Procurement Rules

Based on clauses 15 (2) and 15 (3) of the Statutes of the University of Tartu adopted by the senate of the University of Tartu regulation no. 11 of 21 July 2014 and approved by the council of the University of Tartu resolution no. 18 of 29 July 2014, and subsections 9 (1) and 9 (4) of the Public Procurement Act, I hereby establish the Procurement Rules of the University of Tartu.

I. General provisions

1. Procurement Rules regulate the planning and organisation of the public procurements (‘procurement’) of all structural units of the University of Tartu (‘university’), and the concluding of public contracts. Procurement Rules are established to ensure compliance with the terms established in the Public Procurement Act for the university as the contracting authority, and to comply with the purpose of the Public Procurement Act and ensure the transparent, practical and economical use of the university’s funds, equal treatment of persons, and effective use of competition.

2. The Procurement Rules lay down the terms that apply to
   2.1. procurements which exceed the public procurement threshold, including the international threshold (‘public procurement’);
   2.2. public procurements which exceed the threshold of carrying out a simple procurement procedure (‘simple procurement’);
   2.3. purchasing of supplies and services and contracting for works with a value below the simple procurement threshold;
   2.4. purchasing of social and other specific services as defined in the Public Procurement Act;
   2.5. purchasing of supplies and services related to research and development.

3. The support services necessary for performing the rights and responsibilities arising to the university as the contracting agency from the Public Procurement Act and the Procurement Rules are provided by the Procurement Office, whose aim is to ensure that the procurement procedure is carried out in a transparent, high-quality, efficient and innovative manner.

4. All the values referred to in the Procurement Rules are presented net of VAT.
II. General procurement rules

5. When planning and carrying out the procurement procedure, the university aims to take into account social considerations and apply innovative and environmentally friendly solutions.

6. The person responsible for a public procurement organised via the public procurement register as defined in the Public Procurement Act is the head of the Procurement Office, who is responsible for carrying out the procurement, incl. preparing the procurement documents, choosing the type of procurement procedure and reporting, unless the Procurement Rules provide otherwise.

7. If an external financer has established specific rules for purchasing supplies or services, incl. contracting for works, for example in the case of targeted financing projects, such rules must also be complied with in addition to the provisions of the Procurement Rules.

8. For the purposes of the Procurement Rules, a public contract is a contract made as a result of procurement procedure and specific procurement procedure (i.e. simple procurement, procedure of social and other specific services, design contest) in writing or in an electronic or notarised form.

9. The contract is concluded pursuant to the terms and procedure established in chapter XI of the Procurement Rules.

10. The person responsible for the performance of the public contract is appointed on the basis of clauses 29, 34 and 42 of the Procurement Rules.

11. The measures for prevention, identification and resolving of a conflict of interests are established by the rector’s decree. In a procurement procedure, the conflict of interests means a situation where an employee of the university or another person acting on behalf of the university involved in the preparation or carrying out of a public procurement or who may otherwise influence the outcome of the public procurement has, directly or indirectly, financial, economic or other personal interests which might be perceived to compromise their impartiality and independence.

III. Thresholds and rules for division of procurement into lots

12. For the purposes of the Procurement Rules, a public procurement is a procurement in which the estimated value of the public contract is
   12.1. for purchase of supplies and services, at least 60,000 euros,
   12.2. for purchase of works, at least 150,000 euros,
   12.3. for design contest, at least 60,000 euros.

13. For the purposes of the Procurement Rules, a simple procurement is a procurement in which the estimated value of the public contract is
   13.1. for purchase of supplies and services at least 30,000 euros but below 60,000 euros,
   13.2. for purchase of works at least 60,000 euros but below 150,000 euros,
   13.3. for purchase of social services at least 300,000 euros and specific services at least 60,000 euros.

14. The rules for division of a procurement into lots are the following.
   14.1. A procurement may be divided into lots if it is justified for objective reasons.
   14.2. If a public procurement, the estimated value of which equals or exceeds the thresholds specified in clauses 12.1–12.3 of the Procurement Rules, has not been divided into lots within a single procedure, the reasons must be provided in the application to initiate a public procurement.
14.3. The public procurement cannot be divided into lots for the purpose of disregarding the rules or requirements established for carrying out public procurement, especially if the subject matter of the public contract is interoperable supplies, services or works or supplies, services or works that are necessary for the attainment of the same purpose.

IV. Drawing up and approving the procurement plan

15. To ensure a smooth organisation and planning of procurements, the head of finance issues a directive approving the procurement plan for the current year by 31 January each year. [effective as of 1 April 2020]

16. To prepare the procurement plan, the rector, vice rector, dean, head of non-faculty institution and area director submit to the head of the Procurement Office in the process of drafting the budget but not later than on 31 December each year, information regarding the procurements to be carried out in the following year and interoperable procurements or procurements necessary for the attainment of the same purpose, with the estimated value of at least 10,000 euros for the purchase of supplies and services, at least 30,000 euros for organising design contests and contracting for works, and at least 30,000 euros for the purchase of social services and specific services. For each procurement, its name, the estimated date of initiating the procurement, and the estimated value are submitted. [effective as of 1 April 2020]

17. The need for university-wide procurements is estimated and monitored by the head of the Procurement Office, who makes the proposal to include them in the procurement plan to the head of finance. [effective as of 1 April 2020]

18. The minimum value of procurements included in the procurement plan, unless an external financer has established a requirement of lower value, is
   18.1. 30,000 euros for a public contract for the purchase of supplies and services,
   18.2. 60,000 euros for a public contract for works,
   18.3. 60,000 euros for organising a design contest,
   18.4. 60,000 euros for a public contract for specific services, and 300,000 euros for a public contract for social services.

19. If the procurement plan needs to be changed or modified, the rector, vice rector, dean, head of non-faculty institution or area director submits the relevant information to the head of the Procurement Office, who makes the changes in the procurement plan within five working days of submitting the information. [effective as of 1 April 2020]

20. The head of the Procurement Office makes the procurement plan and its amendments public on the university’s website.

V. Initiating public procurements and forming a committee

21. Public procurements that are included in the procurement plan are initiated by the head of institute, director of college, head of dean’s office, head of support unit, rector, vice rector, dean, head of non-faculty institution, or area director. University-wide public procurements are initiated by the head of the Procurement Office. Public procurements that are not included in the procurement plan may be initiated by the rector, vice rector, dean, head of non-faculty institution and area director. [effective as of 1 April 2020]

22. The person who initiates a public procurement submits a duly completed application to initiate a public procurement along with the technical specifications (terms of reference of
the procurement) to the head of the Procurement Office via the document management system of the university.

23. When submitting the application to initiate a public procurement, the person who initiates the public procurement, members of the committee, the holder of financial account and the person responsible for the technical specifications supply a written declaration of absence of apparent or actual conflict of interests, or in the case of emergence of such conflict, of withdrawing themselves, a declaration of absence of any personal interests related to the procurement, with a confirmation that all through the procurement procedure, including in the course of reviewing tenders and making decisions, they ensure that there are no conflicts of interests. The situation of conflict of interests is determined according to the decree referred to in clause 11 of the Procurement Rules.

24. The person who initiates a public procurement is responsible for the correctness of the data presented in the application to initiate a public procurement.

25. On the basis of the application referred to in clause 22 of these rules, the head of finance issues a directive to form the public procurement committee (‘committee’), appoint the chair and secretary of the committee and the person responsible for technical specifications, and determine the type of procurement procedure. The committee is formed and its work is organised according to the following principles. [effective as of 1 April 2020]

25.1. The committee has at least three members, the secretary of the committee participates in the committee’s work without a voting right. Members of the committee come from at least two structural units. The committee may involve in its work independent experts without a voting right, who supply the declaration stated in clause 23 of the Procurement Rules before starting work with the committee.

25.2. The task of the committee is to prepare, in cooperation with the Procurement Office, procurement documents, exclude or not to exclude tenderers from the procurement procedure, qualify or disqualify tenderers and applicants, declare tenders admissible or reject tenders, hold negotiations with tenderers in cases provided in the law, evaluate tenders and identify a successful tender and submit proposals to the head of finance to make decisions regarding public procurement procedures. [effective as of 1 April 2020]

25.3. The chair of the committee is responsible for the work of the committee. The mandate of the committee is valid until the public contract is concluded.

25.4. The decision of the committee is adopted if more than half of the members of the committee have voted for it. The secretary of the committee records the decisions of the committee and the minutes of committee meetings. Members of the committee are entitled to add their (dissenting) opinion in writing to the committee’s decision.

VI. Procurement documents and the person responsible for the performance of public contract

26. Draft procurement documents are signed by more than half of the committee members. [effective as of 26 July 2018]

27. The head of the Procurement Office signs the procurement documents. [effective as of 26 July 2018]

28. The decisions regarding public procurement procedures are made by the head of finance with a directive on the basis of proposals by the committee. [effective as of 1 April 2020]
29. The person responsible for the performance of the public contract is appointed in the directive of the head of finance or in the public contract, based on the proposal made in the application to initiate a public procurement. In a university-wide public contract, each holder of financial account is responsible for the compliance of a single purchase and the purchase invoice with the public contract or the framework agreement. The mandate of the person responsible for the performance of the public contract is generally specified in the public contract. [effective as of 1 April 2020]

30. The person responsible for the performance of the public contract monitors the performance of the contract, including
30.1. monitors compliance with the terms and conditions of the public contract, including deadlines and volumes, and informs the Procurement Office immediately of any problems;
30.2. evaluates the quantity and the quality of delivered supplies, services and works;
30.3. concludes or coordinates the deed of delivery and receipt of the subject matter of the public contract;
30.4. ensures timely submission of claims in cooperation with the Procurement Office;
30.5. if necessary, initiates the amendment or termination of a public contract.

VII. Simple procedure

31. A simple procedure is initiated according to clauses 21–24 of the Procurement Rules; the terms of clauses 26 and 27 of the Procurement Rules apply to the proceeding of the procurement documents. [effective as of 26 July 2018]

32. For a simple procedure, the head of the Procurement Office convenes a simple procurement committee of at least three members and appoints its chair, secretary and the person responsible for compiling the technical specifications. The chair of the simple procurement committee is responsible for the work of the committee.

33. The task of the simple procurement committee is to prepare, in cooperation with the Procurement Office, documents for a simple procedure, exclude tenderers from the procurement procedure, verify the compliance of tenderers and tenders, hold negotiations, evaluate tenders, identify the successful tender and make decisions regarding simple procedures. The decision of the simple procurement committee is adopted if more than half of the members of the committee have voted for it. [effective as of 1 April 2020]

34. The person responsible for the performance of the public contract is appointed in the decision of the simple procurement committee or in the public contract, based on the proposal made in the application to initiate a public procurement. The person responsible for the performance of the public contract has the obligations specified in clause 30 of the Procurement Rules. [effective as of 1 April 2020]

VIII. Procurements below the threshold of simple procedure

35. For procurements below the threshold of simple procedure, negotiations may be held in a freely chosen form, i.e. in writing, in a form which can be reproduced in writing, or orally. During negotiations, the equal treatment of all tenderers and confidentiality of tenders is ensured.

36. Procurements below the threshold of simple procedure must comply with the general principles provided in section 3 of the Public Procurement Act, e.g. transparency, proportionality, purposefulness and economy, to have an efficient procurement procedure, i.e. that the cost of time, money and labour for the contracting authority is minimised. If the
value of the procurement is below 5000 euros, it is sufficient for the contracting authority to request one tender and the tender does not have to be retained. This rule does not apply if such obligation results from specific rules provided in clause 7 of the Procurement Rules. [effective as of 26 July 2018]

37. If the estimated value of the procurement for purchasing supplies and services is between 5,000 and 29,999.99 euros, and for construction works between 5,000–59,999.99 euros, an invitation to tender is submitted, if possible, to at least three potential tenderers, except in cases provided in clause 38. If an invitation to tender is sent to fewer than three persons, the holder of financial account must state the reasons for the absence of competition. Along with the contract or, if there is no requirement to conclude a contract, along with the purchase invoice, a price enquiry in a format that can be reproduced in writing and comparable price quotations (e.g., e-mails and screenshots from online shopping environments) with reasons for choosing the successful tenderer are submitted. A procurement is carried out pursuant to the terms and procedure established in Chapter XI of these rules. [effective as of 1 April 2020]

38. If the value of the procurement is below the threshold of simple procedure, it is not necessary to request comparable price quotations in the following cases:
38.1. no tenders were submitted in answer to an earlier invitation to tender and the initial conditions of the contract have not been substantially modified;
38.2. the public contract can only be awarded to a particular tenderer for technical reasons or for reasons related to the protection of exclusive rights, including intellectual property rights, or for artistic reasons, including upon creation or acquisition of a unique work of art or artistic performance;
38.3. the public contract must be concluded quickly for reasons of extreme urgency (for example, emergency works) brought about by events unforeseeable to the contracting authority, which is why it is not possible or purposeful to request comparable tenders;
38.4. the subject matter of the contract is the services of an expert or specific consultancy services (e.g. membership of evaluation committee or jury, invitation of visiting lecturer);
38.5. specific supplies referred to in clause 47 of the Procurement Rules are purchased.

IX. Purchasing social services and other specific services

39. The purchasing of social services and other specific services must comply with the general principles provided in section 3 of the Public Procurement Act, e.g. transparency, proportionality, purposefulness and economy, to have an efficient procurement procedure, i.e. that the cost of time, money and labour for the university is minimised. [effective as of 26 July 2018]

40. If the value of the contract
40.1. for the purchase of social services is at least 300,000 euros, and for the purchase specific services at least 60,000 euros, the provisions established in the Procurement Rules for initiating, organising and carrying out the simple procedure are complied with; [effective as of 26 July 2018]
40.2. for the purchase of social services is from 30,000 to 299,999.99 euros and for the purchase of specific services from 30,000 to 59,999.99 euros, an invitation to tender is sent to at least three persons, if possible. If an invitation to tender is sent to fewer than three persons, the holder of the financial account must state the reasons for the absence of competition. Along with the contract, a price enquiry in a format that can be reproduced in writing and comparable price quotations (e.g. e-mails and
screenshots from online shopping environments) with reasons for choosing the successful tenderer are submitted; [effective as of 1 April 2020]

40.3. for the purchase of social services and specific services is below 30,000 euros, the contracting authority may request only one tender and the tender does not have to be retained, taking also into account clause 7 of these rules. [effective as of 1 April 2020]

41. When purchasing social services and specific services, negotiations may be held in a freely chosen form, i.e. in writing, in a form which can be reproduced in writing, or orally. During negotiations, the equal treatment of all tenderers and the confidentiality of submitted tenders is ensured.

42. The person responsible for the performance of the public contract for social services and specific services is appointed in the public contract.

43. The head of the Procurement Office makes the list of the social services and specific services available on the intranet.

X. Purchasing supplies required for research and development and purchasing research and development service

44. When purchasing a research and development service referred to in clause 11 (1) 19) of the Public Procurement Act, it is not necessary to apply the Public Procurement Act or the Procurement Rules. This exclusion does not apply if the benefits accrue exclusively to the university for its use in the conduct of its own affairs and the service provided is wholly remunerated by the university.

45. For purchasing supplies required for research and development, which can also be used for other purposes than carrying out a specific project or conducting scientific research (‘non-specific items’), the requirements established in chapters I–VIII of the Procurement Rules apply.

46. The university is entitled to organise the procurement as a negotiated procedure without prior publication of a contract notice and to apply the principles provided in chapters III–VIII of the Procurement Rules, if:

46.1. the public contract is awarded for producing supplies for the purpose of research, experimentation, study or development, and the subject matter of the public contract does not include quantity production to establish commercial viability or to recover research and development costs;

46.2. the subject matter of the public contract is an item that is directly usable for research and development as defined in section 47 of the Procurement Rules, and if the estimated value of the contract is below the international threshold;

46.3. other cases are provided for in the Public Procurement Act.

47. The estimated values of interoperable supplies that are directly usable for research and development or supplies that are necessary for the attainment of the same purpose (‘specific items’) are totalled in the budget of the specific project or research (basic or applied research as defined in the Organisation of Research and Development Act). Specific items are supplies with unforeseen need, including items

47.1. which are related to a specific device and cannot be replaced with another similar item or if replaced, achieving the aims of the specific research or project or some stage of these is not likely;

47.2. the use of which is an essential requirement to ensure the comparability of research results.
XI. Award of contract. Procurement under framework agreements and procurement below thresholds

48. Based on the outcome of the procurement procedures specified in clause 6 of these rules, the rector, vice rector, dean, head of non-faculty institution or area director concludes a public contract with the successful tenderer. [effective as of 1 April 2020]

49. With the successful tenderers of a university-wide procurement, the head of finance generally concludes a framework agreement. Supplies and services are purchased based on a framework agreement pursuant to its terms and conditions. [effective as of 1 April 2020]

50. The Procurement Office organises the procedures related to the concluding of a public contract. Procedures related to the performance of a public contract are organised by the person responsible for the performance of the public contract as stipulated in clause 30 of these rules. [effective as of 1 April 2020]

50.1. [repealed as of 1 April 2020]

50.2. [repealed as of 1 April 2020]

50.3. [repealed as of 1 April 2020]

51. Contracts for the purchase of a vehicle as defined in Transport Management Regulations, irrespective of the cost of the contract, and contracts for the use of a vehicle exceeding 10,000 euros are concluded by the director of administration.

52. Public contracts for social services under 300,000 euros and public contracts for other specific services under 60,000 euros are made within their competence by the vice rector, dean, head of non-faculty institution, head of institute, director of college or area director.

53. When concluding a contract specified in clauses 48, 50–52 and 54 of these rules, the signatory on behalf of the university, the person responsible for the performance of the contract specified in clauses 29, 34 and 42 of these rules and the holder or the financial account provide a written declaration of absence of apparent and actual conflict of interests. [effective as of 1 April 2020]

54. If the value of a contract is at least 10,000 euros but below the threshold specified in clause 18 of the Procurement Rules, the contract is concluded by the rector, vice rector, dean, head of non-faculty institution, head of institute, director of college or area director in writing or in an electronic or notarised form. If a specific form of the contract is required by law, such form must be observed irrespective of the value of the contract. The person who is entitled to conclude the contract is responsible for the accuracy and specificity of the technical specifications of the subject matter of the contract (description of faculty, specialisation, supply or service).

55. Contracts for building design and contracts for services related to contracting for works (for example, owner supervision) with a value below 30,000 euros and contracts for works and architectural design contest with a value below 60,000 euros are concluded by the head of the Estates Office, taking into account the following rules:

55.1. the head of a structural unit operating outside Tartu who independently pays the direct and indirect costs of the management of the premises is entitled to purchase maintenance and repair works and enter into contracts with a value below 60,000 euros, in case there is money necessary for the maintenance and repair works in the budget of the structural unit;
55.2. the head of the Information Technology Office is entitled to purchase works for building the data and telephone network and for that purpose conclude contracts with a value below 60,000 euros. [effective as of 1 April 2020]
55.3. [repealed as of 1 April 2020]

56. Supplies and services with the value below 10,000 euros are paid for based on an invoice and/or contract, pursuant to the regulations established by the university and the Procurement Rules. Contracts for the purchase of supplies or services are made in writing by the head of structural unit. [effective as of 26 July 2018]

57. Contract forms are worked out and made public on the university’s intranet by the Procurement Office.

XII. Liability and implementing provisions

58. All persons referred to in the Procurement Rules are responsible for the implementation of the Procurement Rules to the extent of the responsibilities assigned to them by the Procurement Rules, and each holder of financial account is responsible for compliance with the terms and conditions established in the Procurement Rules.

59. The head of finance is responsible for organising the work related to the Procurement Rules and its timeliness and relevance. [effective as of 1 April 2020]

60. The head of the Procurement Office is responsible for publishing information on university-wide public contracts (names of successful tenderers, the terms and conditions for purchasing, etc.) on the intranet.

61. The forms and confirmation letters necessary for planning and organising procurement procedures are worked out by the Procurement Office, who makes them available for electronic completion and submission on the intranet in cooperation with the Administrative Office and Information Technology Office.

62. Public procurement procedures, for which procurement notices were published in the Public Procurement Register before the entry into force of these Procurement Rules, are organised pursuant to the Procurement Rules approved by decree no. 23 of 16 December 2010 and amended by decree no. 22 of 24 August 2012, decree no. 16 of 24 September 2013, decree no. 38 of 22 October 2014, decree no. 9 of 7 January 2016 and decree no. 12 of 8 September 2017, taking into account the implementing provisions of chapter 11 of the Public Procurement Act.

63. I hereby repeal the Procurement Rules approved by decree no. 23 of 16 December 2010 and amended by decree no. 22 of 24 August 2012, decree no. 16 of 24 September 2013, decree no. 38 of 22 October 2014, decree no. 9 of 7 January 2016 and decree no. 12 of 8 September 2017, and the directive no. 31RE of 25 January 2012 on establishing the minimum value of procurements in the procurement plan and the terms for changing the procurement plan.

64. The Procurement Rules take effect on 1 March 2018.