

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 Entity) 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 Entity shall apply the relevant provisions of the PPA and subordinate legal acts as well as these Procurement Rules.
- 1.3. The Contracting Entity is a contracting entity operating in a network sector for the purposes of the § 5 (3) (2) of the PPA and complies with the PPA, following the thresholds 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 | Procurement types and thresholds (from) | | | | |
|----------------------------|---|-------------------|--------------------|-------------------------|-------------------------------------|
| | Purchase | Small procurement | Simple procurement | Public procurement | International procurement procedure |
| Goods and services | €0.01 | €3,000 | €60,000 | International threshold | €428,000 |
| Works | €0.01 | €3,000 | €300,000 | International threshold | €5,350,000 |
| Design contest | €0.01 | €3,000 | - | €60,000 | €428,000 |
| 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 enter into 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 Entity follows the approved procurement plan.
- 2.2. For a better organisation of procurements, the Contracting Entity 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 Entity at that point in time with the estimated value from € 3,000 (starting from small procurements). The ongoing year's procurement plan shall be approved by the Contracting Entity's management board no later than by the 31st of January. Amendments and adjustments to the procurement plan are made by the Procurement Department as appropriate. Extra procurements are carried out as appropriate.
- 2.3. The procurement plan shall be disclosed on the Contracting Entity'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 object
- 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 Entity shall form a procurement committee consisting of a minimum of three members. The procurement committee shall include at least the organiser of the procurement (the person responsible for carrying out the procurement), a 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 Entity'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 Entity;
 - 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 shall be 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 Entity on the procedure. It means that if the procurement result can be achieved at a reasonable value for money for the Contracting Entity without taking comparative offers, then the Contracting Entity 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 Entity 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 Entity's funds and the principles of effective use of competition.
 - 4.2.1. In order to carry out a small procurement, the Contracting Entity 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 if 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 Entity shall assess the market situation and determine the circle of potential tenderers.
 - 4.2.3. The Contracting Entity shall send the documents regarding the small procurement to the potential tenderers by e-mail.
 - 4.2.4. The Contracting Entity may, depending on the complexity of the procurement object or other circumstances, establish both the 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 procurements and the Contracting Entity has the right not to disclose it.
- 4.3. In organising a **simple procedure**, the Contracting Entity shall follow the § 125 of the PPA.
- 4.4. In organising a **public procurement and international procurement procedure**, the Contracting Entity shall follow the PPA.

5. CARRYING OUT PROCUREMENTS

- 5.1. The procurement documents must contain sufficient information to clarify the necessities of the Contracting Entity 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 Entity 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 Entity 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 Entity 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 € 10,000. If a public works contract needs to be entered into 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 Entity'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 simple procurements, shall be kept in their full form in e-Procurement Estonia (<https://riiqihanked.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 Procurement Committee members and persons involved in the procurement procedure holding the decision-making power have the obligation to submit a "Declaration concerning the procurement procedure" (Annex 2) individually for each procurement (except for purchases) prior to the start of the procurement procedure. The organiser of procurements shall check the submission of declarations and be responsible for the timely submission of declarations by the persons who are obliged to do so.
- 7.4. Declarations shall be kept in the DMS with the documents of the relevant procurement.
- 7.5. All employees of the Contracting Entity shall always follow the Code of Conduct established in the Company, available on the Contracting Entity'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 Entity determines as needed. | None | None |
| Small procurement | Supplies and services; | 3,000 – 59,999.99 | No restrictions. Contracting Entity determines as needed. | Yes, from €10,000 | None |
| | Works; | 3,000 – 299,999.99 | | | |
| | Design contest; | 3,000 – 59,999.99 | | | |
| | Social services; | 3,000 – 299,999.99 | | | |
| | Special services. | 3,000 – 59,999.99 | | | |
| Simple procedure | Supplies and services; | 60,000 – 427,999.99 | In a normal situation 5 working days. | Yes | 5 working days |
| | Works. | 300,000 – 5,349,999.99 | In a normal situation 15 working days. | | |
| Public procurement | Design contest; | 60,000 – 427,999.99 | Contracting Entity 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 428,000 | 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 5,350,000 | No restrictions. Contracting Entity determines as needed. | Yes | None |
| | Design contest | From 428,000 | No restrictions. Contracting Entity determines as needed. | Yes | None |
| | Social services; Special services. | From 1,000,000 | No restrictions. Contracting Entity determines as needed. | Yes | None |

*Minimum number of days

Lisa 2 – Declaration concerning a procurement procedure

DECLARATION CONCERNING THE PROCUREMENT PROCEDURE

| | |
|------------------------------|--|
| Procurement title: | |
| Publishing reference: | |

The persons who have signed the declaration confirm each on their own behalf the following:

I 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 rules of AS Tallinna Vesi. ² |
| B. | I undertake to make sure at all times that I do not have any conflicts of interest in any of the procurement procedures ³ . 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 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 Entity 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. |

| | |
|---------------------------------------|---|
| Signatures: /digitally signed/ | Date: as per the date of digital signature |
|---------------------------------------|---|

² Upon carrying out public procurement, the contracting authority or the contracting entity must adhere to the following principles:

- 1) the contracting authority or the contracting entity acts transparently, verifiably and proportionately upon carrying out public procurement;
- 2) the contracting authority or the contracting entity 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 or the contracting entity 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 or the contracting entity ensures effective use of competition in public procurement, whereby the participation of a public legal person or a private legal person using public funds in public procurement must not distort competition due to its use of public funds;
- 4) the contracting authority or the contracting entity avoids a competition-distorting conflict of interest;
- 5) the contracting authority or the contracting entity 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.

³ '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 (§ 4 (8) of the PPA). A conflict of interest always arises in a purchase procedure, incl. procurements, if it concerns a tender or an entry into a contract with a legal person, in which ASTV's employee owns shares (irrespective of the size) or persons associated therewith (family, relatives, friends, etc.). (ASTV's Purchase Process cl. 1.6.2.1.)