



Types and procedures of public procurement

Goran Kitić, advisor

Ministry of Finance, Public Assets Directorate

Phases of the procedure

- prior information notice, where appropriate;
- decision to initiate the procedure;
- preparation of contract documents;
- publication of the contract notice;
- submission and opening of tenders;
- examination and evaluation of tenders;
- contract award decision;
- publication of the contract award notice.



Procedures of public procurement

1. open procedure;
2. restricted procedure;
3. competitive dialogue;
4. negotiated procedure without prior publication of a contract notice;
5. negotiated procedure with prior publication of a contract notice;
6. tender collection procedure with prior publication of a contract notice;
7. low-value public procurement



Open procedure

- Procedure wherein all parties interested in the public contract award may submit their tenders in accordance with previously defined requirements of the contracting authority specified in contract documents.

Restricted procedure

- The restricted procedure shall be a procedure for awarding a contract in which the contracting authorities in the first phase recognise the qualifications of tenderers on the basis of previously submitted applications, whereas in the second phase they invite all candidates with recognised qualifications to submit tenders.
- 2 phases

Competitive dialogue

- Where neither open nor restricted procedures will allow the award of the contract due to its complexity
- Most economically advantageous tender
- Equality of treatment among all tenderers
- Classified information
- The contracting authority shall continue this dialogue until it can identify the solution or solutions, if necessary after comparing them, which meet its needs

Negotiated procedure with prior publication of a contract notice

- Following regular procedure:
 - low-value tender, tender collection procedure with prior publication of a contract notice, open procedure, restricted procedure, competitive dialogue
 - irregular or unacceptable tenders have been submitted,
- In exceptional cases, when the nature of the contract or the risks attaching thereto do not permit prior overall pricing;
- Works contracts, for works which are performed solely for purposes of research
- In respect of public contracts the value of which does not exceed the EU thresholds

Negotiated procedure without prior publication of a contract notice

- No tenders or no suitable tenders or no applications have been submitted
- When, for technical or artistic requirements of the subject matter of the public contract, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular tenderer
- Award of contract is strictly necessary
- Contract may be executed by a previously identified and final number of qualified tenderers
- Research products
- Supplies quoted and purchased on a commodity market
- Purchase of supplies on particularly advantageous terms
- Design contests
- Additional works or services



Special methods of procurement and framework agreement

1. Dynamic purchasing system,
2. Particular rules for subsidised housing schemes,
3. Electronic bidding in
4. Joint public procurement .

Framework agreement

- not general or independent procedures
- use of standard procedures
- completion of procurement procedure

Framework agreement (1)

- Contractual law: legally binding relationship, which does not meet the general assumptions for a valid contract
- Modality of basic procurement procedures
- Concluded on the basis of previously performed relevant procurement procedure
- The term of a framework agreement may not exceed 4 years

Framework agreement (2)

- Framework agreement concluded with a single economic operator
 - All terms specified
 - All terms not specified
- Framework agreement concluded with several economic operators
 - All terms specified: application of the specifications laid down in the framework agreement without reopening competition
 - All terms not specified: reopening of competition

Dynamic purchasing systems

- Rules of open procedure; contracting authorities shall solely use electronic means
- Standardized contracts
- Qualification process with receipt of requests
- May not last for more than 4 years

Rules on subsidised housing schemes

- Adaptation of rules to a special kind of contract pravil posebni naravi javnega naročila
- Less mandatory practices
- The main purpose is to select contractors, although subject of public procurement is not yet determined



Joint public procurement by the Government

- The contract brings together a large quantity of goods or services, which generally provide lower prices
- Promotion of more economical and efficient use of public funds

Basic suitability of the candidate or tenderer

- Exclusion of the candidate or tenderer
 - subject of a conviction (participation in a criminal organisation , accepting a bribe in elections , fraud, money laundering)
 - concealment of financial commitments and fraud affecting the European Communities' financial interests
 - Record of economic operators with negative references
 - Insolvency



Suitability to pursue professional activity

- Generally relevant to the performance on the market, not only for public contracts
- Registers
- Declarations
- Certificates

Economic and financial suitability

- Associated with and proportionate to the subject matter of the contract
- Relevant bank statements, credit rating information, or, where appropriate, evidence of relevant professional risk indemnity insurance
- Balance sheets or extracts from the balance sheets and books of account with the contents specified in the contract documents
- Various statements of the undertaking's overall turnover
- An economic operator may, where appropriate and for a particular contract, rely on the capacities of other economic operators
- No outstanding liabilities to his subcontractors in previous public procurement procedures

Contract award criteria

- The contracting authority may award a contract either:
 - to the most economically advantageous tender by using various criteria linked to the subject matter of the public contract;
 - on the basis of the lowest price.

Abnormally low tenders

- Mere low price is not prohibited
- Contracting authority should react if the price is abnormally low or where it is low because of unfair reasons
- Prevention of possible breaches of regulations and ensuring fulfillment of the public contract.

Time limits

- When fixing the time limits for the receipt of requests to participate and tenders, the contracting authority shall take account in particular of the
 - complexity of the contract
 - time required for drawing up tenders,
 - minimum time limits

Preparation of contract documents and draft contract

- Invitation to tender;
- Instructions to tenderers on the elaboration of the tender;
- Requirements to assess ability and instructions to prove tenderers' ability;
- General and specific conditions governing the contract;
- Elements for the preparation of a pro-forma invoice with instructions for its completion;
- Financial or other types of insurance, if any.



Procurement procedure

- Public opening of tenders
- Examination of tender
- Admissible amendments to a tender
- Decision on the award of contract
- Standstill period

Procurement procedure

- Elimination of tenders
- Suspension of procedure
- Rejection of all tenders
- Abandonment of procedure