

Approved by Rector's directive No 6 of 29.02.2024

In force from: 29.02.2024

Procurement Rules

1. General provisions

- 1.1 The Procurement Rules (hereinafter also referred to as "the Rules") apply at Tallinn University of Technology (hereinafter referred to as "the university" to:
- 1.1.1 planning of public procurements (hereinafter also referred to as "procurement");
 - 1.1.2 preparation, carrying out of procurements and specifications of award of public contracts;
 - 1.1.3 appointment of persons responsible for a procurement and for the performance of a public contract;
 - 1.1.4 conducting of specific procedures;
 - 1.1.5 purchasing supplies, services and works below the simple procurement threshold (hereinafter referred to as "low-value procurement");
 - 1.1.6 measures for the prevention of a conflict of interests;
 - 1.1.7 designation of independently operating units.
- 1.2 The university shall carry out public procurements in compliance with the Public Procurement Act (hereinafter also referred to as "PPA"), EU and other legislation and the Procurement Rules. The Rules on Contracts established by the Rector apply to awarding of public contracts, with the specifications laid down in these Rules.
- 1.3 The type of the procurement procedure shall be selected in accordance with the PPA by taking into account the thresholds and the criteria for the selection of the type of procedure set out in the PPA.
- 1.4 The procedural rules laid down in the PPA shall not be applied if supplies or services specified as exclusions in § 11 of the PPA are procured or in-house transactions are carried out in accordance with § 12 of the PPA, including cases where a research and development service is purchased and the final beneficiary of which is not the university, or if the service is not paid for solely by the university.
- 1.5 The provisions of the public contract apply to the framework agreement unless otherwise specified in the Rules.
- 1.6 All values specified in the Rules shall be calculated exclusive of value added tax.
- 1.7 Public procurements shall be planned and organized by taking into account the objectives set out in the university's Green Strategy and by adhering to ecofriendliness criteria in compliance with section 77 (6¹) of the PPA. As far as possible, procurements shall be conducted in line with the guidelines promoting green and social values published by the Ministry of Finance as sectoral guidelines.

2. For the purposes of the Procurement Rules:

- 2.1 "**contracting authority**" means a person who is subject to requirements arising from the Public Procurement Act (e.g. a state authority, a local authority, a company founded by the state, etc.) For objects belonging to Tallinn University of Technology, the contracting authority is Tallinn University of Technology;
- 2.2 "**tenderer**" means a person who has submitted a tender;
- 2.3 "**person responsible**" means the person responsible for conducting a public procurement. A person responsible may or may not be the same as the person responsible for the budget.
- 2.4 "**procurement committee**" means a group of persons appointed by the Chief Financial Officer's order who is responsible for the proper execution of a public procurement in compliance with the requirements laid down in legislation and the Procurement Rules;
- 2.5 "**procurement plan**" means the public procurements planned for each financial year along with a general schedule;
- 2.6 "**estimated value**" – the price level that must be relied on when calculating the estimated value of a public procurement is the level that corresponds to the average market price (market research must be carried out). The estimated value of a public procurement is always indicated exclusive of value added tax. The estimated value of a public procurement includes the estimated total amount to be paid on performance of the public contract.

2.6.1 The estimated value of a public works contract is calculated based on the estimated value of works performed on one building or on different functionally related buildings;

2.6.2. The estimated value of public contracts awarded based on a framework agreement is calculated using the maximum total value of public contracts awarded under that framework agreement during its validity period.

2.7 **“framework agreement”** means an agreement that establishes the terms governing public contracts awarded within its validity period under the agreement, in particular in terms of either pricing or pricing and the quantities or volumes to be provided;

2.8 **“reopening of competition”** means a competition conducted under a framework agreement between the parties to the framework agreement. Reopening of competition shall be subject to the requirements laid down in the framework agreement;

2.9 **“technical specification”** means a detailed description of the contracting authority’s needs, i.e. the object of the public contract, which shall define what the contracting authority wishes to purchase or order and what the tenderer must offer. A technical specification shall clearly and logically define the requirements, providing a detailed description of the requirements in terms of performance and functionality of the object of the public contract, specifying, inter alia, what the purchased/ordered item will be used for. Functional requirements typically specify the conditions and criteria that must be met in terms of quantity, quality, deadlines, etc. Minimum and maximum requirements must be defined. The desired end result can be defined, but not the method to achieve it. A technical specification must not refer to a specific make or source, or a particular process, or to trademarks, patents, types or a specific origin or production which would have the effect of favouring or eliminating certain products or economic operators. Such reference shall be permitted, on an exceptional basis, where a sufficiently precise and intelligible description of the object of the contract is not possible. Such references shall be accompanied by the words ‘or equivalent.’

2.10 **“Public Procurement Register”** means the public procurement register (hereinafter also referred to as “PPR”), the chief processor of which is the Ministry of Finance.

3. Organisation of procurements

3.1 Procurements at the university shall be coordinated by the Finance Office, who shall:

3.1.1 explain to the structural units the legislation, principles and practice concerning public procurements;

3.1.2 draw up and publish on the intranet guidelines and document samples and forms required for carrying out procurements;

3.1.3 arrange and provide instructions for the preparation of the university's annual procurement plan (hereinafter referred to as "procurement plan");

3.1.4 arrange preparation, conduct of procurements and award of public contracts;

3.1.5 open the submitted tenders;

3.1.6 inform the tenderers of the decisions of the Chief Financial Officer set out in clause 3.2.3;

3.1.7 perform procedural acts in the Public Procurement Register;

3.1.8 arrange preservation of the documents of the procurement procedures;

3.1.9 carry out other operations required for the implementation of the PPA.

3.2 The head of the public procurements sector at the university is the Chief Financial Officer, who:

3.2.1 approves the procurement plan and the updated procurement plan;

3.2.2 issues procurement orders;

3.2.3 on the proposal of the committee, makes decisions to declare (a) tender(s) suitable, to declare (a) tender(s) successful, to qualify (a) successful tenderer(s), as well as any other contracting authority's decisions set out in the Rules or the PPA;

3.2.4 grants a unit the right to carry out procurements as a separate operational unit.

4. Procurement planning

4.1 At the university procurements are carried out in accordance with the annual procurement plan. The purpose of planning is to ensure correct and timely conduct of procurements.

4.2 In order to prepare a procurement plan, all the structural units shall submit to the Finance Office their procurement plans (hereinafter referred to as “sub-plan”) concerning the procurements with an estimated value exceeding 5000 euros to be conducted the following year.

4.3 A sub-plan together with the draft budget shall be submitted no later than by the date of submission of the budget.

4.4 The Finance Office shall draw up a draft procurement plan immediately after receipt of the sub-plans from the structural units.

4.5 An approved procurement plan shall be published on the university's website no later than on 10 January each year.

4.6 A procurement plan is updated once a year in June and the updated plan shall be published on the university's website immediately after its approval.

4.7 Procurement planning must be started at least 6 months prior to the deadline for awarding the intended public contract.

5. Procurement procedure

5.1 The general procurement rules apply if the value of the public contract is 60,000 euros or more in the case of a public supply or service contract or a design contest, 150,000 or more in the case of a public works contract and 300,000 or more in the case of a public contract for social services.

5.2 A public procurement where the object of the contract is interoperable supplies, services or works or those necessary for achieving the same purpose must not be divided into lots (separate public procurements) for the purpose of disregarding the rules or requirements established in the Public Procurement Act.

5.3 A contracting authority may divide a public procurement into lots and purchase supplies, services or works separately provided it applies, with regard to each lot, the rules for awarding a public contract, the estimated value of which equals the total estimated value of all the lots. A public procurement may be divided into lots where it is justified for objective reasons. If necessary, consult a procurement officer.

5.4 To start a procurement procedure, the head of the structural unit or procurement initiator (hereinafter referred to as "procurement initiator") shall, with the approval of the person in charge of the funding source, submit a procurement application to the Finance Office through the Help Center:

5.4.1 at least 30 days in advance in the case of a procurement set out in the procurement plan;

5.4.2 as soon as the need to carry out a procurement arises in the case of a procurement not set out in the procurement plan.

5.5 In case of exceptional procurement procedures, the procurement application must be accompanied by documents confirming that the requirements for use of the selected type of procedure are met.

5.6 The procurements shall be started by giving priority to the procurements set out in the procurement plan.

5.7 The procurement initiator shall:

5.7.1 assess the volume and quantity of the supplies or services to be purchased;

5.7.2 submit on time the procurement application along with the technical specification, qualification and evaluation criteria, essential terms of the public contract to be concluded and determine the estimated value of the procurement;

5.7.3 make a proposal concerning appointment of the members of the committee;

5.7.4 award or approve the public contract.

5.8 On the basis of a procurement application, the Finance Office shall draw up a draft procurement order, which shall be approved by the area director if the estimated value of the procurement exceeds 100,000 euros.

5.9 By the procurement order, the Chief Financial Officer:

5.9.1 determines the estimated value of the public contract, the financing source and the type of the procurement procedure;

5.9.2 forms a procurement committee (hereinafter referred to as "committee" for carrying out procurements published in the PPR and appoints the chairman of the committee;

5.9.3 appoints the person responsible for carrying out the procurement;

5.9.4 appoints the person responsible for the performance of the public contract.

5.10 Based on the procurement order, the Procurement Division:

5.10.1 starts a procurement procedure;

5.10.2 prepares the procurement documents in cooperation with the committee;

5.10.3 opens a call for tenders by publishing an electronic contract notice in the PPR.

5.11 All operations in the PPR shall be carried out by a procurement officer, except in the case of reopening of competition under framework agreements.

5.12 The person responsible for the procurement procedure shall ensure the exchange of information with the tenderers interested in the procurement throughout the procurement process.

5.13 The person responsible for the procurement shall formalise the decision regarding the results of the procedure based on the input received from the procurement committee. The procurement committee shall approve the decision in the university's document management system.

6. University-wide procurements

6.1 A university-wide procurement is initiated as follows:

6.1.1 by the Information Technology Services – for purchasing technical, communication and IT equipment;

6.1.2 by the Real Estate Office – for purchasing insurance services, security services, maintenance of engineering structures and utility systems, catering services, cleaning services, administrative services, transport services, furniture and construction work;

6.1.3 by the Human Resources Office – for purchasing occupational health services, travel services and personal protection equipment, office supplies, translation services, courier services and food products;

6.1.4 by the Marketing and Communications Office – for organising events, purchasing marketing services, souvenirs.

6.2 As a rule, a framework agreement is concluded as a result of a university-wide procurement.

6.3 Supplies or services covered by a valid framework contract must be purchased under the framework contract.

7. Procurement committee

7.1 The committee shall be composed of at least three members, including the chairman of the procurement committee and two ordinary members.

7.2 The committee shall:

7.2.1 approve the public procurement documents;

7.2.2 amend the procurement documents, if necessary;

7.2.3 check the existence of the Single Procurement Document complying with the PPA, compliance of the tender with the requirements and, if necessary, make a decision on self-cleaning in procurements exceeding the international threshold, verify the absence of the grounds for exclusion regarding each tenderer and the tenderers' qualifications;

7.2.4 compare and evaluate all tenders;

7.2.5 make motivated proposals to the Chief Financial Officer for making decisions related to the procurement procedure, including decisions to declare (a) tender(s) suitable or to reject (a) tender(s), to reject all tenders, to cancel a procurement procedure or to declare (a) tender(s) successful.

7.3 The chairman of the committee shall:

7.3.1 be responsible for organising the committee's work (including arranging replacements for members on leave during the procurement process, proposing changes in the membership of the committee);

7.3.2 call the meetings of the committee and steer the work of the committee;

7.3.3 organize the exchange of information among committee members and be responsible for providing rationale for the committee's decisions;

7.3.4 arrange performance of the functions of the committee, incl. answer the questions of the parties interested in the procurement via the Finance Office and participate in the decision-making process with regard to declaring tenders suitable, determining the successful tenderer and qualification, involve independent experts in the work of the committee, if necessary;

7.3.5 in case of an appeal, ensure the participation of the person responsible and, if necessary, another competent person at the meeting of the review committee and/or in court, accompanied by a lawyer or other legal assistance provider.

8. Exceptional procurement procedures

8.1 The simple procedure is carried out if:

8.1.1 the estimated value of a supply contract or a services contract is from 30,000 euros up to the public procurement threshold,

8.1.2 the estimated value of a public works contract is from 60,000 euros up to the public procurement threshold.

8.2 The general procurement rules apply to the simple procedure, but the time limit for the submission of tenders need not be longer than 10 working days in the case of a public supply or service contract and 15 working days in the case of a public works contract.

8.3 A negotiated procedure without prior publication can be used on the basis set out in § 49 and § 50 of the PPA. If the estimated value of a procurement is below the international threshold, supplies directly usable for research and development can, inter alia, be purchased in such a manner, if the supplies are:

8.3.1 required for carrying out a project or research;

8.3.2 bound to concrete equipment and cannot be replaced by equivalent supplies;

8.3.3 absolutely necessary for the achievement of the objectives of a scientific project or research;

8.3.4 an indispensable prerequisite to ensure comparability of research results.

8.4 Upon purchasing social and other specific services:

8.4.1 a procurement shall be conducted in the PPR and the general procurement rules shall apply to a contract for social services from 300,000 euros and a contract for specific services from 60,000 euros;

8.4.2 clause 8.2 of the Rules shall be followed if the value of the contract for social services is below 300,000 euros and the value of a contract for specific services is below 60,000 euros.

9. Low-value procurement

9.1 Low-value procurement may be carried out if the university has not entered into a framework agreement for the purchase of the respective products/services.

9.2 A procurement procedure need not be carried out in case of low-value procurement if the estimated value of the public contract is below 30,000 euros in the event of a supply contract or a public service contract or below 60,000 euros in the event of a public works contract.

9.3 Upon awarding a public contract, with the estimated value from 5,000 euros up to the simple procurement threshold, the procurement initiator shall observe the principles set out in § 3 of the PPA, incl. achieve the objective of the procurement at a reasonable price by ensuring, in the event of competition, the best price-quality ratio by comparing at least three tenders. If less than three tenders are compared, the person responsible for the procurement must provide reasons for absence of competition.

9.4 In case of a low-value procurement with an estimated value of less than 5,000 euros, the procurement initiator may invite to submit tenders or carry out an independent market study.

9.5 The value of a procurement must be calculated based on the total cost of all supplies/services of the same type purchased by the university. Further information can be obtained from the Procurement Division.

9.6 The head of the structural unit shall appoint the person responsible for carrying out low-value procurements and for the performance of public contracts in the structural unit.

9.7 Upon carrying out a low-value procurement, the person responsible for the procurement shall:

9.7.1 make sure that the procurement is not divided into lots with an aim to disregard the rules or requirements for carrying out a procurement established by the PPA;

9.7.2 preserve the call for tenders, the requested tenders and other documentation on the low-value procurement.

10. Reopening of competition

10.1 Reopening of competition is conducted between the tenderers party to the framework agreement for purchasing products/services under a framework agreement.

10.2 If the cost of reopening of competition is equal to or more than 30,000 euros, the process of reopening competition must be organized in the PPR.

10.3 Reopening of competition shall be organised in compliance with the terms and conditions laid down in the framework agreement.

10.4 To order products or services, a call for tenders must be submitted to all tenderers, using a format that can be reproduced in writing (via PPR, an e-mail, or any other electronic platform of the contracting authority).

10.5 The person organising reopening of competition shall enter the public contract awarded as a result of the competition in the Public Procurement Register.

11. Award of public contract and reporting

11.1 In accordance with the Rules on Contracts, a contract shall always be concluded in writing if the value of the contract is 10,000 or more euros, net of value added tax. For orders with a lower value, there is no obligation to conclude a contract. However, the price request(s) and the submitted tender(s) (e-mail, etc.) should be attached to the invoice submitted to the Accounting Division. Other

requirements laid down in the procurement Rules (avoiding conflicts of interests and corruption, prohibition on dividing public procurement into lots, compliance with the general principles of public procurement (transparency and verifiability) and storing documents in accordance with the instructions) must also be followed in case of these public procurements.

11.2 A public contract, except public contracts based on a framework agreement, shall be approved, in addition to the persons set out in the Procedure for Entry into and Implementation of Contracts, also by the chairman of the committee.

11.3 A public contract can be modified, incl. the person responsible for the performance of the public contract can be replaced, after the award of the public contract in accordance with § 123 of the PPA. The person responsible for the public procurement is responsible for the rationale behind any contract modifications (supporting facts and legal considerations).

11.4 A public contract shall be awarded in the form laid down in the Rules on Contracts.

11.5 Not later than within 20 days after expiry of the public contract, in the case of a framework agreement after each 12-month period from award of the public contract and after expiry of the last public contract, the person responsible for performance of the public contract shall submit to the Finance Office an instrument of delivery and receipt concerning the product prepared or service rendered based on the public contract and an overview of the performance of the contract.

12. Performance of a public contract

12.1 The person responsible for the performance of a public contract shall make sure that the public contract is performed in accordance with the requirements and shall:

12.1.1 make sure that the deadlines and the scope in the public contract are complied with;

12.1.2 assess the quantity and quality of the supplies or services provided;

12.1.3 sign or approve the instrument of delivery and receipt of the object of the public contract;

12.1.4 make sure that all claims are filed on time;

12.1.5 initiate amendment or termination of the public contract, if necessary;

12.1.6 report on the performance of the public contract to the procurement initiator and the Finance Office.

12.2 The person responsible for the performance of the framework agreement shall:

12.2.1 if necessary, reopen the competition in order to award a public contract;

12.2.2 monitor proper performance and the scope of the framework agreement;

12.2.3 notify the Finance Office of any problems arising upon performance of the framework agreement;

12.2.4 arrange timely commencement of a new public procurement for purchasing the object of the framework agreement.

12.3 As a rule, a public contract expires when duly performed. If a warranty has been agreed in the public contract, the public contract will expire upon expiration of the warranty.

12.4 A framework agreement expires either at the end of its term or upon reaching the maximum estimated value.

13. Measures to avoid a conflict of interests

13.1 A university employee participating in the procurement procedure shall avoid any conflicts of interests during the procurement procedure and upon performance of the public contract.

13.2 Where a university employee may have a conflict of interests or there is good reason to question the employee's impartiality, the employee shall be removed from the procurement procedure.

13.3 The members of the procurement committee shall sign the declaration of absence of conflict of interest immediately after they are appointed members of the committee and shall confirm that they have no direct or indirect financial, economic or other personal interests which might be perceived to compromise their impartiality or independence.

13.4 If during the procurement procedure a risk of a conflict of interests arises or a tender is submitted by a tenderer with whom a member of the procurement committee has or has had a relationship which calls into question his/her impartiality in the procurement procedure, the member shall immediately inform his/her immediate superior and the Finance Office of the circumstances.

13.5 The Procedure for Avoiding a Conflict of Interests and for Prevention of Corruption in force at the university applies to the university employees involved in the procurement procedure.