available facilities and equipment and technical personnel for the conduction of the object of the bidding procedure, as well as the qualification of each of the members of the technical team that shall be responsible for the works;

III - proof, provided by the bidding body, that it has received the documents, and, when required, that it has become aware of all the information and the local conditions for the fulfillment of the obligations subject to the bidding;

IV - proof of compliance with the requirements provided for in special law, when appropriate.

Paragraph 1. The proof of aptitude referred to in item II of the head provision of this article, in the case of bidding procedures relevant to works and services, shall be made by certificates provided by legal entities governed by public or private law, duly registered with the competent professional entities, limited to the requirements to: [\(Wording established by Law nº 8,883 of 1994\)](#)

I - technical-professional training: proof of the bidder having in its permanent frame, on the date scheduled for delivery of the proposal, professional of higher level or other duly recognized by the competent entity, holder of a certificate of technical responsibility for the execution of work or service of similar characteristics, limited exclusively to the installments of greater relevance and significant value of the object of the bidding procedure, prohibited the demands for minimum quantities or maximum deadlines; [\(Included by Law nº 8,883 of 1994\)](#)

II - (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

a) (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

b) (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 2. The installments of greater technical relevance and significant value, mentioned in the previous paragraph, shall be defined in the convening instrument. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. Proof of qualification shall always be admitted through certificates of similar works or services of equivalent or higher technological and operational complexity.

Paragraph 4. In bidding procedures for the supply of goods, proof of qualification, when appropriate, shall be made through certificates provided by a legal entity governed by public or private law.

Paragraph 5. The requirement of proof of activity or aptitude with time or season limitations or in specific places, or any other not provided for in this law, which inhibit participation in the bidding procedure, is prohibited.

Paragraph 6. The minimum requirements regarding site facilities, machinery, equipment, and specialized technical personnel, considered essential for the fulfillment of the object of the bidding procedure, shall be met by the presentation of an explicit relationship and the formal declaration of its availability, under the applicable penalties, prohibited the requirements of ownership and prior location.

Paragraph 7. (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

I - (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

II - (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 8. In the case of large-scale works, services, and purchases of high technical complexity, the Administration may require from the bidders the execution methodology, the evaluation of which, for the purpose of its acceptance or not, shall always precede the analysis of prices and shall be conducted exclusively by objective criteria.

Paragraph 9. Bidding of high technical complexity is understood to involve high specialization, as a factor of extreme relevance to ensure the execution of the object to be contracted, or that may compromise the continuity of the provision of essential public services.

Paragraph 10. The professionals indicated by the bidder for the purposes of proving the technical-operational training referred to in item I of paragraph 1 of this article must participate in the work or service subject to the bidding procedure, allowing the replacement by professionals of equivalent or higher experience, provided approved by the administration. [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 11. (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 12. (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Art. 31. The documentation regarding the economic-financial qualification shall be limited to:

I - balance sheet and accounting statements of the last financial year, already due and presented in the form of the law, which prove the good financial situation of the company, prohibited to be replaced

by trial balance or provisional balance sheets, and can be updated by official indices when closed more than 3 (three) months from the date of submission of the proposal;

II - negative certificate of bankruptcy or concordat issued by the distributor of the head office of the legal entity, or of patrimonial execution, issued at the domicile of the individual;

III - warranty, in the same modalities and criteria provided for in the head provision and paragraph 1 of article 56 of this Law, limited to 1% (one percent) of the estimated value of the object of the contract.

Paragraph 1. The requirement for indices shall be limited to the demonstration of the financial capacity of the bidder with a view to the commitments he/she shall have to assume if the contract is awarded to him/her, excluding the requirement of minimum values of previous turnover or profitability indices. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 2. The Administration, in the purchases for future delivery and in the execution of works and services, may establish, in the instrument calling for the bidding procedure, the requirement of minimum capital or minimum net worth, or the warranties provided for in paragraph 1 of article 56 of this Law, as a given objective of proving the economic and financial qualification of the bidders and for the purpose of ensuring the compliance of the contract to be subsequently concluded.

Paragraph 3. The minimum capital or net worth referred to in the previous paragraph may not exceed 10% (ten percent) of the estimated value of the contract, and proof must be made regarding the date of submission of the proposal, in the form of the law, admitting the update of this date through official indices.

Paragraph 4. The list of the commitments made by the bidder that amount to a decrease in operating capacity or absorption of financial availability may also be required, calculated according to the updated net worth and its turnover capacity.

Paragraph 5. The proof of good financial situation of the company shall be made objectively, through the calculation of accounting indices provided for in the notice and duly justified in the administrative process of the bidding procedure that has begun the bidding event, excluding the requirement of indices and values not usually adopted for correct assessment of financial situation sufficient to comply with the obligations arising from the bidding procedure [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 6. [\(VETOED\)](#). [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 32. The documents required for authorization may be presented in original, by any process of certified copy by a competent notary office or by a server of the administration or publication in an official press body. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 1. The documentation referred to in articles 28 to 31 of this Law may be waived, in whole or in part, in cases of invitation, bidding, supply of goods for prompt delivery, and auction.

Paragraph 2. The certificate of registration referred to in paragraph 1 of article 36 replaces the documents listed in articles 28 to 31 regarding the information provided in a computerized system of

direct consultation indicated in the notice, obliging the party to declare, under legal penalties, the supervenience of fact impeding the qualification. [\(Wording established by Law nº 9,648 of 1998\)](#)

Paragraph 3. The documentation referred to in this article may be replaced by the registration issued by a public body or entity, provided it is foreseen in the notice and the registration is made in compliance with the provisions of this Law.

Paragraph 4. Foreign companies that do not operate in the country, as far as possible, shall meet, in international bidding procedures, the requirements of the previous paragraphs by means of equivalent documents, authenticated by the respective consulates and translated by a sworn translator, and must have legal representation in Brazil with express powers to receive subpoena and respond administratively or judicially.

Paragraph 5. For the authorization referred to in this article, no previous collection of fees or emoluments shall be required, except those concerning the provision of the notice, when requested, with its constituent elements, limited to the amount of the effective cost of graphic reproduction of the documentation provided.

Paragraph 6. The provisions of paragraph 4 of this article, paragraph 1 of article 33, and paragraph 2 of article 55 do not apply to international bidding procedures for the acquisition of goods and services whose payment is made with the financing proceeds granted by an international financial organization of which Brazil is a part, or by a foreign cooperation agency, nor in cases of contracting with a foreign company, for the purchase of equipment manufactured and delivered abroad, provided there has been prior authorization from the head of the executive branch, for this case, nor in cases of acquisition of goods and services conducted by administrative units headquartered abroad.

Paragraph 7. The documentation referred to in articles 28 to 31 and this article may be waived, under the terms of the regulation, in whole or in part, for the contracting of product for research and development, provided for prompt delivery or up to the value provided for in subitem "a" of item II of the head provision of article 23. [\(Included by Law nº 13,243 of 2016\)](#)

Art. 33. The following standards shall be observed when the participation of companies in a consortium is allowed in the bidding procedure:

I - proof of the public or private commitment to set up a consortium, subscribed by the partners;

II - indication of the company responsible for the consortium that must meet the leadership conditions, mandatorily fixed in the notice;

III - presentation of the documents required in articles 28 to 31 of this Law by each partner, admitting, for the purpose of technical qualification, the sum of the quantities of each partner, and, for the purpose of economic-financial qualification, the sum of the values of each partner, in proportion to its respective participation. The Administration may establish, for the consortium, an increase of up to 30% (thirty percent) of the values required for the individual bidder, in its entirety, by micro and small businesses so defined in law;

IV - impediment of participation of a partner company, in the same bid, through more than one consortium or in isolation;

V - joint liability of the members for the acts practiced in consortium, both in the bidding phase and in the execution of the contract.

Paragraph 1. In the consortium of Brazilian and foreign companies, the leadership shall be mandatory for the Brazilian company, according to the provisions of item II of this article.

Paragraph 2. The winning bidder is obliged to promote, before the conclusion of the contract, the formation and registration of the consortium, in accordance with the commitment referred to in item I of this article.

Section III Registry Records

Art. 34. For the purposes of this Law, the government bodies and entities that frequently conduct bidding procedures shall maintain registry records for the purpose of qualification, in the regulatory form, valid for a maximum of one year. [\(Regulation\)](#)

Paragraph 1. The registry records shall be widely publicized and permanently open to interested parties, obliging the unit responsible for it to proceed, at least annually, through the official press and daily newspaper, to publicly call for the update of existing records, and for the entry of new interested parties.

Paragraph 2. Administrative units are allowed to use registry records of other government bodies or entities.

Art. 35. When requesting registration in the records, or its updating, at any time, the interested party shall provide the necessary elements to satisfy the requirements of article 27 of this Law.

Art. 36. The registered parties shall be classified by categories, considering their specialization, subdivided into groups, according to the technical and economic qualification evaluated by the elements contained in the documentation listed in articles 30 and 31 of this Law.

Paragraph 1. The registered parties shall be provided with a certificate, renewable whenever they update the registration.

Paragraph 2. The performance of the bidder in the fulfillment of obligations assumed shall be noted in the respective registry record.

Art. 37. At any time, the registration of the registered party who fails to meet the requirements of article 27 of this Law, or those established for registry classification, may be changed, suspended, or canceled.

Section IV Procedure and Judgment

Art. 38. The bidding procedure shall be initiated with the opening of an administrative process, duly recorded, registered, and numbered, containing the respective authorization, the brief indication of its object, and the resource for the expense, to which shall be added in a timely manner:

I - notice or invitation and their annexes, where appropriate;

II - proof of the publications of the summary notice, in the form of article 21 of this Law, or of the delivery of the invitation;

III - act of designation of the bidding commission, of the administrative or official auctioneer, or of the person responsible for the invitation;

IV - original of the proposals and documents instructing them;

V - minutes, reports, and deliberations of the Judging Commission;

VI - technical or legal opinions issued on the bidding procedure, waiver, or unenforceability;

VII - acts awarding the subject-matter of the bidding procedure and their approval;

VIII - any appeals submitted by the bidders and their statements and decisions;

IX - order of annulment or revocation of the bidding procedure, where appropriate, substantiated in detail;

X - contract term or equivalent instrument, as applicable;

XI - other proofs of publications;

XII - other documents relating to the bidding procedure.

Sole paragraph. The minutes of bidding notices, as well as those of contracts, agreements, or adjustments, must be previously examined and approved by the Administration's legal advice. [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 39. Whenever the estimated value of a bid or series of bids, simultaneous or successive, is superior to one hundred (100) times the limits established in article 23, item I, subitem "c" of this Law, the procurement process is initiated, mandatorily, with a public hearing that is granted by the responsible authority at least fifteen (15) working days before the planned date of the publication of the notice and announced at least ten (10) working days before its conduction, by the same means foreseen for the publication of the bidding procedure, to which all interested parties shall have access and the right to all relevant information and to speak.

Sole paragraph. For the purposes of this article, simultaneous bidding procedures are those with similar objects and with expected completion for intervals not exceeding thirty days, and successive bidding procedures are those in which, also with similar objects, the subsequent notice has a date earlier than one hundred and twenty days after the termination of the contract resulting from the previous bidding procedure. [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 40. The notice shall contain in the preamble the annual serial order number, the name of the division concerned and its sector, the modality, the regime of execution and the type of the bidding, the mention that it shall be governed by this Law, the place, date, and time for receipt of the documentation

and proposal, as well as for the beginning of the opening of the envelopes, and shall, mandatorily, indicate:

I - the object of the bidding procedure, in brief and clear description;

II - the term and conditions for signing the contract or withdrawal of the instruments, as provided for in article 64 of this Law, for the execution of the contract and for delivery of the object of the bidding procedure;

III - the sanctions for default;

IV - the place where the basic design can be examined and acquired;

V - if there is an executive design available on the date of publication of the bidding procedure notice and the place where it can be examined and acquired;

VI - the conditions for participation in the bidding procedure, in accordance with articles 27 to 31 of this Law, and form of presentation of the proposals;

VII - the criterion for judgment, with clear provisions and objective parameters;

VIII - the locations, times, and access codes of the means of distance communication in which elements, information, and clarifications regarding the bidding procedure and the conditions for fulfilling the obligations necessary for the fulfillment of its object shall be provided;

IX - the equivalent payment conditions between Brazilian and foreign companies, in the case of international bidding procedures;

X - the criterion of acceptability of unit and global prices, as the case may be, allowing the fixing of maximum prices and prohibiting the fixing of minimum prices, statistical criteria, or ranges of variation regarding reference prices, except the provisions of paragraphs 1 and 2 of article 48; [\(Wording established by Law nº 9,648 of 1998\)](#)

XI - readjustment criterion, which should reflect the effective variation in the cost of production, admitting the adoption of specific or sectoral indices, from the date scheduled for submission of the proposal, or the budget to which that proposal refers, until the date of the addition of each portion; [\(Wording established by Law nº 8,883 of 1994\)](#)

XII - [\(VETOED\)](#). [\(Wording established by Law nº 8,883 of 1994\)](#)

XIII - the limits for payment of the installation and mobilization for the execution of works or services that shall be mandatory provided separately from the other installments, stages, or tasks;

XIV - the terms of payment, foreseeing:

a) payment period not exceeding thirty days, counted from the end date of the period of payment of each instalment; [\(Wording established by Law nº 8,883 of 1994\)](#)

b) maximum disbursement schedule per period, in accordance with the availability of financial resources;

c) criterion of financial update of the amounts to be paid, from the end date of the period of addition of each installment until the date of effective payment; [\(Wording established by Law nº 8,883 of 1994\)](#)

d) financial compensation and penalties, for occasional delays, and discounts, for occasional advances in payments;

e) insurance requirement, where applicable;

XV - the instructions and standards for the remedies provided for in this Law;

XVI - the conditions of receipt of the object of the bidding procedure;

XVII - other specific or peculiar indications of the bidding procedure.

Paragraph 1. The original of the notice must be dated, initialled on all pages, and signed by the authority that issues it, remaining in the bidding procedure, and from it extracting full or summarized copies, for its disclosure and supply to the interested parties.

Paragraph 2. The following constitute annexes to the notice, of which they are an integral part:

I - the basic and/or executive designs, with all its parts, drawings, specifications, and other complements;

II - estimated budget of quantities and unit prices in spreadsheets; [\(Wording established by Law nº 8,883 of 1994\)](#)

III - the draft of the contract to be signed between the Administration and the winning bidder;

IV - the additional specifications and implementing standards relevant to the bidding procedure.

Paragraph 3. For the purposes of this Law, the provision of the service, the conduction of the work, the delivery of the good or portion thereof, as well as any other contractual event to which the issuance of a collection document is linked, is considered compliance to the contractual obligation.

Paragraph 4. In purchases for immediate delivery, thus understood as those with delivery time up to thirty days from the date scheduled for submission of the proposal, may be waived: [\(Included by Law nº 8,883 of 1994\)](#)

I - the provisions of item XI of this article; [\(Included by Law nº 8,883 of 1994\)](#)

II - the financial update referred to in subitem "c" of item XIV of this article, corresponding to the period between the dates of the compliance and that foreseen for the payment, provided it does not exceed fifteen days. [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 5. The Government may, in the bidding procedure notices for the hiring of services, require that a minimum percentage of the labor of the contracted party derive from the prison system, for the purpose of re-socializing the egress, in the manner established in regulation. [\(Included by Law nº 13,500 of 2017\)](#)

Art. 41. The Administration cannot breach the standards and conditions of the notice, to which it is strictly bound.

Paragraph 1. Any citizen is a legitimate party to challenge the bidding procedure notice for irregularity in the application of this Law, and must file the request up to 5 (five) working days before the date set for the opening of the qualification envelopes, and the administration must judge and respond to the challenge within 3 (three) working days, without prejudice to the faculty provided in paragraph 1 of article 113.

Paragraph 2. The right to challenge the terms of the bidding notice before the administration shall be forfeited to the bidder who does not do so until the second working day preceding the opening of the qualifying envelopes in contest, the opening of the envelopes with the proposals in invitation, price taking or bidding, or the holding of an auction, the flaws or irregularities that would affect that notice, in which case such communication shall have no effect of appeal. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. The timely challenge made by the bidder shall not prevent it from participating in the bidding procedure until the decision relevant to it is res judicata.

Paragraph 4. The disqualification of the bidder entails foreclosure of its right to participate in the subsequent phases.

Art. 42. In international competitions, the notice should conform to the guidelines of monetary policy and foreign trade and meet the requirements of the competent bodies.

Paragraph 1. When the foreign bidder is allowed to quote price in foreign currency, the Brazilian bidder may also do so.

Paragraph 2. The payment made to the Brazilian bidder occasionally contracted by virtue of the bidding referred to in the previous paragraph shall be made in Brazilian currency, at the exchange rate in force on the working day immediately preceding the date of the effective payment. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. The payment warranties to the Brazilian bidder shall be equivalent to those offered to the foreign bidder.

Paragraph 4. For the purpose of judging the bid, the bids submitted by foreign bidders shall be added to the encumbrances resulting from the same taxes that exclusively burden the Brazilian bidders regarding the final sale operation.

Paragraph 5. For the execution of works, rendering of services, or the purchase of assets with the proceeds of the financing or a donation from the official cooperation of a foreign body in the multilateral financial of which Brazil is a party, may be allowed, on the respective bidding procedure, the conditions

arising from the agreements, protocols, conventions, and treaties approved by the National Congress, as well as the rules and procedures of those entities, including concerning the criteria for the selection of the proposal which is most advantageous to the administration, which may include, in addition to the price, other factors in the assessment since they are required to obtain financing or a donation, and not in conflict with the principles of the objective judgment, and are the subject of a reasoned order of the executing body of the contract, and the order that was ratified by the immediately superior authority. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 6. All bidders' quotes shall be for delivery at the same destination location.

Art. 43. The bidding procedure shall be processed and judged in compliance with the following procedures:

I - opening of envelopes containing documentation regarding the qualification of competitors, and their assessment;

II - return of closed envelopes to disqualified competitors, containing the respective proposals, provided there has been no appeal or after its refusal;

III - opening of envelopes containing the proposals of qualified competitors, provided the deadline has elapsed without appeal, or there has been an express withdrawal, or after the judgment of the appeals filed;

IV - verification of the conformity of each proposal with the requirements of the notice and, as the case may be, with the current prices on the market or fixed by the competent official body, or with those contained in the price registration system, which must be duly registered in the minutes of judgment, promoting the disqualification of the non-compliant or incompatible proposals;

V - judgment and classification of proposals according to the evaluation criteria contained in the notice;

VI - deliberation of the competent authority on the approval and award of the subject-matter of the bidding procedure.

Paragraph 1. The opening of the envelopes containing the qualification documentation and the proposals shall always be conducted in a previously designated public act, from which detailed minutes shall be drawn up, signed by the bidders present and by the Commission.

Paragraph 2. All documents and proposals shall be initialled by the bidders present and by the Commission.

Paragraph 3. The Commission or higher authority may, at any stage of the bidding procedure, promote diligence to clarify or supplement the instruction in the procedure, without the subsequent inclusion of any document or information that should have originally been included in the bidding procedure.

Paragraph 4. The provisions of this article shall apply to contest and, where applicable, to bidding procedure, auction, price taking, and invitation. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 5. After the competitor qualification phase (items I and II) and having opened the proposals (item III), it is impossible to disqualify them for reasons related to the qualification, except on account of supervening facts or only known after the judgment.

Paragraph 6. After the qualification phase, no proposal can be withdrawn, except for a fair reason arising from supervenient fact and accepted by the Commission.

Art. 44. When judging the proposals, the Commission shall consider the objective criteria set out in the notice or invitation, which shall not contradict the standards and principles established by this Law.

Paragraph 1. The use of any confidential, secret, subjective, or reserved element, criterion, or factor that may indirectly elude the principle of equality between bidders is prohibited.

Paragraph 2. Offers of advantage not provided for in the notice or the invitation, including subsidized or lost funds, nor price or advantage based on the offers of the other bidders shall not be considered.

Paragraph 3. No proposal shall be accepted that presents symbolic global or unit prices, which are negligible or of zero value, incompatible with the prices of inputs and market wages, plus their respective charges, even if the act calling for the bidding procedure has not established minimum limits, except when they refer to materials and facilities owned by the bidder, for which he/she waives the portion or the entire remuneration. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. The provisions of the previous paragraph shall also apply to bidding procedures involving foreign labor or imports of any kind. [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 45. The judgment of the proposals shall be objective, and the bidding Commission or the person responsible for the invitation must conduct it in accordance with the types of bidding, the criteria previously established in the convening act, and in accordance with the factors exclusively referred to therein, to enable their evaluation by the bidders and the control bodies.

Paragraph 1. For the purposes of this article, the following constitute types of bidding, except in the contest mode: [\(Wording established by Law nº 8,883 of 1994\)](#)

I - lowest price - when the selection criterion of the most advantageous proposal for the Administration determines that the bidder who submits the proposal according to the specifications of the notice or invitation and offers the lowest price shall be the winner;

II - best technique;

III - technique and price.

IV - higher bid or offer - in cases of alienation of goods or concession of property right of use. [\(Included by Law nº 8,883 of 1994\)](#)

Paragraph 2. In the event of a tie between two or more proposals, and after obeying the provisions of paragraph 2 of article 3 of this Law, the classification shall be made, mandatorily, by drawing lots, in a public act, for which all bidders shall be summoned, prohibited any other process.

Paragraph 3. In the case of bidding of the "lowest price" type, among the qualified bidders, the classification shall be in the ascending order of the proposed prices, exclusively prevailing, in the case of a tie, the criterion provided for in the previous paragraph. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. For contracting goods and services, the administration shall observe the provisions of [article 3 of Law nº 8,248 of October 23rd, 1991](#), considering the factors specified in its [paragraph 2](#), and mandatorily adopting the type of bidding "technique and price", allowed the employment of another type of bidding in the cases indicated in a Decree of the Executive Branch. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 5. The use of other types of bidding not provided for in this article is prohibited.

Paragraph 6. In the case provided for in article 23, paragraph 7, as many proposals as necessary shall be selected until the quantity demanded in the bidding procedure is reached. [\(Included by Law nº 9,648 of 1998\)](#)

Art. 46. The types of bidding "best technique" or "technique and price" shall be used exclusively for services of a predominantly intellectual nature, especially in the preparation of projects, calculations, fiscalization, supervision, and management and advisory engineering in general and, specifically, for the preparation of preliminary technical studies and basic and executive designs, subject to the provisions of paragraph 4 of the previous article. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 1. In the "best technique" bidding modality, the following procedure shall be adopted clearly specified in the convening instrument, which shall fix the maximum price that the Administration proposes to pay:

I - the envelopes containing the technical proposals exclusively from the bidders pre-qualified shall be opened, followed by the evaluation and classification of such proposals, in accordance with the criteria relevant and adequate to the object bid, defined clarity and objectivity in the convening instrument, and which consider the skills and experience of the proposing party, the technical quality of the proposal, including the methodology, organization, technology, and resource materials designed to be used in the work, and the qualification of technical staff that shall be used for the execution;

II - once the technical proposals have been classified, the price proposals of the bidders who have reached the minimum valuation established in the instrument shall be opened and the proposed conditions shall be negotiated, with the highest classified bidder, based on the detailed budgets presented and their unit prices and having as reference the limit represented by the lowest price proposal among the bidders;

III - in the case of impasse in the previous negotiation, an identical procedure shall be adopted, successively, with the other bidders, in the order of classification, until the agreement for the contract is reached;

IV - the price proposals shall be returned intact to the bidders who are not preliminarily qualified or who do not obtain the minimum valuation established for the technical proposal.

Paragraph 2. In the "technique and price" bidding modality, the following procedure, clearly specified in the convening instrument, shall be adopted, in addition to item I of the previous paragraph:

I - the evaluation and valuation of the price proposals shall be made, according to objective criteria pre-established in the convening instrument;

II - the classification of the bidders shall be made according to the weighted average of the valuations of the technical and price proposals, according to the pre-established weights in the convening instrument.

Paragraph 3. Exceptionally, the bidding modalities referred to in this article may be used by express permission and subject to detailed reasoning, of the highest authority in the Administration of the promoter constant of the convening act, for the supply of goods and execution of works or the provision of services in the large scale mainly dependent on notably sophisticated technology and of restricted field, as attested by the technician authorities of recognized qualification, in the case where the object allows alternate solutions and variations of execution, with significant impacts on quality, productivity, yield, and durability measurable, which can be adopted in a free choice of the bidder, in accordance to the criteria to be objectively established in the convening act.

Paragraph 4. (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Art. 47. In bidding procedures for the execution of works and services, when the modality of execution of contract by global price is adopted, the Administration must provide, together with the notice, all the necessary elements and information so that bidders can prepare their price proposals with full and complete knowledge of the object of the bidding procedure.

Art. 48. The following shall be disqualified:

I - proposals that do not meet the requirements of the act convening the bidding procedure;

II - proposals with an global value superior to the established limit or with manifestly unfeasible prices, thus considered those that have not demonstrated their feasibility through documentation that proves that the costs of the inputs are consistent with those of the market and that the productivity coefficients are compatible with the execution of the object of the contract, conditions necessarily specified in the convening act of the bidding procedure [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 1. For the purposes of item II of this article, bidding procedures, in the case of lower price bidding procedures for engineering works and services, the proposals whose values are less than 70% (seventy percent) of the lower of the following values are considered manifestly unenforceable: [\(Included by Law nº 9,648 of 1998\)](#)

a) the arithmetic average of bid values exceeding 50% (fifty%) of the amount budgeted by the Administration, or [\(Included by Law nº 9,648 of 1998\)](#)

b) the amount budgeted by the administration. [\(Included by Law nº 9,648 of 1998\)](#)

Paragraph 2. The provision of additional warranty, among the modalities provided for in paragraph 1 of article 56, equal to the difference between the value resulting from the previous paragraph and the value of the corresponding bid shall be required, for the signing of the contract, of the bidders classified in the form of the previous paragraph whose overall value of the bid is less than 80% (eighty percent) of the lower value referred to in subitems "a" and "b". [\(Included by Law nº 9,648 of 1998\)](#)

Paragraph 3. When all bidders are disqualified or all proposals are disqualified, the administration may set the bidders the deadline of eight working days for the submission of new documentation or other proposals excluded from the causes referred to in this article, provided, in the case of invitation, the reduction of this deadline to three working days. [\(Included by Law nº 9,648 of 1998\)](#)

Art. 49. The competent authority for the approval of the procedure may only revoke the bidding procedure for reasons of public interest arising from duly substantiated, relevant, and sufficient supervening fact to justify such conduct, and must annul it for illegality, ex officio or by provocation of third parties, by means of a written and duly substantiated opinion.

Paragraph 1. The cancellation of the bidding procedure due to illegality does not generate an obligation to indemnify, except for the provisions of the sole paragraph of article 59 of this Law.

Paragraph 2. The nullity of the bidding procedure induces that of the contract, except for the provisions of the sole paragraph of article 59 of this Law.

Paragraph 3. In the event of the cancellation of the bidding procedure, the adversary proceeding and right to a fair hearing is ensured.

Paragraph 4. The provisions of this article and its paragraphs apply to the acts of the procedure of dismissal and unenforceability of bidding.

Art. 50. The Administration cannot conclude the contract omitting the order of classification of the proposals or with third parties unrelated to the bidding procedure, under penalty of nullity.

Art. 51. The preliminary qualification, registration in the records, its amendment or cancellation, and the proposals shall be processed and judged by a standing or special commission of at least 3 (three) members, with at least 2 (two) of them qualified servants belonging to the standing cadres of the Administration bodies responsible for the bidding.

Paragraph 1. In the case of an invitation, the bidding Commission, exceptionally in small administrative units and in view of the limited number of staff available, may be replaced by a server formally designated by the competent authority.

Paragraph 2. The Commission for the judgment of applications for registration in the records, their amendment, or cancellation, shall be composed by legally qualified professionals in the case of works, services, or acquisition of equipment.

Paragraph 3. The members of the bidding Commissions shall be jointly and severally liable for all acts conducted by the Commission, unless a divergent individual position is duly substantiated and recorded in minutes drawn up at the meeting at which the decision was taken.

Paragraph 4. The investiture of the members of the Standing Commissions shall not exceed one (1) year, without prejudice to the reappointment of all its members to the same commission in the subsequent period.

Paragraph 5. In the case of contest, the judgment shall be made by a special commission composed of persons of immaculate reputation and recognized knowledge of the matter under examination, public servants or not.

Art. 52. The contest referred to in paragraph 4 of article 22 of this Law must be preceded by its own regulation, to be obtained by interested parties at the place indicated in the notice.

Paragraph 1. The regulation shall indicate:

I - the qualification required of the participants;

II - the guidelines and the form of presentation of the work;

III - the conditions for holding the contest and the prizes to be awarded.

Paragraph 2. In the case of a project, the winner must authorize the Administration to execute it when it deems appropriate.

Art. 53. The auction may be committed to the official auctioneer or server designated by the Administration, proceeding in the form of the relevant legislation.

Paragraph 1. Every good to be auctioned shall be previously evaluated by the Administration for fixing the minimum auction price.

Paragraph 2. The auctioned goods shall be paid in cash or in the percentage established in the notice, not inferior to 5% (five percent) and, after the signature of the respective minutes taken at the auction site, immediately delivered to the auctioneer, who shall be obliged to pay the remainder within the period stipulated in the convening notice, under penalty of losing the amount already collected in favor of the Administration.

Paragraph 3. In international auctions, payment of the installment in cash can be made in up to twenty-four hours. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. The auction notice must be widely publicized, especially in the municipality in which it shall be held. [\(Included by Law nº 8,883 of 1994\)](#)

Chapter III CONTRACTS

Section I General Provisions

Art. 54. The administrative contracts referred to in this Law are governed by its clauses and by the precepts of public law, applying to them, in addition, the principles of the general theory of contracts and the provisions of private law.

Paragraph 1. Contracts shall clearly and accurately establish the conditions for their execution, expressed in clauses defining the rights, obligations and responsibilities of the parties, in accordance with the terms of the bidding procedure and the proposal to which they are bound.

Paragraph 2. Contracts resulting from waiver or unenforceability of bidding must meet the terms of the act authorizing them and the respective bidding.

Art. 55. The clauses that establish the following are necessary in every contract:

I - the object and its characteristic elements;

II - the execution arrangements or the form of supply;

III - the price and terms of payment, the criteria, base date, and periodicity of the price adjustment, the criteria for monetary updating between the date of the compliance of the obligations and that of the actual payment;

IV - the time limits for the beginning of the execution, completion, delivery, observation, and final receipt stages, as the case may be;

V - the credit for which the expense shall be incurred, with the indication of the programmatic functional classification and the economic category;

VI - the warranties offered to ensure its full execution, when required;

VII - the rights and responsibilities of the parties, applicable penalties, and values of the fines;

VIII - cases of termination;

IX - the recognition of the rights of the Administration, in case of administrative termination provided for in article 77 of this Law;

X - the import conditions, the date, and the exchange rate for conversion, where applicable;

XI - the binding to the bidding notice or to the term that waives it or established its unenforceability, to the invitation and to the proposal of the winning bidder;

XII - the legislation applicable to the execution of the contract and especially to cases of omission;

XIII - the obligation of the contracted party to maintain, throughout the execution of the contract, in compatibility with the obligations assumed, all the conditions of qualification required in the bidding procedure.

Paragraph 1. (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 2. In contracts concluded by the Government with individuals or legal entities, including those domiciled abroad, there must necessarily be a clause declaring the jurisdiction of the headquarters of the Administration to settle any contractual issue, except as provided in paragraph 6 of article 32 of this Law.

Paragraph 3. At the time of the settlement of the expense, the accounting services shall communicate to the bodies responsible for collecting and supervising taxes of the Union, State, or Municipality, the characteristics and amounts paid, according to the provisions of [article 63 of Law n 4,320 of March 17th, 1964](#).

Art. 56. A warranty may be required in the contracting of works, services, and purchases, at the discretion of the competent authority, in each case, and provided for in the convening instrument.

Paragraph 1. The contracted party shall choose one of the following warranty modalities: [\(Wording established by Law nº 8,883 of 1994\)](#)

I - security in cash or public debt securities, which must have been issued in writing, through registration in a centralized settlement and custody system authorized by the Central Bank of Brazil and evaluated by their economic values, as defined by the Ministry of Finance; [\(Wording established by Law nº 11,079 of 2004\)](#)

II - insurance-guarantee; [\(Wording established by Law nº 8,883 of 1994\)](#)

III - bank warranty. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 2. The warranty referred to in the head provision of this article shall not exceed five percent of the value of the contract and shall have its value updated under the same conditions, except as provided in paragraph 3 of this article. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. For large-scale works, services, and supplies involving high technical complexity and considerable financial risks, demonstrated by an opinion technically approved by the competent authority, the warranty limit provided for in the previous paragraph may be raised to up to ten percent of the contract value. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. The warranty provided by the contracted party shall be released or refunded after the execution of the contract and, when in cash, updated monetarily.

Paragraph 5. In cases of contracts concerning the delivery of goods by the Administration, of which the contracted party shall be depositary, the value of the security must be added to the value of these goods.

Art. 57. The duration of the contracts governed by this Law shall be subject to the validity of the respective budget appropriations, except for those relating to:

I - projects whose products are contemplated in the goals established in the Multiannual Plan, which may be extended if there is interest from the Administration and provided that this has been provided for in the convening act;

II - the provision of services to be performed continuously, which may have their duration extended for equal and successive periods with a view to obtaining more advantageous prices and conditions for the Administration, limited to sixty months; [\(Wording established by Law nº 9,648 of 1998\)](#)

III - (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

IV - the rental of equipment and the use of computer programs, with a duration that may extend for a period of up to 48 (forty-eight) months after the beginning of the effectiveness of the contract.

V - the hypotheses provided for in items IX, XIX, XXVIII, and XXXI of article 24, whose contracts may be valid for up to 120 (one hundred and twenty) months, if there is interest from the Administration. [\(Included by Law nº 12,349 of 2010\)](#)

Paragraph 1. The terms of the beginning of the execution, completion, and delivery stages allow extension, maintaining the other clauses of the contract and ensuring the maintenance of its economic-financial balance, provided any of the following reasons occur, duly established in procedure:

I - modification of the design or specifications, by the Administration;

II - supervenience of exceptional or unpredictable fact, alien to the will of the parties, which fundamentally changes the conditions of execution of the contract;

III - interruption of the execution of the contract or decrease in the pace of work by order and in the interests of the Administration;

IV - increase in the quantities initially provided for in the contract, within the limits allowed by this Law;

V - impediment of execution of the contract by fact or act of third party recognized by the Administration in document contemporaneous to its occurrence;

VI - omission or delay of actions by the Administration, including the planned payments that result, directly, impediment or delay in the execution of the contract, without prejudice to the legal sanctions applicable to those responsible.

Paragraph 2. Any extension of time shall be justified in writing and authorised in advance by the authority competent to conclude the contract.

Paragraph 3. The contract with an indefinite effectiveness is prohibited.

Paragraph 4. In exceptional circumstances, duly justified and with the authorisation of the higher authority, the period covered by item II of the head provision of this article may be extended by up to twelve months. [\(Included by Law nº 9,648 of 1998\)](#)

Art. 58. The legal regime of administrative contracts established by this Law gives the Administration, in relation to them, the prerogative to:

I - modify them, unilaterally, to better suit the purposes of public interest, respecting the rights of the contracted party;

II - terminate them, unilaterally, in the cases specified in item I of article 79 of this Law;

III - supervise their implementation;

IV - apply sanctions motivated by the total or partial non-compliance with the adjustment;

V - in cases of essential services, temporarily occupy movable, immovable, personnel, and services linked to the object of the contract, in the event of the need to take care of the administrative determination of contractual faults by the contracted party, as well as in the event of termination of the administrative contract.

Paragraph 1. The economic-financial and monetary clauses of the administrative contracts may not be changed without prior agreement of the contracted party.

Paragraph 2. In the case of item I of this article, the economic-financial clauses of the contract must be revised to maintain the contractual balance.

Art. 59. The declaration of nullity of the administrative contract operates retroactively preventing the legal effects that it, ordinarily, should produce, in addition to reconstituting those already produced.

Sole paragraph. The nullity does not exempt the Administration from the duty to compensate the contracted party for what it has performed until the date on which it is declared and for other losses regularly proven, provided it is not attributable to him, promoting the responsibility of those who gave him cause.

Section II

Formalization of the Contracts

Art. 60. The contracts and their amendments shall be processed in the departments concerned, which shall maintain a chronological file of their autographs and systematic record of their extract, except those relating to property rights on real estate, which are formalized by instrument worked in a notary's office, joining a copy of all documents in the procedure that gave rise to it.

Sole paragraph. The verbal contract with the Administration is void and of no effect, except for small purchases of ready payment, thus understood as those of value not exceeding 5% (five percent) of the limit established in article 23, item II, subitem "a" of this Law, made in advance.

Art. 61. Every contract must mention the names of the parties and those of their representatives, the purpose, the act that authorized their drafting, the number of the bidding procedure, the waiver or the unenforceability, the subjection of the contractors to the norms of this Law, and the contractual clauses.

Sole paragraph. The summary publication of the contract or its addendums in the official press, which is an indispensable condition for its effectiveness, shall be provided by the Administration until the fifth working day of the month following that of its signature, to occur within twenty days of that date,

whatever its value, even if without charge, subject to the provisions of article 26 of this Law. [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 62. The instrument of contract is mandatory in cases of competition and price taking, as well as in waivers and unenforceability whose prices fall within the limits of these two bidding modalities, and optional in the others where the Administration can replace it with other instruments, such as letter-contract, note of commitment of expense, purchase authorization, or order of execution of service.

Paragraph 1. The draft of the future contract shall always integrate the notice or convening act for a bidding procedure.

Paragraph 2. The provisions of article 55 of this Law apply, where applicable, to "letter contract", "note of commitment of expense", "authorization of purchase", "order of execution of service" or other applicable instruments. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 3. The provisions of articles 55 and 58 to 61 of this Law and other general rules are applicable:

I - to insurance, financing, lease contracts in which the Public Authority is a tenant, and to others whose content is governed, predominantly, by private law;

II - to contracts to which the Administration is a party as a public service user.

Paragraph 4. The "term of contract" is dispensable and the replacement provided for in this article is provided, at the discretion of the Administration and regardless of its value, in cases of purchase with immediate and full delivery of the purchased goods, from which no future obligations, including technical assistance, result.

Art. 63. Any bidder shall be allowed to know the terms of the contract and the respective bidding procedure and, to any interested party, to obtain a certified copy, upon payment of the emoluments due.

Art. 64. The Administration shall regularly convene the interested party to sign the contract term, accept or withdraw the equivalent instrument, within the time and conditions established, under penalty of forfeiting the right to contracting, without prejudice to the sanctions provided for in article 81 of this Law.

Paragraph 1. The convening period may be extended once, for the same period, when requested by the party during its course and provided that there is a justified reason accepted by the Administration.

Paragraph 2. The Administration may, when the convened does not sign the terms of the agreement, or does not accept or to remove the instrument equivalent to the term and conditions set forth, convene the remaining bidder, in the classification order, to do so in the same period and to the same terms and conditions offered by the first classified, including regarding updated prices in accordance with the convening act, or to withdraw the bid, regardless of the summons referred to in article 81 of this Law.

Paragraph 3. After 60 (sixty) days from the date of delivery of the proposals, without a call for contracting, the bidders are released from the commitments assumed.

Section III

Amendment of the Contracts

Art. 65. The contracts governed by this Law may be amended, with due justification, in the following cases:

I - unilaterally by the Administration:

a) when there is modification of the design or specifications, for better technical suitability to its objectives;

b) when necessary to the modification of the contractual value due to the quantitative increase or decrease of its object, within the limits allowed by this Law;

II - by agreement of the parties:

a) where the replacement of the execution warranty is appropriate;

b) when it is necessary to modify the regime of execution of the work or service, as well as the mode of supply, in the face of technical verification of the inapplicability of the original contractual terms;

c) when requiring the modification of the form of payment, by imposition of supervening circumstances, maintaining the initial amount updated, prohibited the anticipation of the payment, regarding the financial schedule fixed, without the corresponding consideration of supply of goods or execution of work or service;

d) to re-establish the relationship of the parties initially agreed to between the contracted party's duties and the compensation of the administration for the fair remuneration for the work, service or supply, with a view to the maintenance of the economic and financial balance of the contract, in the event of unforeseeable facts, or foreseeable but with incalculable consequences, that delay or prevent the execution of the contract, or in the case of a force majeure or fortuitous case, configuring an extraordinary or extra-contractual economic risk. [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 1. The contracted party is obliged to accept, under the same contractual conditions, the additions or deletions that are made in the works, services, or purchases, up to 25% (twenty-five percent) of the initial updated value of the contract, and, in the specific case of renovation of building or equipment, up to the limit of 50% (fifty percent) for their additions.

Paragraph 2. No addition or deletion may exceed the limits set out in the previous paragraph, except: [\(Wording established by Law nº 9,648 of 1998\)](#)

I - (VETOED) [\(Included by Law nº 9,648 of 1998\)](#)

II - the deletions resulting from an agreement concluded between the parties. [\(Included by Law nº 9,648 of 1998\)](#)

Paragraph 3. If the contract does not include unit prices for works or services, these shall be fixed by agreement between the parties, respecting the limits established in paragraph 1 of this article.

Paragraph 4. In the case of deletion of works, goods or services, if the contracted party has already acquired the materials and placed them in the place of work, these must be paid by the Administration for the acquisition costs regularly proven and monetarily corrected, and compensation may be payable for other damages possibly arising from the deletion, provided regularly proven.

Paragraph 5. Any taxes or legal charges created, modified, or extinguished, as well as the supervenience of legal provisions, when occurring after the date of submission of the proposal, of proven repercussion on the contracted prices, shall imply the revision of these for more or less, as the case may be.

Paragraph 6. In the event of a unilateral change of the contract that increases the contracted party's burden, the Administration shall restore the initial economic-financial balance.

Paragraph 7. (VETOED).

Paragraph 8. The change in the contractual value to meet the price adjustment provided for in the contract, the updates, compensations, or financial penalties arising from the conditions of payment provided for therein, as well as the commitment of additional budget appropriations up to the limit of their corrected value, do not characterize any change in the contract and can be recorded by simple handouts, without the conclusion of addition.

Section IV **Execution of the Contracts**

Art. 66. The contract must be faithfully executed by the parties, in accordance with the agreed clauses and the rules of this Law, each being liable for the consequences of its total or partial non-performance.

Art. 66-A. Companies covered by item II of paragraph 2 and item II of paragraph 5) of article 3 of this Law must comply, during the entire period of execution of the contract, the reservation of positions provided for by law for persons with disabilities or for rehabilitated Social Security, as well as the accessibility rules provided for in the legislation. [\(Included by Law nº 13,146 of 2015\) \(Effectiveness\)](#)

Sole paragraph. The administration shall supervise the compliance with accessibility requirements in services and work environments. [\(Included by Law nº 13,146 of 2015\)](#)

Art. 67. The execution of the contract shall be monitored and supervised by a specially designated representative of the Administration, allowing the hiring of third parties to assist and subsidize with information relevant to that assignment.

Paragraph 1. The representative of the Administration shall record all the occurrences related to the execution of the contract, determining what is necessary to regularize the faults or defects observed.

Paragraph 2. Decisions and actions beyond the competence of the representative should be requested from his/her superiors in a timely manner for the adoption of appropriate measures.

Art. 68. The contracted party must maintain an agent, accepted by the Administration, at the site of the work or service, to represent him/her in the execution of the contract.

Art. 69. The contracted party is obliged to repair, correct, remove, rebuild, or replace, at its expense, in whole or in part, the object of the contract in which there are defects or inaccuracies resulting from the execution or materials used.

Art. 70. The contracted party is liable for the damage caused directly to the Administration or third parties, arising from its fault or willful intent in the execution of the contract. The supervision or monitoring by the body concerned does not exclude or reduce this liability.

Art. 71. The contracted party is responsible for labor, Social Security, tax, and commercial expenses resulting from the execution of the contract.

Paragraph 1. The default of the contracted party regarding labor, tax, and commercial charges does not transfer to the Government the liability for its payment, nor can it burden the object of the contract or restrict the regularization and use of works and buildings, including before the registration of real estate. [\(Wording established by Law nº 9,032 of 1995\)](#)

Paragraph 2. The Government is jointly and severally liable with the contracted party for the Social Security charges resulting from the execution of the contract, in accordance with [article 31 of Law nº 8,212 of July 24th, 1991](#). [\(Wording established by Law nº 9,032 of 1995\)](#)

Paragraph 3. (VETOED). [\(Included by Law nº 8,883 of 1994\)](#)

Art. 72. The contracted party, in the execution of the contract, without prejudice to contractual and legal responsibilities, may subcontract parts of the work, service, or supply, up to the limit admitted, in each case, by the Administration.

Art. 73. Having executed the contract, its object shall be received:

I - in the case of works and services:

a) provisionally, by the person responsible for its monitoring and supervision, upon detailed term, signed by the parties within 15 (fifteen) days of the written communication of the contracted party;

b) definitively, by server or commission appointed by the competent authority, by detailed term, signed by the parties, after the expiration of the observation period, or survey that proves the adequacy of the object to the contractual terms, observing the provisions of article 69 of this Law;

II - in the case of purchases or rental of equipment:

a) provisionally, for the purpose of further verification of the conformity of the material with the specification;

b) definitively, after verifying the quality and quantity of the material and consequent acceptance.

Paragraph 1. In cases of acquisition of large equipment, the receipt shall be made by detailed term and, in the others, by receipt.

Paragraph 2. The provisional or definitive receipt does not exclude civil liability for the solidity and safety of the work or service, nor ethical-professional for the perfect execution of the contract, within the limits established by law or by the contract.

Paragraph 3. The period referred to in subitem "b" of item I of this article may not exceed 90 (ninety) days, except in exceptional cases, duly justified and provided for in the notice.

Paragraph 4. In the event that the detailed term or the verification referred to in this article are not, respectively, drafted or carried out within the deadlines set, they shall be deemed to have been carried out, provided they are communicated to the Administration within 15 (fifteen) days before their exhaustion.

Art. 74. Provisional receipt may be waived in the following cases:

I - perishable genera and prepared feed;

II - professional services;

III - works and services of value up to the provisions of article 23, item II, subitem "a", of this law, provided they are not composed of appliances, equipment, and facilities subject to the verification of operation and productivity.

Sole paragraph. In the cases of this article, receipt shall be made upon receipt.

Art. 75. Unless otherwise provided for in the notice, invitation, or normative act, the essays, tests, and other examinations required by official technical standards for the proper execution of the object of the contract are on behalf of the contracted party.

Art. 76. The Administration shall reject, in whole or in part, work, service, or supply executed in disagreement with the contract.

Section V

Non-execution and Termination of the Contracts

Art. 77. The total or partial non-execution of the contract results in its termination, with the contractual consequences and those provided for by law or regulation.

Art. 78. Constitute grounds for termination of the contract:

I - non-compliance with contractual clauses, specifications, projects, or deadlines;

II - irregular compliance with contractual clauses, specifications, projects, and deadlines;

III - the slowness of its fulfillment, leading the Administration to prove the impossibility of the completion of the work, service, or supply, within the stipulated deadlines;

IV - the unjustified delay in the beginning of the work, service, or supply;

V - the stoppage of the work, service, or supply, without just cause and prior communication to the Administration;

VI - the total or partial subcontracting of its object, the association of the contractor with another, the assignment or transfer, total or partial, as well as the merger, division, or incorporation, not admitted in the notice and in the contract;

VII - failure to comply with the regular determinations of the authority designated to monitor and supervise its implementation, as well as those of its superiors;

VIII - the repeated commission of faults in its execution, noted in the form of paragraph 1 of article 67 of this Law;

IX - the decree of bankruptcy or the establishment of civil insolvency;

X - the dissolution of the company or the death of the contracted party;

XI - the social change or the modification of the purpose or structure of the company, which impairs the execution of the contract;

XII - reasons of public interest, of high relevance and wide knowledge, justified and determined by the highest authority of the administrative sphere to which the contracted party is subordinate and stated in the administrative procedure referred to in the contract;

XIII - the suppression, by the Administration, of works, services, or purchases, resulting in modification of the initial value of the contract beyond the limit allowed in paragraph 1 of article 65 of this Law;

XIV - the suspension of its execution, by written order of the Administration, for a period exceeding 120 (one hundred and twenty) days, except in case of public calamity, serious disturbance of the internal order, or war, or for repeated suspensions totaling the same period, regardless of the mandatory payment of compensation for successive and contractually unforeseen demobilizations and mobilizations, and others planned, assuring the contracted party, in these cases, the right to choose the suspension of compliance of the obligations assumed until the situation is normalized;

XV - the delay of more than 90 (ninety) days of the payments due by the Administration arising from works, services, or supplies, or installments thereof, already received or executed, except in case of public calamity, serious disturbance of the internal order, or war, assuring the contracted party the right to choose the suspension of the fulfillment of its obligations until the situation is normalized;

XVI - the non-release, by the Administration, of area, location, or object for the execution of work, service, or supply, within the contractual terms, as well as the sources of natural materials specified in the project;

XVII - the occurrence of fortuitous event or force majeure, regularly proven, preventing the execution of the contract.

XVIII - non-compliance with the provisions of item V of article 27, without prejudice to the applicable criminal sanctions. [\(Included by Law nº 9,854 of 1999\)](#)

Sole paragraph. The cases of contractual termination shall be formally motivated in the records of the proceedings, with the adversary proceeding and right to a fair hearing being assured.

Art. 79. The termination of the contract may be:

I - determined by unilateral and written act of the Administration, in the cases listed in items I to XII and XVII of the previous article;

II - amicable, by agreement between the parties, reduced to term in the bidding procedure, provided it is convenient for the Administration;

III - legal, according to the legislation;

IV - (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 1. The administrative or amicable termination shall be preceded by written and reasoned authorization from the competent authority.

Paragraph 2. When the termination occurs based on items XII to XVII of the previous article, without the fault of the contracted party, the latter shall be compensated for the regularly proven losses that it has suffered, also having the right to:

I - warranty return;

II - payments due for the performance of the contract up to the date of termination;

III - payment of the cost of demobilization.

Paragraph 3. (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 4. (VETOED). [\(Wording established by Law nº 8,883 of 1994\)](#)

Paragraph 5. In the event of an impediment, stoppage, or suspension of the contract, the execution schedule shall be automatically extended for the same time.

Art. 80. The termination referred to in item I of the previous article entails the following consequences, without prejudice to the sanctions provided for in this Law:

I - immediate assumption of the object of the contract, in the state and place in which it is located, by an act of the Administration;

II - occupation and use of the site, facilities, equipment, material, and personnel employed in the execution of the contract, necessary for its continuity, in the form of item V of article 58 of this Law;

III - execution of the contractual warranty, for compensation of the Administration, and the amounts of fines and indemnity due to it;

IV - retention of claims arising from the contract up to the limit of losses caused to the Administration.

Paragraph 1. The application of the measures provided for in items I and II of this article is at the discretion of the Administration, which may continue the work or service by direct or indirect execution.

Paragraph 2. The Administration may, in the case of agreement of the contracted party, maintain the contract, and assume control of certain activities of essential services.

Paragraph 3. In the case of item II of this article, the act must be preceded by express authorization from the competent Minister of State, or State or Municipal Secretary, as the case may be.

Paragraph 4. The termination referred to in item IV of the preceding article shall enable the Administration, at its discretion, to apply the measure provided for in item I of this article.

Chapter IV ADMINISTRATIVE SANCTIONS AND LEGAL PROTECTION

Section I General Provisions

Art. 81. The unjustified refusal of the successful bidder to sign the contract, accept or withdraw the equivalent instrument, within the period established by the Administration, characterizes the complete non-fulfillment of the obligation assumed, subjecting it to the legally established penalties.

Sole paragraph. The provisions of this article do not apply to bidders summoned pursuant to article 64, paragraph 2 of this Law, who do not accept the contract, under the same conditions proposed by the first successful bidder, including as to the term and price.

Art. 82. Administrative agents who engage in acts in disagreement with the precepts of this Law or aimed at thwarting the objectives of the bidding procedure are subject to the sanctions provided for in this Law and in the regulations themselves, without prejudice to the civil and criminal liabilities that their act entails.

Art. 83. The crimes defined in this Law, even if simply attempted, subject their perpetrators, when public servants, in addition to criminal sanctions, to the loss of office, employment, function, or elective mandate.

Art. 84. For the purposes of this Law, a public servant is considered one who exercises, even if temporarily or without remuneration, a public position, function, or job.

Paragraph 1. For the purposes of this Law, a public servant is considered a person who holds a position, employment, or function in a parastatal entity, thus considered, in addition to foundations, public companies, and government-controlled private companies, the other entities under direct or indirect control of the Public Authority.

Paragraph 2. The penalty imposed shall be increased by the third part, when the perpetrator of the crimes provided for in this Law are occupying positions in commission or trust function in a body of direct administration, autarchy, public company, government-controlled private companies, public foundation, or other entity controlled directly or indirectly by the Public Authority.

Art. 85. The criminal offenses provided for in this Law pertain to bidding procedures and contracts concluded by the Union, States, Federal District, Municipalities, and their respective autarchies, public companies, government-controlled private companies, public foundations, and any other entities under their direct or indirect control.

Section II

Administrative Sanctions

Art. 86. The unjustified delay in the execution of the contract shall subject the contracted party to the penalty of late payment, in the manner provided for in the convening instrument or in the contract.

Paragraph 1. The fine referred to in this article does not prevent the administration from unilaterally terminating the contract and applying the other sanctions provided for in this Law.

Paragraph 2. The fine, applied after regular administrative proceedings, shall be deducted from the warranty of the respective contractor.

Paragraph 3. If the fine is superior to the value of the warranty provided, in addition to the loss of the warranty, the contracted party shall be liable for its difference, which shall be deducted from any payments due by the Administration or, when appropriate, collected judicially.

Art. 87. The Administration may apply to the contracted party the following sanction for the total or partial non-performance of the contract, ensuring the prior defense:

I - warning;

II - fine, in the form provided for in the convening instrument or in the contract;

III - temporary suspension of participation in bidding procedures and impediment to contract with the Administration, for a term not exceeding 2 (two) years;

IV - declaration of inadmissibility to bid or contract with the Government as long as the determining reasons for the punishment persist or until rehabilitation is promoted before the authority that applied the penalty, which shall be granted whenever the contracted party compensates the Administration for the resulting losses and after the deadline of the sanction applied based on the previous paragraph has passed.

Paragraph 1. If the fine is superior to the value of the warranty provided, in addition to the loss of the warranty, the contracted party shall be liable for its difference, which shall be deducted from any payments due by the Administration or collected judicially.

Paragraph 2. The sanctions provided for in subparagraphs I, III and IV of this article may be applied together with that of subparagraph II, provided that the person concerned has prior defence in the respective proceedings, within 5 (five) working days.

Paragraph 3. The sanction established in item IV of this article is of exclusive competence of the Minister of State, the State or Municipal Secretary, as the case may be, provided the defense of the interested party in the respective process, within 10 (ten) days of the opening of the hearing, and rehabilitation may be required after 2 (two) years of its application. [\(See article item III\)](#)

Art. 88. The sanctions provided for in item III and IV of the previous article may also be applied to companies or professionals who, by reason of the contracts governed by this Law:

I - have suffered a definitive conviction for practicing, by malicious means, tax fraud in the collection of any taxes;

II - have committed unlawful acts aimed at thwarting the objectives of the bidding procedure;

III - demonstrate no suitability to contract with the Administration due to illegal acts practiced.

Section III Crimes and Penalties

Art. 89. Dismiss or not require bidding outside the circumstances provided for by law, or fail to observe the formalities relevant to the waiver or unenforceability:

Penalty - imprisonment, from 3 (three) to 5 (five) years, and fine.

Sole paragraph. The same penalty incurs for those who, having provenly competed for the consummation of the illegality, benefited from the unlawful dismissal or unenforceability to conclude a contract with the Public Authority.

Art. 90. Thwart or defraud, by adjustment, combination, or any other expedient, the competitive nature of the bidding procedure, with the aim of obtaining, for yourself or for others, advantage arising from the award of the object of the bidding:

Penalty - imprisonment, from 2 (two) to 4 (four) years, and fine.

Art. 91. Sponsor, directly or indirectly, private interest before the Administration, giving cause to the initiation of bidding or the conclusion of a contract, whose invalidation shall be decreed by the Judicial Branch:

Penalty - imprisonment, from 6 (six) months to 2 (two) years, and fine.

Art. 92. To admit, enable, or give cause to any modification or advantage, including contractual extension, in favor of the successful bidder, during the execution of the contracts concluded with the Public Authority, without authorization in Law, in the act convening the bidding procedure or in the respective contractual instruments, or to pay invoice omitting the chronological order of its enforceability,

observed the provisions of article 112 of this Law:
[1994\)](#)

[\(Wording established by Law nº 8,883 of](#)

Penalty - imprisonment, from two to four years, and fine.
[8,883 of 1994\)](#)

[\(Wording established by Law nº](#)

Sole paragraph. The same penalty applies to the contracted party who, having provenly competed for the consummation of the illegality, unjustly obtains undue advantage or benefits, from the contractual modifications or extensions.

Art. 93. Prevent, disrupt, or defraud the performance of any act of bidding procedure:

Penalty - imprisonment, from 6 (six) months to 2 (two) years, and fine.

Art. 94. To prevent the secrecy of the proposal presented in the bidding procedure, or to provide the third party with the opportunity to prevent it:

Penalty - imprisonment, from 2 (two) to 3 (three) years, and fine.

Art. 95. Remove or seek to remove a bidder, by means of violence, serious threat, fraud, or offering an advantage of any kind:

Penalty - imprisonment, from 2 (two) to 4 (four) years, and fine, in addition to the added penalty for violence.

Sole paragraph. The same penalty applies to those who abstain or refuse to bid on account of the advantage offered.

Art. 96. Fraud, to the detriment of the Public Treasury, a bidding procedure instituted for the acquisition or sale of goods or merchandise, or contract arising by:

I - arbitrarily raising prices;

II - selling counterfeit or decayed goods as true or perfect;

III - delivering one commodity for another;

IV - changing the substance, quality, or quantity of the goods supplied;

V - making the proposal or the performance of the contract, in any way, unjustly, more onerous:

Penalty - imprisonment, from 3 (three) to 6 (six) years, and fine.

Art. 97. Admit to the bidding or conclude a contract with a company or professional declared disreputable:

Penalty - imprisonment, from 6 (six) months to 2 (two) years, and fine.

Sole paragraph. The same penalty applies to those who, declared disreputable, come to bid or contract with the Administration.

Art. 98. Unjustly hinder, prevent, or impede the registration of any interested party in the registration records or unduly promote the amendment, suspension, or cancellation of registration of the applicant:

Penalty - imprisonment, from 6 (six) months to 2 (two) years, and fine.

Art. 99. The penalty of fines referred to in articles 89 to 98 of this Law consists in the payment of an amount fixed in the judgment and calculated in percentage indices, based on the value of the advantage effectively or potentially obtained by the agent.

Paragraph 1. The rates referred to in this article may not be inferior to 2% (two per cent) or superior to 5% (five per cent) of the value of the contract bid or concluded with exemption or ineligibility to bid.

Paragraph 2. The proceeds of the collection of the fine shall revert, as the case may be, to the Federal, District, State, or Municipal treasury.

Section IV **Procedure and Judicial Procedure**

Art. 100. The crimes defined in this Law are unconditioned criminal prosecution, and the Public Prosecutor's Office shall promote it.

Art. 101. Any person may provoke, for the purposes of this Law, the initiative of the Public Prosecutor's Office, providing it, in writing, information about the fact and its authorship, as well as the circumstances in which it occurred.

Sole paragraph. When the communication is verbal, the authority shall have it reduced to a term, signed by the presenter and two witnesses.

Art. 102. When the magistrates, the members of the Courts or Auditors Council or the holders of the bodies of the internal affairs system of any of the Branches verify the existence of the crimes defined in this Law in the case files or documents, they shall send to the Public Prosecutor's Office the copies and the documents necessary to offer the complaint.

Art. 103. A private criminal prosecution subsidiary of the public prosecution shall be admitted if it is not filed within the legal period, applying, where appropriate, the provisions of [articles 29](#) and [30 of the Code of Criminal Procedure](#).

Art. 104. After receiving the complaint and citing the defendant, he/she shall have 10 (ten) days to present a written defense, counted from the date of his/her interrogation, and can add documents, list witnesses, in number not exceeding 5 (five), and indicate the other evidence he/she intends to produce.

Art. 105. After hearing the witnesses of the prosecution and the defense and practicing the investigative procedures granted or ordered by the judge, the period of 5 (five) days shall be opened successively to each party for closing arguments.

Art. 106. After this period, and concluded the proceedings within 24 (twenty-four) hours, the judge shall have 10 (ten) days to deliver the sentence.

Art. 107. The sentence is subject to appeal within 5 (five) days.

Art. 108. In the processing and judgment of the criminal offences defined in this Law, as well as in appeals and executions concerning them, the [Code of Criminal Procedure](#) and the [Criminal Enforcement Act](#) shall be subsidiarily applied.

Chapter V ADMINISTRATIVE APPEALS

Art. 109. Acts of the Administration arising from the application of this Law allow:

I - appeal, within 5 (five) working days from the subpoena of the act or the preparation of the minutes, in cases of:

- a) qualification or disqualification of the bidder;
- b) judgment of proposals;
- c) cancellation or revocation of the bidding procedure;
- d) rejection of the application in registration records, its amendment, or cancellation;
- e) termination of the contract, as referred to in item I of article 79 of this Law; [\(Wording established by Law nº 8,883 of 1994\)](#)
- f) application of warning, temporary suspension, or fine penalties;

II - representation, within 5 (five) working days of the subpoena of the decision regarding the object of the bidding procedure or the contract, that there is no hierarchical appeal;

III - request for reconsideration, of decision of the Minister of State, or State or Municipal Secretary, as the case may be, in the cases of [paragraph 4 of article 87 of this Law](#), within 10 (ten) working days of the subpoena of the act.

Paragraph 1. The notice of the acts referred to in item I, subitems "a", "b", "c", and "d" of this article, excluding those regarding a warning or fine for late payment, and item III, shall be made by publication in official media, except in the cases provided for in subitems "a" and "b" if the presence of the representatives of the bidders at the time at which the decision was adopted, when it may be done by direct communication to the interested parties and recorded in the minutes.

Paragraph 2. The appeal referred to in subitems "a" and "b" of item I of this article shall have suspensive effect and the competent authority may, on grounds of reasons and present reasons in the public interest, grant suspensive effect to the other appeals.

Paragraph 3. The appeal shall be communicated to the other bidders, who may challenge it within 5 (five) working days.

Paragraph 4. The appeal shall be addressed to the higher authority, through the one who practiced the act appealed, which may reconsider its decision, within 5 (five) working days, or, within the same period, raise it, duly informed. In this case, the decision must be rendered within 5 (five) working days, counted from the receipt of the appeal, under penalty of liability.

Paragraph 5. No period of appeal, representation, or request for reconsideration begins or runs without the documents of the proceedings allowing a view to the interested party.

Paragraph 6. In the case of bidding procedures made in the form of "invitation letter", the deadlines established in items I and II and paragraph 3 of this article shall be of two working days. [\(Included by Law nº 8,883 of 1994\)](#)

CHAPTER VI FINAL AND TRANSITIONAL PROVISIONS

Art. 110. In the counting of the deadlines established in this Law, the initial day shall be excluded and the day of maturity shall be included, and consecutive days shall be considered, unless explicitly provided otherwise.

Sole paragraph. The deadlines referred to in this article only begin and mature on working days at the body or entity.

Art. 111. The Administration may only contract, pay, award, or receive project or specialized technical service provided the author assigns the property rights relating to it and the Administration can use it in accordance with the provisions of the contest regulation or the adjustment for its preparation.

Sole paragraph. When the project refers to the immaterial work of a technological character, not subject to privilege, the assignment of rights shall include the provision of all data, documents, and information elements pertinent to the technology of design, development, fixation on physical support of any nature, and application of the work.

Art. 112. When the subject-matter of the contract concerns more than one public entity, the contracting authority shall respond to the entity concerned for its proper performance, supervision, and payment.

Paragraph 1. Public consortia may conduct bidding procedure from which arise, under the terms of the notice, administrative contracts concluded by bodies or entities of the entities of the Federation in the consortium. [\(Included by Law nº 11,107 of 2005\)](#)

Paragraph 2. The entity concerned shall be provided with monitoring of the bidding procedure and the execution of the contract. [\(Included by Law nº 11,107 of 2005\)](#)

Art. 113. The control of the expenses arising from the contracts and other instruments governed by this Law shall be done by the Competent Court of Auditors, in the form of the relevant legislation, with the interested bodies of the Administration responsible for demonstrating the legality and regularity of

the expenditure and execution, in accordance with the Constitution and without prejudice to the internal control system provided by it.

Paragraph 1. Any bidder, contracted, or individual, or legal entity may represent the Court of Auditors or the bodies of the internal control system against irregularities in the application of this Law, for the purposes of the provisions of this article.

Paragraph 2. The Courts of Auditors and the bodies of the internal control system may request for examination, until the working day immediately preceding the date of receipt of the biddings, a copy of the bidding notice already published, obliging the bodies or entities of the Administration concerned to adopt relevant corrective measures determined depending on this examination. [\(Wording established by Law nº 8,883 of 1994\)](#)

Art. 114. The system established in this Law does not prevent the pre-qualification of bidders in the competitions, to be carried out whenever the object of the bidding recommends a more thorough analysis of the technical qualification of the interested parties.

Paragraph 1. The adoption of the pre-qualification procedure shall be made on a proposal from the competent authority, approved by the entity immediately superior.

Paragraph 2. The requirements of this Law relating to competition, the convocation of interested parties, the procedure, and the analysis of documentation shall be observed in the pre-qualification.

Art. 115. The Administration bodies may issue standards regarding the operational procedures to be observed in the execution of bidding procedures, within the scope of their jurisdiction, subject to the provisions of this Law.

Sole paragraph. The rules referred to in this article, after approval by the competent authority, shall be published in the official press.

Art. 116. The provisions of this law apply, as appropriate, to conventions, agreements, adjustments, and other similar instruments concluded by bodies and entities of the Administration.

Paragraph 1. The conclusion of an agreement or adjustment by the government bodies or entities depends on prior approval of a competent work plan proposed by the organization concerned, which must contain, at least, the following information:

- I - identification of the object to be executed;
- II - goals to be achieved;
- III - stages or phases of execution;
- IV - financial resources implementation plan;
- V - disbursement schedule;

VI - prediction of the beginning and end of the execution of the object, as well as the completion of the scheduled stages or phases;

VII - if the adjustment includes engineering work or service, proof that the resources to complement the execution of the object are properly ensured, unless the total cost of the enterprise falls on the decentralizing entity or body.

Paragraph 2. Once the agreement has been signed, the entity or body responsible shall inform the Legislative Assembly or the respective City Council.

Paragraph 3. The installments of the agreement shall be released in strict accordance with the approved application plan, except in the following cases, in which they shall be retained until the sanitation of the improprieties occurring:

I - when there has been no evidence of the good and regular application of the previously received installment, in the form of applicable legislation, including through local fiscalization procedures, conducted periodically by the entity or decentralization body of resources or by the competent body of the government internal control system;

II - when there is a deviation of purpose in the application of the resources, unjustified delays in the fulfillment of the scheduled stages or phases, practices that violate the fundamental principles of the Government in contracting and other acts practiced in the execution of the agreement, or the default of the executor regarding other basic contractual clauses;

III - when the executor ceases to adopt the sanitizing measures appointed by the participant transferring the resources or by members of the respective internal control system.

Paragraph 4. The balances of the agreement, while not used, shall be compulsorily applied in savings books of official financial institution if the forecast of their use is equal or superior to one month, or in short-term financial application fund or open market operation backed in public debt securities, when its use occurs in terms of less than one month.

Paragraph 5. The financial income received in the form of the previous paragraph shall be compulsorily computed on credit of the agreement and applied exclusively to the object of its purpose, and must contain a specific statement that shall integrate the accounts of the adjustment.

Paragraph 6. When it is completed, terminated, rescission, or extinction of the agreement or arrangement, the cash balances that remain, even from the income obtained from financial assets conducted, they shall be returned to the reselling authority or body of the resources, in the long unextendable term of the thirty (30) days prior to the event, under the penalty of an immediate establishment of a rendering of accounts of the individual responsible, to be provided by the competent authority of the agency or entity holder of the resources.

Art. 117. The works, services, purchases, and alienations conducted by the bodies of the legislative and judicial branches and the Court of Auditors shall be governed by the rules of this Law, as applicable, in the three administrative spheres.

Art. 118. The States, the Federal District, the Municipalities, and the entities of the indirect administration shall adapt their rules on bidding procedures and contracts to the provisions of this Law.

Art. 119. Government-controlled private companies, public companies and foundations, and other entities controlled directly or indirectly by the Union and entities referred to in the previous article shall edit their own duly published regulations, subject to the provisions of this Law.

Sole paragraph. The regulations referred to in this article, within the scope of the Government, after approved by the higher level authority to which the respective bodies, companies, and entities are bound, must be published in the official press.

Art. 120. The values set by this Law may be revised annually by the Federal Executive Branch, which shall publish them in the Federal Gazette, observing as upper limit the general variation of market prices in the period. [\(Wording established by Law nº 9,648 of 1998\)](#)

Art. 121. The provisions of this Law do not apply to bidding procedures initiated and contracts signed before their effectiveness, except for the provisions of article 57, in Paragraphs 1, 2, and 8 of article 65, in item XV of article 78, and head provision of article 5 concerning the payment of obligations in chronological order. These provisions may be observed within ninety days of the effectiveness of this Law, separately for obligations concerning contracts governed by legislation prior to Law nº 8,666 of June 21st, 1993. [\(Wording established by Law nº 8,883 of 1994\)](#)

Sole paragraph. Contracts relating to immovable property belonging to the Union shall continue to be governed by the provisions of [Decree-Law nº 9,760 of September 5th, 1946](#) as amended, and those relating to internal or external credit transactions concluded by the Union or the granting of a warranty from the National Treasury remain governed by the relevant legislation, applying this Law, as applicable.

Art. 122. A specific bidding procedure shall be observed for airline concessions, to be established in the [Brazilian Code of Aeronautics](#).

Art. 123. Overseas-based departments shall observe the local specificities and the basic principles of this Law for their administrative bidding and contracts, in the form of specific regulation.

Art. 124. The provisions of this Law that do not conflict with the specific legislation on the subject apply to bidding procedures and contracts for the permission or concession of public services. [\(Wording established by Law nº 8,883 of 1994\)](#)

Sole paragraph. The requirements referred to in items II to IV of paragraph 2 of article 7 shall be waived in bidding procedures for the concession of services with prior execution of works in which no disbursement by the granting government was foreseen. [\(Included by Law nº 8,883 of 1994\)](#)

Art. 125. This Law comes into force on the date of its publication. [\(Renumbered pursuant to article 3 of Law nº 8,883 of 1994\)](#)

Art. 126. Provisions to the contrary are repealed, especially [Decrees-laws nº 2,300 of November 21st, 1986](#), [nº 2,348 of July 24th, 1987](#), [nº 2,360 of September 16th, 1987](#), [Law nº 8,220 of September 4th, 1991](#), and [article 83 of Law nº 5,194 of December 24th, 1966](#). [\(Renumbered pursuant to article 3 of Law nº 8,883 of 1994\)](#)

Brasília, June 21st, 1993, 172th of the Independence and 105th of the Republic.

ITAMAR FRANCO

Rubens Ricupero

Romildo Canhim

This text does not replace that published in the Federal Gazette of 6.22.1993 and republished on 7.6.1994 and rectified on 7.6.1994

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