

AS Tallinna Vesi Procurement Rules

Effective from 20.10.2017

1. GENERAL PROVISIONS

- 1.1. These procurement rules (hereinafter the Procurement Rules) establish AS Tallinna Vesi's (hereinafter the Contracting Authority) general purchasing principles that pertain to, inter alia, the planning of public procurements, small procurements and purchases, carrying out purchases and procurement procedures, execution of public works contracts and prevention of conflicts of interest.
- 1.2. These Procurement Rules have been established on the basis of the § 9 (2) of the Public Procurement Act (PPA). In carrying out procurement procedures, the Contracting Authority shall apply the relevant provisions of the PPA and subordinate legal acts as well as these Procurement Rules.
- 1.3. The Contracting Authority is a contracting entity operating in a network sector for the purposes of the § 5 (3) (2) of the PPA and follows the PPA by complying with the thresholds, which have been established for the network sector, and other specifications.
- 1.4. All values and/or thresholds laid down in the Procurement Rules are in euros and exclude VAT.
- 1.5. Types and thresholds of procurement objects:

Type of procurement object	Type and thresholds of procurement (from)				
	Purchase	Small procurement	Simple procurement	Public procurement	International procurement procedure
Goods and services	0,01 €	3,000 €	60,000 €	International threshold	418,000 €
Works	0,01 €	3,000 €	300,000 €	International threshold	5,225,000 €
Design contest	0,01 €	3,000 €	-	60,000 €	418,000 €
Social services	0,01 €	3,000 €	-	300,000 €	1,000,000 €
Special services	0,01 €	3,000 €	-	60,000 €	1,000,000 €

- 1.6. The procurement types and time limits for the submission of tenders as well as the obligation to execute a written contract depending on the estimated value of the public works contract and procurement object have been specified in more detail in Annex 1 to the Procurement Rules.

2. PROCUREMENT PLAN

- 2.1. In preparing and carrying out procurements, the Contracting Authority follows the approved procurement plan.
- 2.2. In order to better arrange the procurements, the Contracting Authority shall prepare, by the 31st of December at the latest, the procurement plan for the next calendar year, listing all planned procurements known to the Contracting Authority at that point in time with the estimated value from EUR 3,000 (starting from small procurements). Current year's procurement plan shall be approved by the Contracting Authority's management board by the 31st of January. Amendments and adjustments to the procurement plan are made as appropriate. Extra procurements are carried out as appropriate.
- 2.3. The procurement plan shall be disclosed on the Contracting Authority's website (www.tallinnavesi.ee) within 3 weeks after the approval, amendment and adjustment of the procurement plan at the latest.
- 2.3.1. A disclosed procurement plan specifies the following:
- Procurement title
 - Procurement type
 - Type of procurement procedure
 - Expected time of launching the procurement (quarter)

- Expected time of the delivery of the contract (quarter and year)

3. RESPONSIBLE PERSONS

- 3.1. When preparing the procurements (except for purchases), before the approval of the procurement documents, the Contracting Authority shall form a procurement committee consisting of at least three members. The procurement committee shall include at least the organiser of the procurement (the person responsible for carrying out the procurement), the Project Manager (the person responsible for the procurement's technical specification) and/or budget owner and the Procurement Strategy Manager.
- 3.2. External specialists (incl. external experts) with specific knowledge pertaining to the particular procurement object as well as the Contracting Authority's lawyer (e.g. drawing up public contracts) may be involved in the procurement committee's work, however, such persons have no decision-making power and are not members of the procurement committee.
- 3.3. The main tasks of the procurement committee are as follows:
 - Drawing up and approving the procurement documents;
 - Qualification of tenderers and candidates and exclusion from the procurement procedure or deciding not to qualify tenderers if such grounds exist;
 - Declaring tenders suitable or unsuitable, evaluation of tenders and exclusion of tenders if such grounds exist;
 - Approving and signing of decisions;
 - Approving and/or signing the public contract in accordance with the internal rules established by the Contracting Authority;
 - Holding negotiations with tenderers.
- 3.4. Project Manager is the person responsible for the appropriate performance of a public contract, i.e. authorised representative with respect to the performance of the contract.

4. ORGANISING OF PROCUREMENTS

- 4.1. **Purchase** may be performed without taking comparative offers.
 - 4.1.1. A purchase shall be performed by an employee who has been authorised to do so in the respective field of activity or unit.
 - 4.1.2. In performing a purchase, the general principles set out in the § 3 of the PPA are applied in the manner that allows the purchase procedure to be as effective as possible, causing as little as possible time, money and labour to be spent by the Contracting Authority on the procedure. It means that if the procurement result can be achieved at a reasonable value for money for the Contracting Authority without taking comparative offers, then the Contracting Authority does not have the obligation to take comparative offers.
 - 4.1.3. Should there be a need to take comparative offers for making a purchase, the procedure would be carried out by sending price inquiries via e-mail.
 - 4.1.4. In the price inquiry, the Contracting Authority may establish the appropriate qualification and compliance criteria.
- 4.2. **In case of a small procurement** the compliance with the procedural rules set out in the PPA is not obligatory, however, the PPA and the general principles of these Procurement Rules must be followed, incl. the principles to ensure the transparent and practical use of the Contracting Authority's funds and the principles of effective use of competition.
 - 4.2.1. In order to perform a small procurement, the Contracting Authority shall take at least three competitive tenders. Lower number of tenders in case of a small procurement is acceptable if there are no more interested tenderers in the market considering the volume and/or content of the purchase, or the circumstances, for which the PPA

allows organising public procurement in accordance with the negotiated procedure without prior publication of a contract notice, become evident.

- 4.2.2. Before launching a small procurement, the Contracting Authority shall assess the market situation and determine the circle of potential tenderers.
- 4.2.3. The Contracting Authority shall send the documents regarding the small procurement to the potential tenderers by e-mail.
- 4.2.4. The Contracting Authority may, depending on the complexity of the procurement object or other circumstances, establish both grounds for exclusion and qualification and/or compliance criteria.
- 4.2.5. Disclosure of the value of the successful tender is not obligatory in case of small procurement and the Contracting Authority has the right not to disclose it.
- 4.3. In organising a **simple procedure**, the Contracting Authority shall rely on the § 125 of the PPA.
- 4.4. In organising a **public procurement and international procurement procedure**, the Contracting Authority shall rely on the PPA.

5. CARRYING OUT PROCUREMENTS

- 5.1. The procurement documents must contain sufficient information to clarify the necessities of the Contracting Authority and must meet the requirements set out in the PPA.
- 5.2. Tenders shall be assessed based on how economically advantageous the tenders are. The award criteria, that serve as the basis of whether a tender is economically advantageous (e.g. price-quality relationship, life cycle costs etc.), must be set out in the procurement documents.
- 5.3. The Contracting Authority has the right to claim damages from the successful tenderer, who has withdrawn their tender, to the extent of all possible costs (incl. costs that arose from the assessment of a new tender) which the Contracting Authority must bear in connection with the awarding of the public contract on the basis of the tender that was declared successful after assessing the tenders again, instead of the withdrawn tender.
- 5.4. Upon carrying out a procurement procedure, the Contracting Authority may hold negotiations with tenderers (unless otherwise established in the PPA) by setting out such possibility and conditions in the procurement documents.
- 5.5. Upon conducting a negotiated procedure without prior publication of a contract notice, the procurement committee shall assess, at the request of the person responsible for carrying out the procurement, the market situation regarding the service to be ordered and determine the circle of potential tenderers.
- 5.6. The public works contract shall be executed in writing starting from the procurement value of EUR 10,000. If a public works contract needs to be executed with respect to a procurement with the value below the above threshold, the necessity shall be laid down in the procurement documents.

6. KEEPING THE PROCUREMENT DOCUMENTS

- 6.1. Any and all documents (procurement documents, tenders, decisions etc.) that are related to the purchases, for which the price inquiries are made by the Procurement Department's employee, and small procurements, shall be kept in the Contracting Authority's Document Management System (hereinafter the DMS).
- 6.2. Any and all documents (procurement documents, tenders, decisions etc.) that are related to the procurements exceeding the threshold of simplified procurements, shall be kept in their full form in e-Procurement Estonia (<https://riigihanked.riik.ee/register/Home.html#>) attached to the particular procurement and also in a partially doubled form in the DMS.

7. MEASURES TO PREVENT, ESTABLISH AND ELIMINATE CONFLICTS OF INTEREST

- 7.1. The purpose of preventing a conflict of interest¹ is to eliminate both the direct and indirect conflict of interest.
- 7.2. The person who has a conflict of interest or whose impartiality may be called into doubt, must not participate in the Procurement Committee's work. Upon the emergence of the conflict of interest or impartiality being called into doubt, the member of the committee shall withdraw himself/herself and shall subsequently be substituted in the procurement procedure by an appointed substitute member (if this is impossible, an employee who monitors the procurement procedure shall be involved).
- 7.3. All members of the Procurement Committee and persons involved in the procurement procedure holding the decision-making power have the obligation to submit the "Declaration concerning a procurement procedure" (Annex 2) (except for purchases). The declaration shall be effective during 12 months as from signing. The person organising the procurement shall always check before commencement of any procurement procedures that the persons listed here in this section have signed a declaration. In every procurement procedures the persons listed in this section and participating in a specific procurement procedure will be reminded before signing the protocol of their obligations taken with the declaration by way of a message on DMS.
- 7.4. Declarations shall be kept in the Legal and Procurement Department.
- 7.5. All employees of the Contracting Authority shall always follow the Code of Conduct established in the Company, available on the Contracting Authority's website (www.tallinnavesi.ee).

¹ PPA §4 (8): „conflict of interest' means a situation where the contracting authority's or the contracting entity's employee, official, management board member or another competent representative involved in the preparation or carrying out of public procurement or who may otherwise influence the outcome of the public procurement has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence“

Annex 1 – Procurement types and time limits for submission of tenders, the obligation to execute a written contract depending on the estimated value of a public contract and a procurement object

Procurement type	Type of procurement object	Estimated value (€, net of VAT)	Time limits for submission of tenders* (except for procurements with indicative notice and negotiated procedures without prior publication of a contract notice)	Obligation to execute a written public contract	Standstill period preceding the awarding of the public contract
Purchase	Supplies and services; Works; Design contest; Social services; Special services.	0.01 – 2,999.99	No restrictions. Contracting Authority determines as needed.	None	None
Small procurement	Supplies and services;	3,000 – 59,999.99	No restrictions. Contracting Authority determines as needed.	Yes, from EUR 10,000	None
	Works;	3,000 – 299,999.99			
	Design contest;	3,000 – 59,999.99			
	Social services; Special services.	3,000 – 299,999.99 3,000 – 59,999.99			
Simplified procedure	Supplies and services;	60,000 – 417,999.99	In a normal situation 5 working days.	Yes	5 working days
	Works.	300,000 – 5,224,999.99	In a normal situation 5 working days.		
Public procurement	Design contest;	60,000 – 417,999.99	Contracting Authority determines as needed.	Yes	10 days
	Social services;	300,000 – 999,999.99			
	Special services.	60,000 – 999,999.99			
International procurement	Supplies and services	From 418,000	Open procedure: E-procurement – 15 days Non-E-procurement – 20 days In case of indicative notice and urgent circumstances time limit – 15 days Restricted procedure; Competitive procedure with negotiation; Competitive dialogue; Innovation partnership: E- procurement – 25 days Non-E-procurement – 30 days In case of indicative notice and urgent circumstances time limit – 10 days	Yes	14 days
			Open procedure: E-procurement – 25 days Non-E-procurement – 25 days In case of indicative notice and urgent circumstances time limit – 25 days Restricted procedure; Competitive procedure with negotiation; Competitive dialogue; Innovation partnership: E-procurement – 25 days Non-E-procurement – 30 days In case of indicative notice and urgent circumstances time limit – 15 days		
	Works	From 5,225,000	No restrictions. Contracting Authority determines as needed.	Yes	None
	Design contest Social services; Special services.	From 418,000 From 1,000,000	No restrictions. Contracting Authority determines as needed.	Yes	None

*Minimum number of days

Lisa 2 – Declaration concerning a procurement procedure

DECLARATION CONCERNING A PROCUREMENT PROCEDURE

Name:	
Position:	Department:
Phone number:	E-mail:

I hereby declare that:

A.	As a participant in the procurement procedure I shall, with honesty and fairness, perform my duties arising from the Public Procurement Act and regulations of AS Tallinna Vesi; ¹
B.	I undertake to make sure at all times that I do not have any conflicts of interest in any of the procurement procedures ² . Upon the emergence of a conflict of interest I shall act in the manner specified in the clause D of this declaration.
C.	With regard to the communication, I undertake to ensure at all times the integrity of information and the confidentiality of the tender and the request to participate as well as the confidentiality of the information identified by tenderers as trade secrets, also after the tender or request to participate have been opened and the Contracting Authority has notified of its decision.
D.	To the best of my knowledge, there are no earlier or current facts/circumstances or such that might arise in the nearest future, that may cast doubt upon my independence amongst the parties; and should it appear during the procurement procedure that such relationship exists or has been established, I shall immediately notify the person carrying out the procurement and my direct manager thereof and withdraw myself from the procurement procedure or, if withdrawal is impossible, I shall involve a colleague, who would monitor the course of procedure.

Signature: /digital signature/

¹ Upon carrying out public procurement, the contracting authority must adhere to the following principles:

- 1) the contracting authority acts transparently, verifiably and proportionately upon carrying out public procurement;
- 2) the contracting authority treats all persons whose place of residence or seat is in Estonia, in another Member State of the European Union, in another contracting state of the European Economic Area or in a country that has joined the Government Procurement Agreement of the World Trade Organization equally and the contracting authority makes certain that all restrictions and criteria imposed on the persons are proportional, relevant and reasoned in relation to the purpose of the public procurement;
- 3) the contracting authority ensures effective use of competition in public procurement, whereby the participation of a legal person governed by public law or a legal person governed by private law using public funds in public procurement must not distort competition due to its use of public funds;
- 4) the contracting authority avoids a competition-distorting conflict of interest;
- 5) the contracting authority uses funds economically and purposefully, awards the public contract based on the best price-quality ratio, and carries out the public procurement within a reasonable time.

² A conflict of interest means a situation where the contracting authority's or the contracting entity's employee, official, management board member or another competent representative involved in the preparation or carrying out of public procurement or who may otherwise influence the outcome of the public procurement has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence" (PPA §4 (8)). A conflict of interest always arises in the procurement procedure, if it concerns a tender from or award of a contract to a legal person (or persons associated therewith), in which ASTV's employee owns shares (irrespective of the size). (ASTV's Purchase Process cl. 1.2.2.1)