



Managing Authority  
State Shared Service Centre of the Republic of Estonia

**Estonia – Russia**  
**Cross Border Cooperation Programme 2014-2020**

EC decision No C(2015) 9193

**Procurement rules and tender procedures**  
**Annex I to Project Implementation Guidelines**

## Procurement rules and tender procedures

### 1. Public procurement procedures

#### 1.1 Procurement for beneficiaries from Estonia who are considered as contracting authorities and contracting entities (jointly referred as “contracting authority”) according to the Public Procurement Act<sup>1</sup> (the PPA)

1.1.1 The grounds of being considered as a contracting authority are stipulated in § 5 of the PPA. More information about defining the contracting authority can be found in the Frequently Asked Questions section of the e-procurement environment (<https://riigihanked.riik.ee/lr1/web/quest/korduma-kippuvad-kusimused>).

1.1.2 When conducting procurements the contracting authority has to follow the PPA and the guidelines given in this document.

1.1.3 If the estimated value of services, goods or building works is less than of 5000 euros without VAT, the procurement procedures of the contracting authority must comply with § 3 of the PPA.

1.1.4 If the estimated value of services, goods or building works is equal to or in excess of 5000 euros without VAT and until the threshold of the simple procurement, the contracting authority has to receive comparable offers (more than one offer) and follow the PPA when conducting procurement procedures. In addition the beneficiary has to respect the following provisions regarding the comparable offers mentioned in this point (1.1.4):

- 1) the same tender related documents (e.g contract notice, invitation to the tender, technical specifications qualification requirements, draft contract, award and selection criteria) have to be sent or made available to all interested parties/possible tenderers);
- 2) when there is only one tenderer who can offer the service, goods or building works then the beneficiary has to receive at least one offer;
- 3) the beneficiary has to provide justifications attached to the tender related documents in cases it does not receive comparable offers.
- 4) the beneficiary has to provide justifications regarding the selected offer attached to the tender related documentation;
- 5) when the beneficiary is having a tender procedure for used assets then it has to receive at least one offer for the equivalent new assets.

1.1.5 If the estimated value of the services, goods or building works is equal to or in excess of the threshold of the simple procurements as stipulated in the PPA, the contracting authority has to conduct the procurement using the e-procurement environment (<https://riigihanked.riik.ee/lr1/web/quest/index>).

1.1.6 If applicable, all purchases have to be in accordance with the nationality and origin rules.

1.1.7 When conducting the procurement in the e-procurement environment the beneficiary must add a public officer from the Department of Subsidies of the State Shared Service

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<sup>1</sup> Public Procurement Act, <https://www.riigiteataja.ee/akt/101072017001>

Centre of Estonia as a “viewer” to the procurement. The “viewer” role must be appointed when the partner report is inserted to the eMS.

In addition, in case of audits concerning the conducted procurements the beneficiary must add an auditor from the Financial Control Department of the Ministry of Finance of Estonia also as a „viewer” to the procurement. This has to be done at the request of the auditor from the Financial Control Department.

1.1.8 The user guides and the test environment for the e-procurement environment can be found on the following web-page: <https://riigihanked.riik.ee/lr1/web/guest/kasutusjuhendid>.

The support service concerning the e-procurement environment can be reached on the following contacts:

Telephone: (+372) 611 3693 or 611 3703

E-mail: [register@riigihanked.riik.ee](mailto:register@riigihanked.riik.ee)

## **1.2 Public procurement for beneficiaries from the Russian Federation**

The beneficiaries from the Russian Federation who are considered as public entities have to follow to the Russian public procurement procedures (as stipulated in the financing agreement).

If applicable, all purchases have to be in accordance with the nationality and origin rules.

## **2. Price offers for beneficiaries from Estonia who are considered as non-contracting authorities**

2.1 If the estimated value of the services, goods or building works is less than of 5000 euros without VAT, the beneficiary must use financial resources economically and for their intended purpose and achieve the purpose of the purchase at a reasonable price.

2.2 If the estimated value of services, goods or building works is equal to or in excess of 5000 euros without VAT but below the national threshold (or equal to) without VAT, the beneficiary is required to comply with the following principles:

1) the beneficiary acts transparently, verifiably and proportionately upon carrying out the tender procedure;

2) the beneficiary 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 beneficiary makes certain that all restrictions and criteria imposed on the persons are proportional, relevant and reasoned in relation to the purpose of the tender procedure;

3) the beneficiary ensures effective use of competition in tender procedure, 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 beneficiary avoids a competition-distorting conflict of interest<sup>2</sup>;

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<sup>2</sup> Conflict of interest is defined in point 5.12 of the implementation guidelines.

5) the beneficiary 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;

6) the beneficiary must ensure that deadlines for submitting tenders must be long enough to give interested parties/possible tenderers a reasonable period to prepare their tenders. The time limit must not be shorter than four working days, taking into account the supplies, services or works that constitute the object of the contract;

2.2.1 The beneficiary has to receive comparable offers (more than one offer) from tenderers acting in the sphere of the tendering object. The same tender related documents (e.g contract notice, invitation to the tender, technical specifications qualification requirements, draft contract, award and selection criteria) have to be sent or made available to all interested parties/possible tenderers. If applicable, all purchases have to be in accordance with the nationality and origin rules.

2.2.2 When there is only one tenderer who can offer the service, goods or building works then the beneficiary has to receive at least one offer.

2.2.3 When the beneficiary is having a tender procedure for used assets then it has to receive at least one offer for the equivalent new assets.

2.2.4 The beneficiary has to provide justifications attached to the tender related documents in cases it does not receive comparable offers.

2.2.5 The beneficiary has to provide justifications regarding the selected offer attached to the tender related documentation.

2.3 If the estimated value of a service, goods or building works is equal to or in excess of the simple procurement threshold (stipulated in the Public Procurement Act<sup>3</sup>), then the beneficiary must carry out their tender procedures by uploading the necessary documents (e.g contract notice, invitation to the tender, technical specifications qualification requirements, draft contract, award and selection criteria) to the e-procurement environment (<https://riigihanked.riik.ee/lr1/web/quest/index>) and conduct the tender according to the regime of simple procedure (§ 125 of the Public Procurement Act). The beneficiary must identify itself as a grant recipient, who is not a contracting authority, for the purposes of Public Procurement Act.

2.3.1 When conducting the procurement in the e-procurement environment the beneficiary must add a public officer from the Department of Subsidies of the State Shared Service Centre of Estonia as a "viewer" to the procurement. The "viewer" role must be appointed when the partner report is inserted to the eMS.

2.3.2 In addition, in case of audits concerning the conducted procurements the beneficiary must add an auditor from the Financial Control Department of the Ministry of Finance of Estonia also as a „viewer" to the procurement. This has to be done at the request of the auditor from the Financial Control Department.

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<sup>3</sup> Public Procurement Act, <https://www.riigiteataja.ee/akt/123032015024>

2.3.3 The user guides and the test environment for the e-procurement environment can be found on the following web-page: <https://riigihanked.riik.ee/lr1/web/guest/kasutusjuhendid>.

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### **3. When an Estonian legal private body has to conduct public procurements**

3.1 Other legal persons governed by private law may be considered as contracting authorities or contracting entities if conditions of § 5 of the PPA are fulfilled.

3.2 One of the key factors for deciding whether a private body is a contracting authority, is the amount of public financing that body receives. Being "mainly financed" by public financing refers to public financing over 50%, in which case that body is to be considered as a contracting authority.

3.3 A legal private body may be financed from various sources and those funds are provided for a variety of purposes and on various grounds. It is therefore necessary to determine the real nature of each of the forms of financing and the percentage of public financing, for which account must be taken of all of its income, including the income that results from a commercial activity.

3.4 Such calculation (as referred in points 3.2 and 3.3) must be carried out annually on the basis of the figures available at the beginning of the budgetary year, even if they are only provisional. The legal body is expected to retain the status of either being or not being a contracting authority for 12 months from the beginning of each budgetary year.

3.5 More information about defining contracting authority can be found from the Public Procurement Act and from the following web-page: <https://riigihanked.riik.ee/lr1/web/guest/korduma-kippuvad-kusimused>). It is the responsibility of each Estonian project partner, governed by the private law, to assess in the beginning of each budgetary year, whether it is a contracting authority or not.

### **4. Price offers for beneficiaries from the Russian Federation**

4.1 The price offers for the beneficiaries from the Russian Federation have to be conducted according to Annex II "Award of procurement contracts by Russian private beneficiaries" of the financing agreement in order the contract is awarded to the tender offering best value for money, or as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests (<http://www.estoniarussia.eu/wp-content/uploads/2018/04/171219-ENI-CBC-EE-RU-Annex-II-Award-of-procurement-contracts-EN-FINAL.pdf>).

4.2 In addition to the requirements of Annex II of the financing agreement the beneficiary has to observe the following rules:

1) if the estimated value of the services, goods or building works is less than of 5000 euros without VAT, the beneficiary must use financial resources economically and for their intended purpose and achieve the purpose of the purchase at a reasonable price.

2) if the estimated value of services, goods or building works is from 5000 to 60 000 (or equal to) euros without VAT, then the beneficiary has to receive comparable offers (more than one offer) from tenderers acting in the sphere of the tendering object. The same

tender related documents (e.g contract notice, invitation to the tender, technical specifications qualification requirements, draft contract, award and selection criteria) have to be sent or made available to all interested parties/possible tenderers;

4.3 For the procedure mentioned in point 4.2(2) the following applies:

1) when there is only one tenderer who can offer the service, goods or building works then the beneficiary has to receive at least one offer;

2) when the beneficiary is having a tender procedure for used assets then it has to receive at least one offer for the equivalent new assets;

3) the beneficiary has to provide justifications attached to the tender related documents in cases it does not receive comparable offers;

4) The beneficiary has to provide justifications regarding the selected offer attached to the tender related documentation.

5) the beneficiary must ensure that deadlines for submitting tenders must be long enough to give interested parties/possible tenderers a reasonable period to prepare their tenders. The time limit must not be shorter than seven (7) working days after publishing the tender procedure related information, taking into account the supplies, services or works that constitute the object of the contract;

6) the beneficiary avoids a competition-distorting conflict of interest<sup>4</sup>.

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<sup>4</sup> Conflict of interest is defined in point 5.12 of the implementation guidelines.