



# TENDERIO

Improving SME's access to public procurement

## Guide to country specific elements on public procurement: Estonia



Co-funded by the COSME  
programme of the European Union

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## Deliverable 2.5a

# GUIDE TO COUNTRY SPECIFIC ELEMENTS ON PUBLIC PROCUREMENT: ESTONIA

Deliverable type

**Report**

Dissemination level

**Public**

Month and date of Delivery

**18 October 2017**

Organization

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## TENDERIO

IMPROVING SMEs ACCESS  
TO PUBLIC PROCUREMENT

Programme

**COSME – Europe's programme for small  
and medium-sized enterprise**

Contact Number

**739966**

Duration

**18 Months**

Start

**10th April 2017**

[www.tenderio.com](http://www.tenderio.com)

[blog.tenderio.com](http://blog.tenderio.com)



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## List of Acronyms

Acronym	Title
EU	European Union
EEA	European Economic Area
GPD	Gross Domestic Product
SME	Small and Medium – sized Enterprise
VAT	Value Added Tax
WTO	World Trade Organization

*The current guide was prepared under the Task 2.5 of the TENDERIO project which is funded by the COSME programme of the European Union (Grant Agreement No 739966) and aims to increase SME's access to public procurement in EU.*

*Within this concept, a series of national guides on public procurement was developed for Czech Republic, Estonia, Greece, Ireland, Latvia, Lithuania, Portugal, Slovakia, Spain and United Kingdom targeting to support in particular SMEs who are interested in participating in public procurement processes in EU Member States and need to know more regarding the national procedures.*

*National guides are available in the project's official website: [www.tenderio.com](http://www.tenderio.com)*

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## Executive summary

The current guide aims to support European SMEs to access the Estonian public procurement market. In particular, it presents data and specific elements of public procurement in Estonia along with the procedures to be followed in order to submit a bid for an Estonian public contract.

The value of Estonian public procurement market in 2016 was around **2 billion euros**. Services accounted for 41%, works 26% and goods 33% out of the total procurement value. **11% of procurements were above the international threshold** (with expected budget above 135 000 euros for goods and services and 135 000 euros for works).

Only 13% of the winners were large companies and **87% small and medium sized enterprises (SMEs)**, showing that the procurement environment is very favourable for SMEs.

The **new EU directives on public procurement (2014)** aimed at simplifying the rules have already been transposed into the Estonian legal framework with the Public Procurement Act **effective from 01.09.2017**. Also, Estonia is characterised by wide use of online procedures. This is an important prerequisite for facilitating European SMEs' access to Estonian public contracts.

By fully adopting and implementing the latest EU common rules on public procurement, supported by the English version of the National Procurement Register and widely used online procedures, Estonia has a good environment for foreign SMEs to participate in its domestic public procurement market.

## 1 Introduction

The current guide was elaborated under the activities of the TENDERIO project. TENDERIO project is funded by the COSME program of the European Union (Grant Agreement No 739966) and aims to increase SMEs' access to public procurement in EU.

This guide is addressed to SMEs and to any other economic operator interested in participating in Estonian public contracts and wishes to know more about the public procurement procedures in Estonia.

Chapter one, introduces the scope and the content of this guide and lays out the concept within which it was developed.

The second chapter focuses on the potential of EU public procurement market, emphasizing the performance of European SMEs' in the cross-border procurement contracts and briefly presenting the key points of the new EU legislative framework (2014) on public procurement.

Moreover, the third chapter sets light on the current status of public procurement in Estonia. In particular, it provides an overview of the public procurement framework in Estonia along with a summary of key data regarding the Estonian market size, i.e. the value of contract notices, the market share among supplies, services and works, as well as data regarding contracts above international threshold and award procedure types.

Chapter four, briefly comments on the national procedures of public procurement in Estonian. More specifically, it includes information regarding:

- the contracting authorities;
- the award procedures;
- the eligibility of the potential bidders;
- the publication of the contracts notices;
- the time limits for the submission of an offer;
- the bid's submission and the bid's evaluation procedure;
- the award criteria;
- the complaints and the prejudicial objections.

In addition, the fifth chapter lists key points for the SMEs that are interested in submitting offers in Estonian public contracts.

The guide concludes with a reference on how TENDERIO platform could support European SMEs in applying for a public contract abroad.

## 2 Public Procurement in EU

According to European Commission, the term "Public Procurement" refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from companies, i.e. the building of a state school, purchasing furniture for a public prosecutor's office, contracting cleaning services for a public university etc<sup>1</sup>.

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<sup>1</sup> <http://ec.europa.eu/growth/single-market/public-procurement/>, 2017

## Public procurement market in EU



Every year nearly 2 trillion euros are paid in Europe for public contracts, i.e. 14% of EU GDP.



At least 250.000 public authorities conduct public procurements annually.



Public authorities are the major buyers in sectors such as energy, transport, waste management, social protection and the provision of health or education services.



The estimated value of general government expenditures on works, goods, and services -excluding utilities- has increased by 4,2% in 2015. Almost all EU Member States increased their expenditure on public contracts between 2014 to 2015<sup>2</sup>.



The estimated value of tenders published in the Tenders Electronic Daily<sup>3</sup> (TED) in 2015 was 450.21 billion euros which stands for 6.9% more than it was in 2014.

Overall, the public procurement represents a substantial portion of the EU economy offering lot of opportunities and innovation prospects for the European SMEs.

<sup>2</sup> DG GROW G4, 2016. *Public Procurement Indicators 2015*.

<sup>3</sup> The online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement.



**European SMEs’ participation in cross-border procurement**

The term “cross-border procurement” refers to a procedure by which a public contract in a Member State is partly or fully performed by firms located in another EU Member State.

SMEs account 99,8% of the registered enterprises in Europe (20,8 million SMEs) and they are considered to be the backbone of the EU28 economy. European SMEs could participate in procurements across borders either directly or indirectly through its local subsidiaries (**Error! Reference source not found.**). However, the past years the overall participation of European SMEs in public procurement across borders is considered to be low.

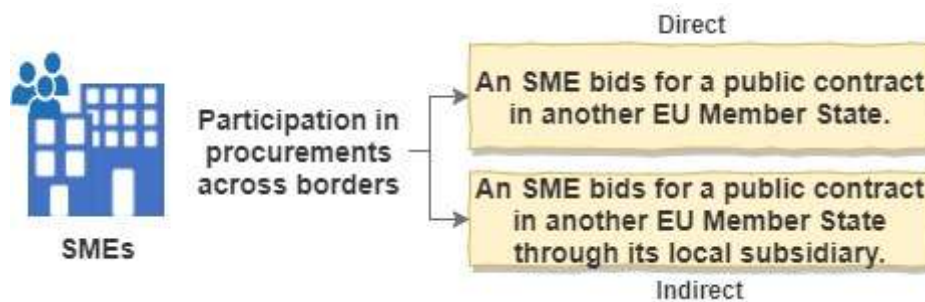


Figure 1: How European SMEs can participate in cross border public procurements

The share of European SMEs in direct cross-border procurement accounts for 27% in terms of number of awards and 24,5% in terms of the value of awards, which is significantly lower compared to their contribution to the European GDP (58%)<sup>4</sup>.



The share of European SMEs in indirect cross-border procurement is estimated at 3% both in terms of number and value of awards<sup>5</sup>.

<sup>4</sup> European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, 2017. *Measurement of impact of cross-border penetration in public procurement.*

<sup>5</sup> European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, 2017. *Measurement of impact of cross-border penetration in public procurement.*

**Obstacles to SMEs’ participation in cross-border procurement**

The low level of SMEs’ participation in cross-border procurement the past years was due to (Error! Reference source not found.):



Figure 2: Main obstacles that SMEs face when they participate in cross-border public procurement

Despite the fact that SMEs are facing difficulties in their participation to cross-border public procurement, however the contracting authorities/entities see high potential in cross border contractors as they could benefit by having a better choice in terms of quality and price and by concluding contracts when there is absence or limited availability of suppliers at national level.



European Commission has introduced legislative measures to improve SMEs’ access to public contracts, aiming to open up national public procurement markets and increase the levels of cross-border public procurement.

**Legislative Framework**

In 2014, the EU Parliament and the European Council introduced a new common legislative framework on public procurement and concessions aiming to simplify the procedures and encourage the SME’s to access public contracts and concessions contracts. The reform included the following directives:

- 2014/23/EU on the award of concession contracts;
- 2014/24/EU on public procurement;
- 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors.

More specifically the new EU directives aim to (**Error! Reference source not found.**):



Figure 3: Objectives of the new EU directives on public procurement

The reform of public procurement legislation reduces the bureaucracy and makes public procurement in Europe more efficient within a single market facilitating that way the SMEs’ participation in public contracts.

### 3 Public Procurement in Estonia

The value of Estonian public procurement market in 2016 was around **2 billion euros**.<sup>6</sup> Only 13% of the winners were large enterprises and **87% small and medium sized enterprises (SMEs)**, showing that the procurement environment is very favourable for SMEs.

Estonia is **at the forefront of electronic public procurement** in the EU. 90% of the total number of public procurement notices were electronic, an increase of 10% compared to 2015. The average number of tenderers is higher for electronic procedure (3,7) compared to non-electronic procedures (2,6). The goal is to transition to fully electronic public procurement in 2018.

Services account ca 40%, works ca 20% and goods and services ca 30% out of the total procurement value (Figure 5). **11%** of the total number of procurements were above the international threshold (Figure 4) with public supply sector constituting the greatest proportion followed by services and works.

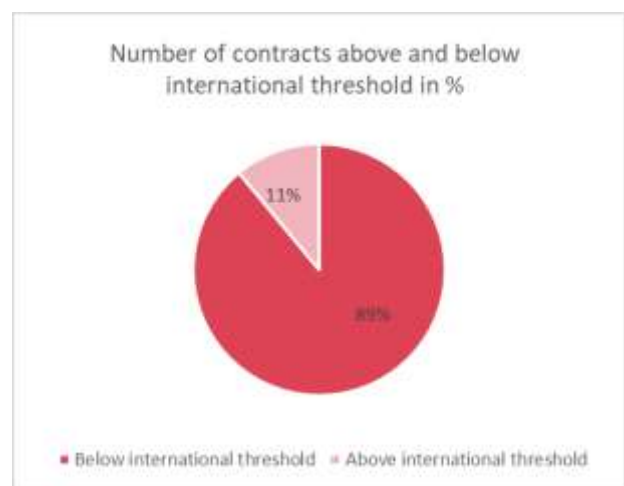
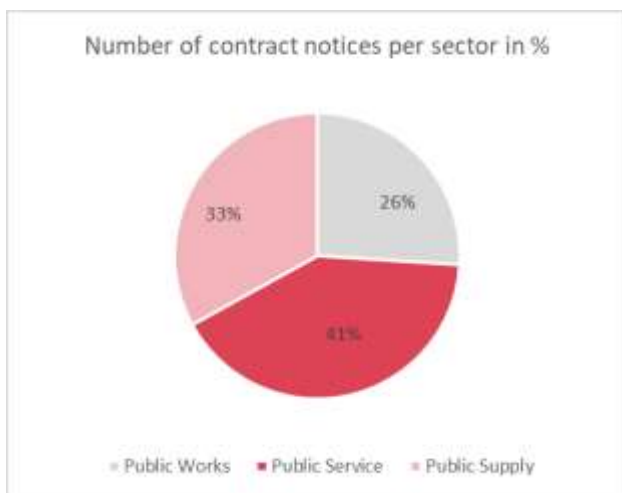


Figure 5: Distribution of contract notices per supplies, services, works

Figure 4: Proportion of public procurement contracts over international threshold

The most popular type of award procedure is simplified procurement with 58% of the total number of procurements. This is followed by open procedure with 29% and services contracted by simplified procedure with 6%. The proportion of other types of award procedures was below 5% of the total number number of procurements (Figure 6).

<sup>6</sup> Estonian Ministry of Finance, 17 March 2017. 2016. aasta riigihangete kokkuvõte

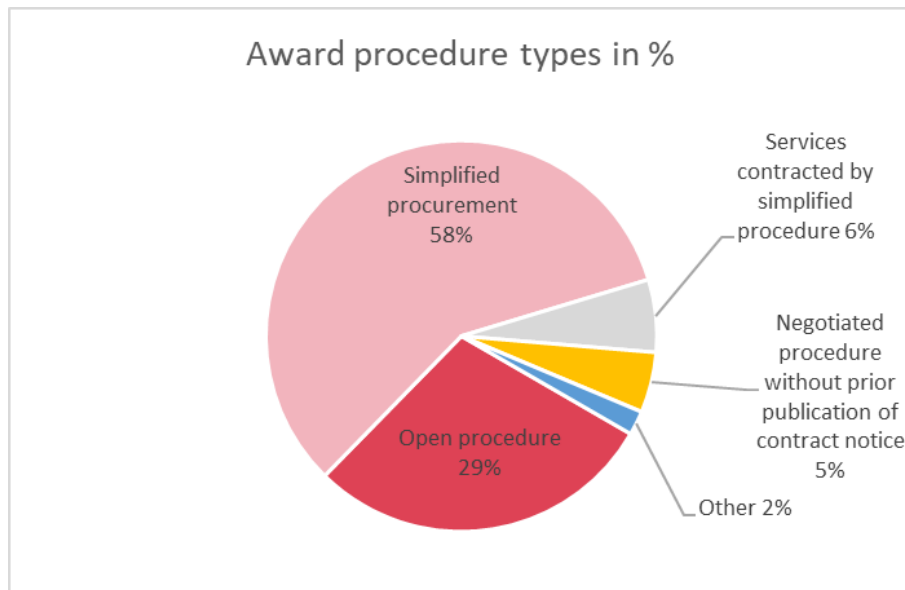


Figure 6: Distribution of award procedure types

## 4 National Procedures on Public Procurement

The EU directives on public procurement i.e. 2014/24 and 2014/25, have been transposed in the Estonian legal system with the Public Procurement Act effective from 01.09.2017. The new law is harmonized with the objectives of the European Strategy on public procurement and sets out the rules on the implementation of all types of public procurement contracts in Estonia irrespective of their value.

Public contracts are divided into the following types (Figure 7):



Figure 7: Types of public contracts

The procurement life cycle in Estonia follows the steps presented in Figure 8 below:



Figure 8: Public Procurement life-cycle

The chapters to follow constitute a brief guide on specific elements of public procurement in Estonia and its procedures, as they are regulated by the new Public Procurement Act on public contracts

### 4.1 Contracting Authorities & Contracting Entities

The terms “contracting authorities” and “contracting entities” refer to the bodies that may conduct a public procurement to ensure the execution of works, the supply of products or the provision of services. Contracting authorities/entities define the specifications of the works/products/services along with the terms of reference and they carry out the procedure of a public contract award (Figure 9). In other words, within the concept of a public procurement, the contracting authorities and the contracting entities are the purchasers (Table 1).

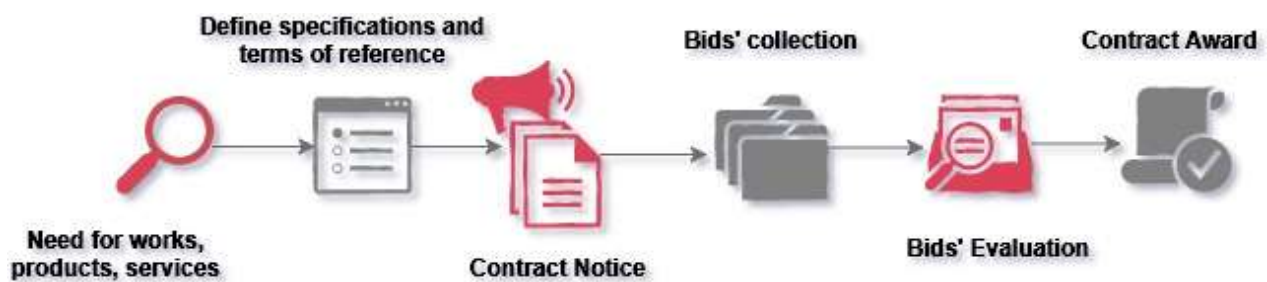


Figure 9: The role of Contracting Authorities/Entities in a public procurement procedure

Contracting Authorities (Central Government Authorities & Sub-central Contracting Authorities)	Contracting Entities
<ul style="list-style-type: none"> <li>i. State or a state authority;</li> <li>ii. A local authority, a local authority agency or an association of authorities;</li> <li>iii. Public legal persons - other legal persons governed by public law and their agencies;</li> <li>iv. Foundations – foundations where one of the founders is the state (type 1) or the majority of the founders or supervisory board members are appointed by the type 1-3 entities;</li> <li>v. Private legal persons – other legal persons governed by private law that are mainly financed by type 1-3 entities and established with the objective of performing non-profit activity of public interest.</li> </ul>	<ul style="list-style-type: none"> <li>i. Network sector contractor – in type 1-4 named public entities who act in network sector or other legal person who has special or exclusive right to act in the network sector according to an administrative act or administrative contract, resulting in substantial restrictions on the activities of other persons in this field.</li> </ul>

Table 1: Contracting Authorities & Contracting Entities implementing public procurement in Estonia

**Private sector company** must use public procurement for purchasing goods, services or works only if the purchase is financed with public money (i.e. by the government or the European Commission).

## 4.2 Threshold Amounts

The latest EU Directives on public procurement have set minimum thresholds for public contracts and as a result the public procurement can be divided into two categories:

- I. National thresholds: Public contracts whose value falls below the EU thresholds. The Public Procurement Law includes specific provisions regarding the procedures to be followed for their proper implementation (Table 2).

Type of procedure	Type of contracts (services, products, works, supplies)	Lowest Threshold Amount	Covered by law
Simplified procurement	Goods & Services	30 000€	Public Procurement Act
	Works	60 000€	
	Defense and security construction works	300 000€	
Public procurement	Goods & Services	60 000€	Public Procurement Act
	Works	150 000€	
	Defense and security construction works	300 000€	

Table 2: Public contracts with value below the EU thresholds

- II. EU international thresholds: Public contracts whose value is equal to or greater than the EU thresholds which are presumed to be of cross-border interest. In this case the detailed provisions of the EU directives (which have been transposed in the Public Procurement Law) must be followed (Table 3).

Type of contract		Lowest Threshold Amount (net of VAT)
<i>Directive 2014/24/EU on public procurement</i>		
Works contracts, subsidised works contracts		5 225 000€
All services concerning social and other specific services listed in Annex XIV of the 2014/24/EU		750 000€
All subsidised services		209 000€
All other service contracts and all design contests.		135 000€
All supplies contracts awarded by contracting authorities/entities not operating in the field of defence.		135 000€
Supplies contracts awarded by contracting authorities/entities operating in the field of defence	Concerning products listed in Annex III of the 2014/24/EU	135 000€
	Concerning other products	209 000€
All other service contracts, all design contests, subsidised service contracts, all supplies contracts		209 000€
<i>Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors</i>		
Works contracts		5 225 000€
All services concerning social and other specific services listed in Annex XVII of the 2014/25/EU		1 000 000€
All other service contracts, all design contests, all supplies contracts		418 000€

Table 3: Thresholds triggering EU-wide rules on public procurement contracts



Every two years the European Commission shall revise the lowest thresholds amounts presented in Table 3.



### 4.3 Award procedures

When **value of the contract is under national simplified procurement threshold**, the procurement is **not subject to public procurement rules** and may be based on an **internal procurement plan/regulations**. Then contracting authority can make its own rules on procurement. Usually contracting authority contacts tenderers directly or uses its own web page for **receiving 3 comparable tenders**.

Subject to **public procurement rules**, there are 8 different types of award procedures (Table 4).

Type	Description
Services contracted by simplified procedure	<p><u>Use:</u> The contracting authority is <b>not obliged to organize a procurement procedure</b> if the following <b>services</b> account for <b>more than 50%</b> of the value of the contract:</p> <ul style="list-style-type: none"> <li>✓ Hotel and restaurant services;</li> <li>✓ Supporting and auxiliary transport services;</li> <li>✓ Legal services;</li> <li>✓ Personnel placement and supply services;</li> <li>✓ Health and social services.</li> </ul>
Simplified procurement	<p><u>Use:</u> When the value of the contract is expected to be equal or <b>over simplified procurement threshold</b>:</p> <ul style="list-style-type: none"> <li>✓ For goods and services greater than 30 000 euros (net of VAT);</li> <li>✓ For works greater than 60 000 euros (net of VAT).</li> </ul> <p><u>Process:</u> Must be published in the national register. Contracting authority does not have to set any qualification criteria.</p>
Open procedure	<p><u>Use:</u> When the value of the contract is expected to be equal or <b>over simplified procurement threshold</b>:</p> <ul style="list-style-type: none"> <li>✓ For goods and services greater than 60 000 euros (net of VAT);</li> <li>✓ For works greater than 150 000 euros (net of VAT).</li> </ul> <p><u>Process:</u> Must be published in the national register. Contracting authority does not have to set any qualification criteria. Any interested tenderer may submit a tender. Contracting authority can use revised procedure. It means that contracting authority can evaluate the conformity of the tender before checking the grounds for the elimination and qualification.</p> <p>Negotiations are forbidden.</p>
Restricted procedure	<p><u>Use:</u> When contracting authority expects <b>large number of bids</b>.</p> <p><u>Process:</u> Must be published in the national register. All interested tenderers may submit a <b>request to participate</b> and on that basis their qualification is assessed. <b>Full bid</b> may be submitted <b>only by candidates selected by the contracting authority</b>. Contracting authority does not have to set any qualification criteria.</p> <p>Negotiations are forbidden.</p>
Innovation partnership	<p><u>Use:</u> When the purchased goods, services or construction work are innovative and are not already on the market.</p> <p><u>Process:</u> Must be published in the national register. Any interested person may submit a <b>request to participate</b> in the procurement procedure, but a tender may be submitted only by <b>candidates selected by the contracting authority</b>. Negotiations are allowed</p>

	<p>and the partnership can be created with one or more providers. After negotiations tenderers can submit final version of their tenders.</p> <p>Contracting authority does not have to set any qualification criteria.</p>
<p>Negotiated procedure without prior publication of contract notice</p>	<p><u>Used when:</u></p> <ul style="list-style-type: none"> <li>✓ Procurement in <b>open or restricted procedure was unsuccessful</b> due to no (qualifying) offers;</li> <li>✓ The contract can be concluded <b>only with one tenderer because of technical or exclusive rights</b>, including for reasons relating to the protection of intellectual property rights;</li> <li>✓ There is urgent need for <b>rapid signing of the contract</b> due to unforeseen circumstances.</li> </ul> <p><u>Process:</u> The publication of the procurement notice is <b>not needed</b> and there is <b>only one tenderer</b>. Contracting authority does not have to set any qualification criteria and negotiations are allowed.</p>
<p>Competitive dialogue</p>	<p><u>Used when:</u></p> <ul style="list-style-type: none"> <li>✓ The expected value of the procurement is <b>less than international threshold</b>;</li> <li>✓ All the tenders in open or restricted procedure where unacceptable;</li> <li>✓ The contracting authority cannot objectively determine technical solutions that meet its needs;</li> <li>✓ The <b>circumstances of the contract cannot be fixed</b> because of the nature of the goods, services or work or legal circumstances or financial aspects related to them;</li> <li>✓ The contract includes ordering a design service or developing innovative solutions.</li> </ul> <p><u>Process:</u> Must be published in the national register. Any interested person may submit a <b>request to participate</b> in the procurement procedure. <b>Negotiations are conducted with the candidates selected</b> on the basis of objective and non-discriminatory criteria meeting the needs of contracting authority in terms of the use and functional requirements.</p> <p>Contracting authority does not have to set any qualification criteria.</p>
<p>Competitive negotiated procedure</p>	<p><u>Used when:</u></p> <ul style="list-style-type: none"> <li>✓ The expected value of the procurement is <b>less than international threshold</b>;</li> <li>✓ All the tenders in open or restricted procedure where unacceptable;</li> <li>✓ The contracting authority cannot objectively determine technical solutions that meet its needs;</li> <li>✓ The <b>circumstances of the contract cannot be fixed</b> because of the nature of the goods, services or work or legal circumstances or financial aspects related to them;</li> <li>✓ The contract includes ordering a design service or developing innovative solutions.</li> </ul>

	<p><b>Process:</b> Must be published in the national register. Any interested tendered may submit a <b>request to participate</b> in the procurement procedure. Tenderers selected by the contracting authority may submit a tender. After submitting a tender, contracting authority makes tenderer a proposal for negotiation to review tenders and choose a successful tender.</p> <p>Contracting authority does not have to set any qualification criteria.</p>
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Table 4: Types of award procedure

#### 4.4 Who is eligible to participate?

**Any economic operator**, individually or as part of joint tender, may participate in procurements. In joint tender, there can be as many participants as needed to satisfy the conditions of the procurement.

The contracting authority or the contracting entity treats all persons equally whose **place of residence or seat is:**

- ✓ in Estonia;
- ✓ in another Member State of the European Union;
- ✓ in another contracting party to the EEA Agreement;
- ✓ or in a state that has joined the Government Procurement Agreement (GPA) of the WTO.

Tenderers having any of the following conditions are **not eligible to participate:**

- ✓ Are **punished by the law** (with court order) and the punishment is still in the criminal record;
- ✓ Have **arrear** of state taxes, environmental fee or arrear of social insurance contributions;
- ✓ Whose administrative, managerial or supervisory body is a subject of **international sanctions** within the meaning of the International Sanctions Act.

#### 4.5 Publication of public contract notice

Nearly all the Estonian public procurement contract notices, irrespective of the award procedure and whether their value is above or below the EU thresholds, are published in the following repository:



National Procurement Register  
<https://riigihanked.riik.ee/register/Home.html>

The public contracts whose value is above the respective EU thresholds are also published, in full, in the following repository:



Tenders Electronic Daily - [TED](http://ted.europa.eu) - page of the Official Journal of the EU  
<http://ted.europa.eu>

The table below presents how public contract notices are published (Table 5).

Procurement	Threshold		Publication
Value of the contract is under simplified procurement threshold	Less than 30 000 euros		<ul style="list-style-type: none"> <li>✓ Institution homepage;</li> <li>✓ Personal invitation form contracting authority to potential tenderer to submit tender.</li> </ul>
Procurement contract value is equal or over simplified procurement threshold	Goods and services	30 000	<ul style="list-style-type: none"> <li>✓ National Procurement Register (<a href="https://riiqihanked.riik.ee/register/Home.html">https://riiqihanked.riik.ee/register/Home.html</a>);</li> </ul>
	Works	60 000	<ul style="list-style-type: none"> <li>✓ Institution homepage;</li> </ul>
	Defense and security construction works	300 000	<ul style="list-style-type: none"> <li>✓ Personal contact from contracting authority.</li> </ul>
Procurement contract value is equal or over national threshold	Goods and services	60 000	<ul style="list-style-type: none"> <li>✓ National Procurement Register (<a href="https://riiqihanked.riik.ee/register/Home.html">https://riiqihanked.riik.ee/register/Home.html</a>);</li> </ul>
	Works	150 000	<ul style="list-style-type: none"> <li>✓ Institution homepage;</li> </ul>
	Defense and security construction works	300 000	<ul style="list-style-type: none"> <li>✓ Personal contact from contracting authority.</li> </ul>
Procurement contract value is equal or over international threshold	Threshold is determined by European Commission periodically and it will be published in the Official Journal of the European Union		<ul style="list-style-type: none"> <li>✓ National Procurement Register (<a href="https://riiqihanked.riik.ee/register/Home.html">https://riiqihanked.riik.ee/register/Home.html</a>);</li> <li>✓ Official Journal of the European Union (<a href="http://eur-lex.europa.eu/oj/direct-access.html?locale=en">http://eur-lex.europa.eu/oj/direct-access.html?locale=en</a>);</li> <li>✓ Institution homepage;</li> <li>✓ Personal contact from contracting authority.</li> </ul>

Table 5: Publication of tenders

Access to public contracts all around the EU is provided also by the [TENDERIO](http://www.tenderio.com) platform (<http://www.tenderio.com>). SMEs can access public procurement in their country or abroad by using a tender search engine that aligns live tender opportunities most suited to their business needs and expertise.

#### 4.6 Time limit of submitting an offer for a public contract

The time limit of submitting a tender starts from the moment the contract notice is published in national register.

The contracting authority will establish time limits for submission of tenders or requests to participate in a procurement procedure based on the object of the public contract, above all, its complexity and quantity, volume or amount.

The deadline of submitting a tender or application must be in the period from Monday to Friday, except national holidays, from 9 am to 4 pm.

The time limits for receipt of tenders if the contract value is equal or above national and EU international thresholds are described in the following table.

Type of PP procedure and object		Minimum number of days for submission of request to participate	Minimum number of days for submission of the tender	
<b>Contract value is equal or above national thresholds and below EU international thresholds</b>				
			<b>Electronic communication</b>	<b>NOT electronic communication</b>
Simplified procurement	Goods & services	-	5 business day	
	Works		15 days	
Open procedure	Goods & services	-	15 days	20 days
	Works	-	25 days	
Restricted procedure	Goods & services	15 days	15 days (from the request to submit a tender)	
	Works		25 days (from the request to submit a tender)	
Competitive negotiated procedure	Goods & services	15 days	15 days (from the request to submit a tender)	
	Works		25 days (from the request to submit a tender)	
Innovation partnership	Goods & services	15 days	15 days (from the request to submit a tender)	
	Works		25 days (from the request to submit a tender)	
Competitive dialogue	Goods & services	15 days	15 days (from the request to submit a tender)	
	Works		25 days (from the request to submit a tender)	
<b>Contract value is equal or above EU international thresholds</b>				
			<b>Electronic communication</b>	<b>NOT electronic communication</b>
Open procedure	Goods & services	-	30 days	35 days
	Works	-	45 days	
Restricted procedure		30 days	25 days (from request to submit a tender)	30 days (from request to submit a tender)
Competitive negotiated procedure		30 days	25 days (from request to submit a tender)	30 days (from request to submit a tender)
Innovation partnership		30 days	25 days (from request to submit a tender)	30 days (from request to submit a tender)

Competitive dialogue	30 days	25 days (from request to submit a tender)	30 days (from request to submit a tender)
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Table 6: Minimum time limit for submitting an offer for public contracts above and below the EU thresholds

## 4.7 Public Contract Notice Contents

Estonian public contract notices include:

- ✓ the technical specifications of the object of the public contract except in innovation partnership proceeding;
- ✓ all terms of the future public contract or the draft public contract;
- ✓ tender evaluation criteria;
- ✓ requirements for alternative solutions and their presentation;
- ✓ all the circumstances on which the contracting authority has requested competitive tenders;
- ✓ information about subcontractors;
- ✓ required documents and information list;
- ✓ information on whether the tender can be submitted only after examination of the place where the contract is to be executed or on-the-spot verification of the explanatory documents of the procurement documents;
- ✓ the language or languages in which the tender and other documents related to the procurement must be drawn up;
- ✓ the structure and currency in which the value of the tender must be presented;
- ✓ the conditions of the submission of a specimen whereby the contracting authority requests the submission of a specimen;
- ✓ the closing date and place of submission of tenders;
- ✓ the minimum term of validity of tenders;
- ✓ the information on requested guarantees if required;
- ✓ contact details at which additional information on the content of the contract documents can be asked;
- ✓ the grounds for rejection of all tenders, if the contracting authority would like to establish any.

In addition, there is some information that is specific to the type of procedure.

### Competitive negotiation

- ✓ Information about negotiations procedure;
- ✓ Information about negotiation in sequential stages.

### Competitive dialogue

- ✓ Information about negotiation in sequential stages;
- ✓ Information about prizes and participation fee if contracting authority has established prizes or participation fee.

## 4.8 How to submit a bid

### 4.8.1 What are the specific elements that a bid must include

Typically tenderers are asked to submit:

- ✓ an application;
- ✓ documents proving the compliance of the tenderer with the procurement requirements;
- ✓ technical offer;
- ✓ financial offer.

Exact elements depend on the type of procedure the contracting authority has chosen and the kind of information and documents it is requesting from tenderers. Submitted tenders must comply with the information requested in the procurement documents. If the contract value is equal or above international threshold, then the bid pass must be generated by using European Commission's electronic service (<https://ec.europa.eu/tools/espdlang=en>).

#### e-Certis



Tool for mapping of certificates issued as evidences in public procurement procedures across the EU where the data are verified and updated by national ministries in charge.

(<http://ec.europa.eu/growth/ecertis>).

#### 4.8.2 Where you submit the tender and what are the steps

How and where a tender must be submitted is defined by contracting authority or contracting entity in procurement documents. There are **3 main means of submission** (Table 7).

Means of submission	Process
In national Procurement Register ( <a href="https://riigihanked.riik.ee">https://riigihanked.riik.ee</a> )	Used if the procurement was <b>published in Procurement Register</b> and contracting authority has selected to implement <b>e-procedure</b> . The tenderer uploads the documents into the register, signs and submits electronically by the indicated deadline.
On paper	Tenderer must submit the tender documents on paper in <b>sealed and marked envelope</b> . The tender can be <b>sent by mail</b> or <b>brought to the given address by tenderer or a third person</b> .  Tender envelopes will be <b>opened in the place and time</b> that is set by the contracting authority in the contract notice or in the tender documents. In case of open procedure an <b>opportunity for tenderers to participate at the opening of tenders</b> has to be guaranteed.
By e-mail	Used if the value of the contract is under the <b>simplified procurement</b> . Tenderer must submit the tender with all needed documents by e-mail to an e-mail address named by contracting authority in the procurement documents.

Table 7: Means of submission

A tenderer **may withdraw a tender** before the closing date of submission by submitting to the contracting authority a relevant notice in the same form as the tender.

**NB! From 18.10.2018 all the tender procedure will be in the National Procurement Register.**

#### 4.9 What are the key phases after submitting the bid

There are seven key phases after submitting the bid (Table 8).

Phase	Process
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<p>Opening of tenders</p>	<p>The contracting authority will:</p> <ul style="list-style-type: none"> <li>✓ The contracting authority will verify the compliance of tenders that have been submitted and makes a <b>reasoned written decision</b> to declare the tenders admissible or to reject the tenders;</li> <li>✓ <b>open tenders</b> in the place and at the time specified in the contract notice, contract documents or invitation to tender;</li> <li>✓ <b>verify the compliance</b> of the submitted tenders;</li> <li>✓ <b>take minutes</b> of opening tenders, recording the tenderers' names and registry codes and the value of the submitted tenders;</li> <li>✓ <b>send copy of the minutes</b> of opening tenders to all tenderers within three working days from opening the tenders.</li> </ul> <p>Minutes of the opening is not required in negotiated procedure without prior publication of contract notice.</p>
<p>Qualification of tenderers and candidates</p>	<p>After opening of tenders, the contracting authority will verify if tenderer qualifies. In the procurement documents contracting authority establishes objective criteria for qualification of tenderers or candidates. The contracting authority will verify whether the financial and economic standing and the technical and professional ability of a tenderer or candidate comply with the award criteria specified in the contract notice.</p>
<p>Verification of admissibility of tenders</p>	<ul style="list-style-type: none"> <li>✓ The contracting authority will verify the compliance of tenders that have been submitted and makes a <b>reasoned written decision</b> to declare the tenders admissible or to reject the tenders.</li> <li>✓ <b>Rejected tenders</b> will not participate in the further procurement procedure.</li> </ul>
<p>Negotiations</p>	<ul style="list-style-type: none"> <li>✓ Used in innovation partnership, competitive negotiated procedure, negotiated procedure without prior publication of contract notice and competitive dialogue in order to engage with the tenderers and identify the solution/service responding to the needs of use and functional requirements.</li> <li>✓ In innovation partnership, the purpose of the negotiations is to find out successful tender. The evaluation criteria and the minimum level of negotiated terms are not negotiable.</li> <li>✓ In competitive dialogue, the negotiations are usually held after submission of request to participate in procedure and before submission of tenders. The purpose is to figure out the best solutions for the contracting authority. There could also be negotiations about contract conditions.</li> <li>✓ In competitive negotiated procedure, the negotiations are held after submission of tenders. The purpose is to improve the content of bids and find out successful tender. The evaluation criteria's and the minimum level of negotiated terms are not negotiable.</li> <li>✓ In negotiated procedure without prior publication of contract notice the negotiations are held before submission of tenders. In this type of award procedure, the negotiation is the first step and the purpose is to negotiate about the condition of contract. It means that contracting authority and potential tenderer come to terms that are suitable for both sides. If the negotiations are successful, then contracting authority can decide to whom the offer to submit a tender is made.</li> </ul>



Evaluation of tenders	The procurement committee will <b>evaluate the tenders</b> that have been declared admissible <b>according to the evaluation criteria</b> defined in the procurement documentation.
Declaration of tender successful	After evaluation, the contracting authority will declare the most economically advantageous tender successful by a <b>reasoned written decision</b> on the basis of the tender evaluation criteria. Decision will be transmitted to all tenderers.
Public contract	<p>After declaration of successful tender there will be standstill period where the contract cannot be signed. After standstill, the <b>public contract</b> will be signed.</p> <ul style="list-style-type: none"> <li>✓ Value of the contract is over international threshold – 14 days;</li> <li>✓ Value of the contract is equal or over national threshold but under international threshold – 10 days;</li> <li>✓ In simplified procurement – 5 business days.</li> </ul> <p>The standstill period does not need to be applied in the event of awarding a public contract based on a <b>framework agreement</b> or <b>dynamic purchasing system</b>, in the event of a negotiated procedure without the publication of a contract notice or if the tender was submitted by only one tenderer in another type of procurement procedure.</p>

Table 8: Submission phases

The figure below summarises the submission procedure (Figure 10). Figure 10: Summary of submission procedure

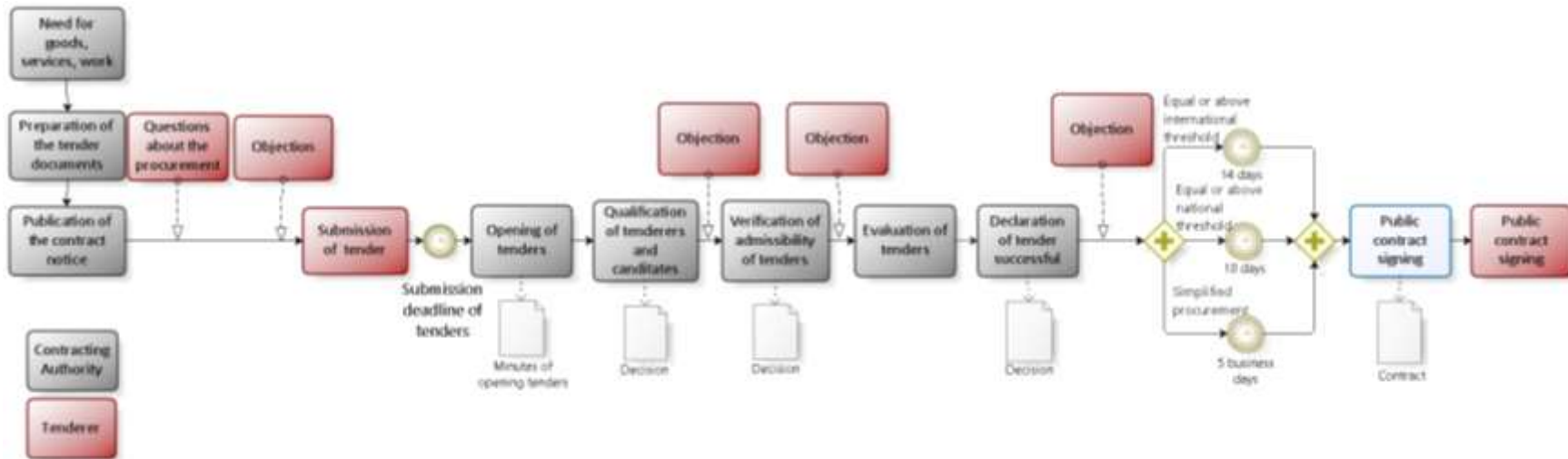


Figure 10: Summary of submission procedure

## 4.10 Award criteria

The **common contract award criteria** are:

- ✓ Price – the most common criteria
- ✓ Financial and economic standing and the technical and professional ability – this criteria is used to make sure that the tenderer (and its team) is qualified for this job;
- ✓ Previous sectorial experience – previous sectorial experience is a way to make sure that tender is familiar with the service or work under the consideration;
- ✓ Technical solution – this shows how the tenderer is planning to solve the situation and if it matches with contracting authority vision.

If there is only one criterion (e.g. price) then the tenders can be evaluated only by price.

Contract award criteria must be **listed in the procurement documents** along with their **proportion in the assessment**. Criteria must be **relevant to the procurement object** and **cannot be discriminatory** to tenderers.

In the evaluation stage, contracting authority will evaluate each tender according to the criteria and their proportions and sums up the points for each bid. Then the bids are ranked according to the results and the best bid is selected.

## 4.11 Complaints/Prejudicial Objections

A tenderer, candidate or person interested in participating in a procurement procedure may contest an activity of the contracting authority if it finds that the contracting authority **violates its rights or harms its interests**, lodging a respective request for review to the Public Procurement Review Committee.

Person interested in participating can also ask specifying questions about the procedure before the deadline of submissions but no later than 7 days before the deadline, so that contracting authority has at least 6 days to answer.

A) At **which stages of the competition** can you submit an objection?

You can request review **at every stage** of the proceedings when procurement documents or a decision has violated your rights or interests.

A request for review (objection) must be received by the Review Committee **within ten days** from the date when the requester learned or had to learn of the violation of its rights or harming of its interests, but **not after the award of the public contract**.

Exceptions:

- ✓ After revealing procurement documents in national register
  - at the latest **two business days** before the deadline of submitting tenders in case of simplified procurement;
  - at the latest **five business days** before the deadline of submitting tenders if the procurement contract value is equal or above the public procurement threshold;
  - within **ten days** after revealing procurement documents in national register, if contracting authority has shortened the deadline of submitting tenders.
- ✓ In simplified procurement **three business** days after the date when the requester learned or had to learn of the violation of its rights or harming of its interests;

B) What is the **procedure** you should follow?

1. A requester must submit written request to the Review Committee. Request must be in writing and must contain:
  - the names, addresses and other contact detail information of all parties know to the contestant;
  - the object of the request, its conflict and the reasons why the requester considers it to be in violation of their rights or harmful to their interests;
  - details about the decision or procurement documents;
  - factual reasoning of the objection;
  - evidences that requester has in his/her possession;
  - date when requester learned of the decision or procurement documents;
  - information about requester wishes to discuss objection in writing or at court.
2. Reviewing Committee will **evaluate the compliance of a request** for review with the requirements within **one business day** from the receipt of the request.
3. If the Review Committee finds that a request for review contains deficiencies that can be eliminated, it will grant a time limit of **two working days** to the requester for the **elimination of the deficiencies**.
4. The Review Committee will involve the requester and other persons participating in the procurement procedure or interested in participating in the reviewing of the request, over which rights may be decided in the course of the review of the request.
5. The review proceedings will end with a Reviewing Committee decision or minutes. You can also finish the proceedings by concluding an agreement with the contracting authority or you can waive the request. Other ways the proceedings can end are named in the Public Procurement Act (<https://www.riigiteataja.ee/en/eli/501112016003/consolide>).

## 5 Key points when submitting a tender in Estonia

Here are ten of the most important things to remember when responding to a tender in Estonia:

01

### **Make sure that you are an eligible candidate.**

Make sure that you are an eligible candidate – check the requirements and the bidder's profile.

02

### **Pay attention to the exclusion criteria.**

You can submit tender to any procurement you like, but there are several criteria in the procedure you can be eliminated by. It is reasonable first to check if there are any exclusion criteria that you could be eliminated (named in section 5.4).

03

### **Pay attention on the qualification and evaluation criteria.**

After you have checked that there are no exclusion criteria you could be eliminated by, it is very important to pay attention to the qualification and evaluation criteria. The success of the tender depends on how well you respond to the criteria set by contracting authority. Before composing a tender check the terms and evaluate how good are your opportunities to win the procurement.

04

### **Make sure you submit the correct documents with correct information.**

Before sending the documents to contracting authority make sure you double check that you have all the correct documents and information.

05

**Make sure you deliver tender and all the documents to contracting authority on time.**

If the tender is submitted after the deadline of submission, contracting authority cannot accept it. It is critical to ensure that your tender is submitted on time.

## 6 What Tenderio offers

TENDERIO project is funded by the COSME program of the European Union (Grant Agreement No 739966) and aims to increase SMEs' participation in public procurement in EU through the development and the implementation of innovative activities that will inform, educate and support European SMEs to access international tenders.

TENDERIO helps SMEs to overcome the barriers that inhibit their participation in cross-border procurement, i.e. the language, the bureaucracy, the difficulties in finding local partners and the lack of knowledge about local tender procedures, by providing the following tools and services:

- a tender search engine which allows access to 1.500 new tenders in Europe every day;
- a benchmarking model on public procurement;
- national training sessions;
- business-to-procurers days and matchmaking opportunities;
- tailored coaching and mentoring services;
- e-conference and webinars on "how to win a tender abroad".

Other services include a helpdesk, through which companies can access valuable information about specific tenders, country guides on public procurement, regular workshops, and an innovative "bidding laboratory" where guidance on developing successful bids is delivered.

TENDERIO also identifies possible partners and recommends expert consultancies to help you write bids and translate materials into the appropriate language for each offer.

Registration to Tenderio is free and is performed through the project's official website: [www.tenderio.com](http://www.tenderio.com)

The online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement.

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