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Republic of Latvia

Cabinet

Regulation No. 65

Adopted 5 February 2008

Regulations regarding the Procurement Procedure and the Procedures for the Application thereof to the Projects Financed by the Commissioning Party

*Issued pursuant to
Section 7, Paragraph one of
Public Procurement Law*

I. General Provisions

1. These Regulations prescribe the procurement procedure and the procedures for the application thereof, as well as determine the persons, who apply such procedure, if the implementation of the contract, which is not referred to in Section 6 of the Public Procurement Law, is financed by a person who is a commissioning party within the meaning of the Public Procurement Law from its own funds or from the funds of instruments of the European Union policy and national co-financing.
2. These Regulations shall apply to any person (hereinafter - beneficiary of financing) who, according to a decision of the responsible institution, receives financing of instruments of the European Union policy, as well as the State or local government budget for the implementation of the contract, except for the financing that is granted as a compensation.
3. These Regulations shall not apply to a person who is a commissioning party within the meaning of the Public Procurement Law or a public service provider within the meaning of the Law On Procurement for the Needs of Public Service Providers.

II. Estimated Contract Price

4. In order to determine whether it is necessary to apply the contract awarding procedure referred to in Paragraph 9 of these Regulations, a beneficiary of financing shall determine the estimated contract price for the goods, services or construction work (without value added tax). The estimated contract price shall be determined as the total planned payment of the beneficiary of financing for the implementation of the contract, taking into account any option and any additions to the contract (the costs of the supply and installation of a procurement object, the costs that are related to the use of the procurement object, as well as other significant costs for the specific procurement).

5. If a procurement object is goods or services of a similar type, the estimated contract price of the procurement shall be determined as the total planned payment of the beneficiary of financing for the implementation of the contract throughout the implementation of the project.
6. If the implementation of the project lasts longer than 12 months, the beneficiary of financing shall join the procurement of goods or services of a similar type necessary for at least 12 months in one procurement and shall determine the estimated contract price of the procurement as the total planned payment of the beneficiary of financing for the implementation of the contract during at least 12 months.
7. The beneficiary of financing may divide one procurement of goods or services of a similar type into several individual procurements. In such case the estimated contract price of each individual procurement shall be determined as the sum of the estimated contract prices of all the individual procurements.
8. The beneficiary of financing is not permitted to divide the procurement of goods, services or construction work without a reason in order to avoid the application of the contract awarding procedure referred to in Paragraph 9 of these Regulations.
9. For the procurement of goods or services, the estimated contract price of which is LVL 50 000 or more, or for the procurement of construction work, the estimated contract price of which is LVL 120 000 or more, the contract awarding procedure in accordance with Chapter IV of these Regulations shall be applied.
10. If the estimated contract price of the procurement of goods or services is less than LVL 50 000 or for the procurement of construction work – less than LVL 120 000, the beneficiary of financing is not entitled to enter into a procurement contract with an associated person within the meaning of Paragraph 30 of these Regulations.

III. Exceptions

11. A beneficiary of financing is entitled not to apply the contract awarding procedure referred to in Paragraph 9 of these Regulations in the following cases:
 - 11.1. it receives the service from an institution, which is a commissioning party within the meaning of the Public Procurement Law, and provides the relevant service on the basis of the extraordinary rights specified in regulatory enactments;
 - 11.2. it needs to carry out partial replacement or supplementation of goods that are already at the disposal thereof, taking into account the technical compatibility with the existing goods, and the procurement of the necessary goods from the particular supplier is technically and economically justifiable. The estimated contract price of the needed new goods shall not be greater than the value of the relevant goods, which are already at the disposal of the beneficiary of financing;
 - 11.3. it requires supplementary construction work or services, which were not initially included in the contract or construction design, but which, due to unforeseen circumstances, have become necessary for the implementation of the contract previously entered into, they cannot be economically or technically separated from the implementation of the contract previously entered into and such construction work may be carried out or services may be provided only by the performer of the contract previously entered into. The contract price of the procurement of the necessary supplementary construction work or services shall not exceed 20% from the contract price of the contract previously entered into;

11.4. due to technical, artistic reasons or reasons related to the protection of extraordinary rights, the contract may be entered into only with the particular supplier; or

11.5. due to unforeseen and exceptional circumstances that do not depend on the will of the beneficiary of financing, by objective considerations a situation has occurred, in which it is not possible to apply the contract awarding procedure referred to in Paragraph 9 of these Regulations due to urgency.

12. In the cases referred to in Paragraph 11 of these Regulations the beneficiary of financing shall justify due to what reasons it may not apply the procurement procedure referred to in Paragraph 9 of these Regulations.

IV. Contract Awarding Procedure

13. Prior to the announcement of the contract awarding procedure, a beneficiary of financing shall prepare the technical specification of the procurement object and, if necessary, other documents of the contract awarding procedure. The technical specification shall be prepared, taking into account the procedures specified in one of the following Sub-paragraphs:

13.1. the procedures referred to in Paragraph 14 of these Regulations;

13.2. the procedures referred to in Paragraph 16 of these Regulations;

13.3. combining the procedures referred to in Paragraphs 14 and 15 of these Regulations;

13.4. combining the procedures referred to in Paragraphs 14 and 16 of these Regulations; or

13.5. combining the procedures referred to in Paragraphs 14, 15 and 16 of these Regulations.

14. The technical specification shall specify the requirements for the quality, quantity, safety, guarantee, inspection methods, packing, labelling, methods to be applied, necessary resources, the desired final result, the compliance with the requirements specified in the regulatory enactments of the relevant field, environmental protection, availability to disabled persons and other substantiated and objective requirements in relation to the procurement object so that the procurement object complies with the procurement purpose.

15. If a procurement object must comply with the relevant standards, the technical specification shall include a reference thereto. Each reference shall be used together with the words “vai ekvivalents” [or equivalent].

16. The technical specification may be prepared by determining the functional or operational requirements of the procurement object. The requirements shall be precisely defined so that the potential supplier could ascertain the subject of the contract, and the beneficiary of financing – compare tenders.

17. The technical specification shall not mention specific products or processes, nor indicate trademarks, patents and specific origin unless such conditions are crucial for the existence of the procurement object. In such case the referred to reference shall be used together with the words “vai ekvivalents [or equivalent]”.

18. If a beneficiary of financing prepares the technical specification in accordance with Paragraph 15 of these Regulations, it shall not recognise a tender as non-compliant only because it does not comply with the relevant standards, if the potential supplier may prove,

when submitting the tender, with documentation of the manufacturer or certification issued by a competent authority regarding the results of the examination that the tender is equivalent and satisfies the requirements of the beneficiary of financing, which are expressed in the technical specification.

19. If a beneficiary of financing prepares the technical specification in accordance with Paragraph 16 of these Regulations, it shall not recognise a tender, which complies with the standards, as non-compliant, if such standards determine the same functional or operational requirements, which the beneficiary of financing has specified in the technical specification. In such case the supplier shall prove, when submitting the tender, with documentation of the manufacturer or certification issued by a competent authority regarding the results of the examination that the tender, which complies with the relevant standards, satisfies the functional or operational requirements specified by the beneficiary of financing.

20. A beneficiary of financing shall send an invitation drawn up on a specified sample form (Annex 1) for publication to the Procurement Monitoring Bureau. The Procurement Monitoring Bureau shall, within a time period of three working days after the receipt of the invitation, publish the invitation on the Internet homepage of the Procurement Monitoring Bureau. The beneficiary of financing may concurrently send an invitation to the potential suppliers, who are known to it, to publish the invitation in one or several publications or any other publicly available resource.

21. If the beneficiary of financing applies the contract awarding procedure to the project, which has been approved by the State Agency Investment and Development Agency of Latvia, then prior to the sending of an invitation to the Procurement Monitoring Bureau the beneficiary of financing shall submit to the State Agency Investment and Development Agency of Latvia the technical specification, as well as amendments to the technical specification that have been made in accordance with Paragraph 26 of these Regulations.

22. The information included in the invitation sent to the Procurement Monitoring Bureau, in the invitation sent to the potential suppliers, as well as in the invitation published in publications and other publicly available resources shall not have any differences.

23. The beneficiary of financing shall ensure the suppliers with a possibility to get acquainted with the technical specification and other documents of the contract awarding procedure, if there are such.

24. A beneficiary of financing shall determine such term for the submission of tenders, which is sufficient for the preparation of tenders, but which is not shorter than five working days beginning from the following working day after the publication of an invitation on the Internet homepage of the Procurement Monitoring Bureau.

25. A beneficiary of financing shall determine such period of validity of the tender so that the potential suppliers would be related to their tender until the entering into a procurement contract. If a beneficiary of financing cannot enter into a contract within the specified term of validity of the tender, it shall request the potential suppliers to extend the term of validity of the tender in writing. The beneficiary of financing may request also the other potential suppliers to extend the term of validity of the tender.

26. A beneficiary of financing is entitled to make amendments to the technical specification and invitation, sending a notification regarding the amendments in the documents of procurement procedure on a specified sample form (Annex 2) for publication to the Procurement Monitoring Bureau. The Procurement Monitoring Bureau shall, within a time period of three working days after the receipt of the referred to notification, display it on the Internet homepage of the Procurement Monitoring Bureau. The beneficiary of financing shall send the notification regarding the amendments also to the potential suppliers, as well as shall ensure the notification thereof in the location where the invitation to submit tenders has been published in accordance with Paragraph 20 of these Regulations. The beneficiary of financing shall ensure the announcement of amendments not later than one working day before the end of the term for the submission of the tender.

27. If a beneficiary of financing makes amendments to the technical specification or invitation, it shall extend the term for submission of tenders for at least five working days, observing the conditions referred to in Paragraph 24 of these Regulations.

28. After the end of the term for submission of tenders, a beneficiary of financing shall verify the conformity of the received tenders with the requirements specified in the invitation and technical specification, as well as with the requirements specified in other documents of the contract awarding procedure, if there are such.

29. If necessary, a beneficiary of financing shall invite one or several independent experts to examine and assess the compliance of the tenders. The expert shall supply a written opinion regarding the tender. The opinion shall be attached to the decision regarding the winner. The opinion of the expert shall not be binding to the beneficiary of financing.

30. A beneficiary of financing shall not examine the tenders of such suppliers who are mutually associated persons within the meaning of the Law on Taxes and Fees. If the supplier is a natural person, then within the meaning of these Regulations the beneficiary of financing and the supplier shall be regarded mutually associated persons, if they are related by kinship (in relation to the following relatives – the father, mother, grandmother, grandfather, child, grandchild, brother, sister, half-brother, half-sister), adoption relation (in relation to the adoptee and the adopter) or marriage.

31. A beneficiary of financing shall recognise only such tenders as compliant, which are submitted and prepared in accordance with the requirements specified in the invitation and technical specification, as well as with the requirements specified in other documents of the contract awarding procedure, if there are such. The beneficiary of financing shall select the tender with the lowest price from amongst the compliant tenders.

32. A beneficiary of financing shall, within a time period of three working days after the taking of the decision, prepare a notification regarding the taken decision (Annex 3) and shall send parts I and II of the notification to the suppliers, who have submitted the tenders, and to the Procurement Monitoring Bureau. The Procurement Monitoring Bureau shall, within a time period of three working days after the receipt of the referred to notification, display part I on the Internet homepage of the Procurement Monitoring Bureau.

33. A beneficiary of financing shall attach part III of the notification to the notification regarding the taken decision (Annex 3) – the invitation, the technical specification, the originals of all the received tenders, as well as the tender assessment protocols, the expert

opinions and other documents of the contract awarding, if there are such, and shall keep them in conformity with the time period specified by the responsible institution.

34. The notification regarding the taking of the decision and the Annexes referred to in part III thereof, except the received tenders, shall be generally accessible information. A beneficiary of financing shall, within a time period of three working days after the receipt of the tender, issue the notification regarding the taking of the decision and the Annexes referred to in part III thereof, except the received tenders.

35. A beneficiary of financing is responsible for the contract awarding procedure and the documentation thereof.

36. Mutual disputes, which have arisen during the granting of the contract awarding procedure, between the supplier of goods, provider of services or performer of construction work shall be resolved by the beneficiary of financing.

37. A beneficiary of financing, who applies or has applied the contract awarding procedure, which has been approved by the State Agency Investment and Development Agency of Latvia, shall immediately, but not later than until the entering into the procurement contract, inform the State Agency Investment and Development Agency of Latvia regarding the disputes, which have arisen during the contract awarding procedure, between the beneficiary of financing and the potential supplier of goods, provider of services or performer of construction work.

V. Closing Provisions

38. All procurement procedures, which a beneficiary of financing has announced prior to the coming into force of these Regulations, shall be completed in accordance with the regulatory enactments, pursuant to which they were commenced.

39. Cabinet Regulation No. 179 of 13 March 2007, Regulations regarding Procurement Procedures for Projects Financed by Commissioning Parties is repealed (*Latvijas Vēstnesis*, 2007, No. 51).

Prime Minister I.Godmanis

Minister for Economics K.Gerhards

7. Familiarisation with the technical specification of the procurement object and other documentation is possible at

(address)

from ___ . ___ . _____ until ___ . ___ . _____ from ___ . (time) until _____(time) ___ . ___
(day/month/year) (day/month/year)

or at the State Agency Latvian Investment and Development Agency, Pērses iela 2, Rīga, if the beneficiary of financing applies the contract awarding procedure to the project that has been approved by the referred to agency.

8. Other information _____

Date of sending the invitation ___ . ___ . _____
(day/month/year)

Information was prepared by _____

(position, given name, surname)

Minister for Economics

K.Gerhards

5. Familiarisation with the technical specification of the procurement object and other documentation is possible at

_____ (address)

from ____ . ____ . ____ until ____ . ____ . ____ from ____ (time) ____ . until ____ (time) ____
(day/month/year) (day/month/year)

or at the State Agency Latvian Investment and Development Agency, Pērses iela 2, Rīga, if the beneficiary of financing applies the contract awarding procedure to the project that has been approved by the referred to agency.

6. Other information _____

Date of sending the notification ____ . ____ . ____
(day/month/year)

Information was _____
prepared by (position, given name, surname)

Signature _____

Telephone
number _____

Minister for Economics

K.Gerhards

Notification Regarding Taking of a Decision

Part I

1. The beneficiary of financing _____
(name of the institution or given name, surname of a natural person)

Taxpayer registration number

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(if the beneficiary of financing has registered as a taxpayer)

Address _____ Latvia, LV- _____
(street, town/village/parish, district)

Telephone numbers +371- _____, +371- _____ Fax +371- _____

2. Name of the procurement object _____

3. The date, on which the invitation to submit a tender was published on the Internet
__ . __ . ____
(day/month/year)

4. Date of taking of the decision __ . __ . ____
(day/month/year)

5. Information regarding the suppliers who have submitted the tenders (also non-conforming)

Name	Taxpayer registration number	Address

6. Information regarding the winner and the contract price offered

Name	Taxpayer registration number	Address	Offered contract price

7. Date of sending the notification __ . __ . ____
(day/month/year)

8. Other information _____

INFORMATION NOT TO BE PUBLISHED

Part II

Information was _____
prepared by _____ (position, given name, surname)

Signature _____ Telephone
number _____

Part III

Annexes:

- 1.
- 2.
- ...

Signature _____

Minister for Economics

K.Gerhards