
Rector's Directive No. 27/2016, as amended by Rector's Directive No. 18/2017

Title: **Public Procurement Rules at Charles University**

To
implement: -

Date of **1 October 2016** (Rector's Directive No. 27/2016, as amended by Rector's Directive No. 18/2017 effect: becomes effective on **1 April 2017**.)

PUBLIC PROCUREMENT RULES AT CHARLES UNIVERSITY

Under section 10 (1) of Act No. 111/1998 Sb., to regulate higher education institutions and to change and amend other laws ("the Higher Education Act"), as amended ("HEA"), I issue the following directive:

By means of this Rector's Directive, Charles University ("the University"):
determines basic principles for public procurement at the University, and regulates basic rules for public procurement at the University with the aim of setting out the procedures compliant with Act No. 134/2016 Sb., on public procurement, as amended ("the Public Procurement Act" / "the PPA"), with principles set out in this Directive, and with University internal regulations;

and

adopts the basic principles of and rules for public procurement for the purposes of preventing any contingent criminal activities, consisting particularly in collusion in public procurement and/or in bribery connected with public procurement, and in an effort to strengthen ethical and competence standards of representatives of the University, its employees, and persons in a similar position in the field of public procurement.

PART I – GENERAL PROVISIONS

TITLE I – BASIC PROVISIONS

Article 1 – The Liability Principle

Charles University, as an organisation co-financed from public funds, is subject to the PPA, and it is aware of a possible risk of imposition of criminal liability under Act No. 418/2011 Sb., on the criminal liability of legal entities and proceedings against them, as amended, in connection with activities in the field of public procurement, particularly for the crime of arranging an advantage in public procurement, competitive bidding, and public auctions contrary to section 256 of Act No. 40/2009 Sb., the Criminal Act, as amended, collusion in public procurement and competitive bidding contrary to section 257 of the Criminal Act, and accepting bribes contrary to section 331 of the Criminal Act.

Article 2 - Definitions

1. 'A procuring entity' – for the purposes of this Directive, a procuring entity means the University and its operational units within the meaning of section 17 (2) of the PPA and Article 15 (4) of the Constitution of Charles University ("the Constitution").
2. 'Operational units' – means the following units of Charles University with independent competences in public procurement:
 - a. faculties,
 - b. the Rectorate,
 - c. other units whose directors are, as stipulated in the Rules for the Internal Governance of Charles University, entrusted with the management of property.
3. 'An economic operator' – means any natural or juridical person (or several persons jointly, or a branch of an enterprise) that offers the provision of supplies, services, or works.
4. 'A subcontractor' – is a person through whom a contractor (an economic operator awarded a public contract) is to fulfil a particular part of a public contract, or who should provide a contractor with a particular thing or right to perform a public contract.
5. 'A participant in a procurement procedure' – is an economic operator who has submitted either a tender for, or a request to participate in, a procurement or contract award procedure, or who has expressed a preliminary interest under section 58 (5) or section 129 (4) of the PPA, or who has commenced negotiations with a procuring entity within a procurement procedure.
6. 'An above-threshold public contract' – is a public contract under section 25 of the PPA.

7. 'A below-threshold public contract' – is a public contract under section 26 of the PPA.
8. 'A small-scale public contract' – is a public contract, the estimated value of which is, without VAT, equal to or lower than CZK 2,000,000 in the case of a public supply contract or a public service contract, and CZK 6,000,000 in the case of a public works contract (referred to as "Contract" in the second part hereof).
9. 'A procurement procedure' – is a binding procedural course of action of a procuring entity when awarding public contracts set out in the PPA and in this Directive, the purpose of which is to award a small-scale public contract, a below-threshold public contract, or an above-threshold public contract, and which is concluded by either entering into a contract or with the cancellation of the procurement procedure. The procedure includes the following main stages: the dispatch or publication of procurement documentation, the acceptance of tenders, the opening of tenders, the assessment of qualifications, the assessment and evaluation of tenders, decisions on the selection of the best tender, the conclusion of a contract, or, as the case may be, the cancellation of the procurement procedure.
10. 'A contract award procedure' – is a narrower term than a procurement procedure and is used in the case of small-scale public contracts. A contract award procedure is thus a procedural course of action of a procuring entity set out in this Directive, the purpose of which is to award a small-scale public contract, and which is concluded by either entering into a contract or with the cancellation of the contract award procedure. The stages of a contract award procedure are the same as the stages of a procurement procedure.
11. 'Preparation of a public contract' – is a stage before a procurement or contract award procedure in which the procuring entity's need, as reflected in draft procurement documentation, including technical specifications, is analysed from the point of view of quality, scope, time of procurement, proportionality, efficiency, economy, expediency, and requirements for contractors' qualifications, and at which the estimated value of a public contract is determined.
12. 'The Journal of Public Contracts' – is a part of the Information System regarding public procurement which ensures publication of information about public contracts.
13. 'Procuring entity profile' – is an electronic tool defined in section 28 (i) and (j) of the PPA.
14. 'An electronic marketplace' – is a web-based application that allows for electronic public procurement,¹
15. 'In writing' – for the purposes of this Directive, written form means any paper or electronic form, including email or any other similar communication, e.g. via a Data Box, electronic tool, or electronic marketplace; an electronic signature is not an obligatory requisite.
16. 'Other units of the University' – are higher education institutes, or other establishments for educational, scholarly, research, development, artistic and other creative activities, or for the provision of information services, as well as special-purpose facilities for cultural and sports activities, for accommodation and catering of members of the academic community, or for securing the operation of a school. A list of other units of the University can be found in the Rules for the Internal Governance of Charles University (Appendix No. 1 to the Constitution – Rules for the Internal Governance).
17. 'A party ordering a transaction' – is the head of an organisation (a faculty, the Rectorate, or a unit) or managerial staff authorised by the head to handle public funds of the organisation.
18. 'A manager of the budget' – is a member of the managerial staff of an organisational unit who is responsible for the management of the budget of the organisation (a faculty, the Rectorate, or a unit), or another employee charged with the management of the budget.

Article 3 – Types of Public Contracts

1. Public contracts are contracts carried out on the basis of a contract for consideration between a procuring entity and an economic operator under which the economic operator is obliged to provide supplies, services, or works. What is not considered an award of a public contract is the entering into a contract which establishes an employment or other similar relationship, or contracts regulating cooperation of the procuring entity during the procurement procedure under sections 7-12, 155, 156, 189 and 190 of the PPA. A public contract which must be awarded by a procuring entity in compliance with the PPA must be implemented on the basis of a written agreement.
2. Depending on the subject matter thereof, there are the following types of public contracts:
 - a. a public supply contract (section 14 (1) of the PPA),
 - b. a public service contract (section 14 (2) of the PPA),
 - c. a public works contract (section 14 (3) of the PPA).
3. Under section 15 of the PPA, should a public contract consist of multiple types of procurement, it is awarded in compliance with the rules applicable to the main subject of the contract

Article 4 – Principles of Public Procurement

1. In the course of procuring procedures, a procuring entity must always adhere to the following principles:
 1. the principle of transparency,
 2. the principle of adequacy;
and in relation to economic operators:
 3. the principle of equal treatment, and
 4. the principle of non-discrimination.
2. The above listed principles also apply in a case when a procuring entity can award a public contract outside the scope of the PPA, or rather, in a case when a public contract is not subject to a regime prescribed in the PPA.

¹ The system of electronic marketplaces is regulated by government decree No. 343 of 10 May 2010.

3. It also applies that a procuring entity must not restrict participation in a procurement procedure of economic operators that have registered offices in other Member States of the European Union, the European Economic Area, the Swiss Confederation, or in other states which have concluded international agreements with the Czech Republic or the European Union guaranteeing access of economic operators from such states to procurement procedures.

Article 5 – The Principle of Transparency

1. Any public contract must be always awarded in a transparent manner. The main purpose of this principle is to guarantee the utmost possible transparency of the procedure, which substantially contributes to the reviewability of the entire procedure and to the possibility of having the course of procedure inspected.
2. In order to comply with this principle, a procuring entity will inter alia:
 - a. make and maintain written documentation of all significant acts to a sufficient extent which will make it possible to independently review all acts carried out by a procuring entity;
 - b. clearly determine criteria according to which tenders submitted by economic operators will be assessed, sufficiently in advance of the drafting of tenders themselves;
 - c. properly reason all written decisions.

Article 6 – The Principle of Adequacy

According to the principle of adequacy, a procuring entity must set the parameters of a procurement procedure in such a way so that they are adequate for the nature and subject of a public contract. The procuring entity's requirements should not be, with regard to the subject of a public contract, unreasonably strict or formalistic, nor should they be insufficiently defined.

Article 7 – The Principle of Equal Treatment

1. In the course of a procurement procedure, or rather as early as the preparation-of-the-procedure stage, a procuring entity treats equally all economic operators who submit or can submit tenders.
2. In order to comply with this principle, a procuring entity, in connection with the preparation of a procurement procedure, therefore accurately defines the conditions therefor so that all economic operators know in advance how the procedure will be organised, (e.g. whether and for what reasons the number of tenderers will be limited, the exact conditions of such limitation to be fulfilled by an economic operator, or, as the case may be, how the tenders will be evaluated, etc.).

Article 8 – The Principle of Non-Discrimination

1. In the course of public procurement, a procuring entity always proceeds in such a way that its conduct does not constitute unjustified discrimination against any economic operator. All conditions of a restrictive nature (qualification requirements, business conditions, other contractual provisions) must be substantially related to the subject of a public contract. The procuring entity is thus entitled to impose precise conditions for participation in a procurement procedure; however, it cannot restrict access for other economic operators for reasons which are not materially related to the subject of a public contract.
2. A procuring entity consistently applies the principle of non-discrimination not only in relation to economic operators having a registered office, place of business, or residency in the Czech Republic, but also in relation to foreign economic operators. However, the use of the Czech language in procurement documentation is not considered a violation of the principle of non-discrimination.

Article 9 – Other Principles

1. The purpose of awarding a public contract is to procure goods that a procuring entity actually needs to ensure the fulfilment of its tasks in such a way that the goods satisfy the needs of the entity (effectiveness), usually at the lowest possible price (economy), or rather at the lowest price per unit of utility (efficiency). In essence, the issue is that the procuring entity handles the entrusted funds economically and meaningfully.
2. Effectiveness means such a use of public funds which secures an optimal level of the attainment of objectives when accomplishing set tasks. That is, it reflects the relationship between the intended objectives and the true impacts of the performed activities (i.e. whether the need that incited the activity was satisfied).
3. At a preparatory stage of public procurement, a procuring entity satisfies the principle of effectiveness particularly through an accurate determination of the subject of a public contract, or, as the case may be, of technical and business conditions.
4. Economy means such a use of public funds when ensuring the fulfilment of tasks which entails the lowest possible expenditure of the entrusted funds, and at the same time the adequate quality of the tasks performed. In other words, economy concerns the minimisation of costs (be they financial, personnel, or material) of the fulfilling of the entrusted tasks while maintaining the required quality of the performed tasks. Adherence to the principle of economy thus precludes expending funds on activities that do not contribute to the attainment of the objectives set.
5. When adhering to the economy criterion, a procuring entity must take into consideration not only the primary costs (acquisition costs) but also operational costs. The total thereof (factoring the time value of money) can be referred to as life-long costs.
6. Efficiency refers to the use of public funds that achieves the maximum possible scope, quality, and benefit of the tasks performed compared to the volume of resources expended on their performance. This is the relationship between inputs (costs) and outputs (goods, services, or other activities). Efficiency leads to the optimisation of funds used to ensure the fulfilment of tasks.

7. Employees participating in the preparation and processing of a public contract are obliged to competently assess, taking all circumstances and technical conditions into consideration, what type of a public contract, from the point of view of the classification under the PPA, the contract in question is, and in the case of doubts or ambiguousness, to award a public contract in compliance with a stricter procedure (pursuant to the PPA).
8. During market research or a preliminary market consultation stage, a procuring entity may realise that there is not a sufficient number of economic operators capable of rendering the required performance. In such a case, the procuring entity may decide to divide a public contract into several lots.
9. When determining the evaluation criteria, a procuring entity will also determine evaluation sub-criteria so that the sub-criteria represent the relationship between the utility value and the price.
10. A procuring entity communicates with economic operators usually in writing.

Article 10 – Determination of the Subject of a Public Contract

1. A procuring entity will determine the subject of a single public contract in such a way that the subject of one contract is:
 - a. all fulfilments the performance of which constitutes a single functional whole, or
 - b. all similar and interconnected fulfilments, where interconnected fulfilments are the ones which are interrelated in terms of territory, subject, and time.
2. In determining the subject of one public contract, a procuring entity must not favour or disadvantage certain economic operators or goods by setting technical specifications by direct or indirect reference to a particular operator or goods, or to patents for inventions, utility designs, industrial designs, trademarks, or appellations of origin. A reference under the previous sentence can be made if the determination of the subject of a public contract cannot be sufficiently accurate or comprehensible. When such a reference is made, a procuring entity must stipulate the possibility of offering an equivalent solution.

Article 11 – Determination of the Estimated Value of a Public Contract

1. When determining the estimated value of a public contract, a procuring entity proceeds in compliance with sections 16 – 23 of the PPA.
2. A procuring entity is obliged to add up the estimated values of public contracts, the subject of which are regularly acquired or continuous supplies or services under section 19 of the PPA, with the exception of public contracts which have as the object of fulfilment things the unit price of which changes in the course of an accountancy period, and the procuring entity procures them repeatedly according to its current needs.
3. A procuring entity can divide a public contract into multiple lots, provided that it does not circumvent obligations prescribed in the PPA (particularly the obligations set in sections 16 – 23 of the PPA). If the procuring entity intends to award multiple lots of a public contract in one procurement procedure, it will determine the scope of those lots and set the rules for the participation of economic operators in individual lots and for the award thereof.

Article 12 – Relevant Legislation

1. Public procurement at the University is carried out under this Directive, and in compliance with the legislation of the Czech Republic, namely the effective PPA; regulations governing the handling of budget funds (e.g. Regulation No. 560/2006 Sb., on the participation of the state budget in financing asset renewal programmes); Act No. 340/2015 Sb., the Register of Contracts Act, as amended; rules set for relevant grants programmes if a public contract is co-financed therefrom.
2. Under Act No. 320/2001 Sb., on financial audit in public administration and to amend some acts, as amended (“Act No. 320/2001 Sb.”), a procuring entity must adhere to the principles of economy, efficiency, and effectiveness when disposing of public funds.
3. In the case of a public contract financed partly or wholly from the programme financing from the state budget, a procurement procedure can only be commenced after the administrator of the programme has, in compliance with Regulation No. 560/2006 Sb., on the participation of the state budget in financing asset renewal programmes, registered the project in the information system and set the conditions for the participation of the state budget in the subsequent preparation, award, and implementation of the project, or, as the case may be, after other or additional conditions set by the programme administrator have been satisfied.

Article 13 – Public Contracts Co-financed from the European Union Budget

1. In public procurement for projects co-financed, or presumptively co-financed, from foreign funds, e.g. from the budget of the European Union, a contracting unit also proceeds in compliance with the rules set for the provision of relevant foreign funds, e.g. in compliance with European Union rules.
2. Should this Directive conflict with established European Union rules, or with other similar rules (particularly with operational programmes rules), a procuring entity is obliged to follow the stricter regulation.
3. If a public contract is fully financed from foreign funds (100%), a procuring entity proceeds in compliance with the rules set for the provision of those foreign funds. This Directive does not apply in such a situation.

TITLE II – COMPETENCES OF PERSONS ACTING ON BEHALF OF THE UNIVERSITY

Article 14 – Acting on Behalf of the University

1. The following persons represent the University and make decisions on its behalf regarding public procurement:

- a. the Rector, within the scope of Article 50 (a) of the Constitution, that is particularly in the case of public contracts on the grounds of which the following juridical acts are performed:
 - i. acts through which the University intends to acquire or transfer the ownership of immovables,
 - ii. acts through which the University intends to acquire or transfer the ownership of movables, the value of which is higher than five hundred times the amount from which things are considered tangible assets according to a special regulation²,
 - b. as well as in matters which he reserves for himself in a directive he issues;
 - c. a dean, or, as the case may be, the secretary of a faculty, within the scope of Article 50 (c) of the Constitution, provided the costs of a public contract are paid from the faculty's own funds;
 - d. a director of another unit of the University which is, according to the Rules for the Internal Governance of Charles University, entrusted with the management of property, within the scope of Article 50 (d) of the Constitution, provided the costs of public procurement are paid from another unit's own funds;
 - e. the Bursar, regarding matters that are not reserved for persons listed in subparagraphs a), b), and c) hereof.
2. With respect to matters where a prior approval by the Board of Trustees of Charles University is required under section 15 of the HEA, a draft public contract on the basis of which the respective contract is to be concluded must be submitted for preliminary consideration by the Academic Senate of Charles University and by the Board of Trustees of Charles University prior to public procurement.
 3. The prior written approval of the Rector, or the Bursar, under Article 50 (1) (c) (iii) and Article 50 (1) (d) (iii) of the Constitution can be granted within the framework of the preliminary approval of a public contract in compliance with Article 17 hereof.

Article 15 – A Contracting Unit

1. A contracting unit is a unit of a faculty, Rectorate, or another unit of the University which is competent to arrange for supplies, services, or works which should be the subject of a public contract, or which needs the fulfilment following from a public contract to secure the performance of its own tasks.
2. A contracting unit must secure funding for a public contract.
3. A contracting unit is in particular responsible for the determination of material and professional parameters of public procurement.

Article 16 – Units for Public Procurement

1. Units for public procurement at faculties and other workplaces of the University are Public Procurement Offices, other similar departments, or employees competent to prepare, organise, and administer public procurement at the faculties or other units of the University.
2. At the Rectorate, a unit responsible for public procurement is the Public Procurement Department, which controls, in terms of methods used, and co-ordinates the activities of contracting units in the course of public procurement. It ensures the preparation, organisation, and administration of public contracts for the units of the Rectorate. The Public Procurement Department also provides methodology guidance and advisory activities in the field of public procurement for faculties and other units of the University.
3. A unit for public procurement ensures, in co-operation with a contracting unit, the preparation, organisation, and administration of public procurement.
4. A unit for public procurement is in particular responsible for the compliance of procurement documentation and procurement procedures with the PPA and this Directive.
5. Specific relationships between contracting units and units for public procurement are determined by a senior officer listed in Article 14 (1) (b) hereof, in the case of individual faculties and other units of the University, and by the Bursar, in the case of the Rectorate and units the directors of which are not entrusted with the management of property.

Article 17 – Preliminary Approval of a Public Contract

1. The senior officers listed in Article 14 hereof always approve, prior to the commencement of procurement procedures, a "Preliminary Approval of a Public Contract" (the "Preliminary Approval"). Essentials of the Preliminary Approval are set out in Annex 1 hereof.
2. A contracting unit is not entitled to commence a procurement procedure without the Preliminary Approval.
3. The senior officers listed in Article 14 hereof always decide on the selection of an economic operator (tender), on the cancellation of the procurement procedure, and they conclude a contract.
4. Persons entitled to take and approve other steps in the course of a procurement procedure are heads of contracting units or, as the case may be, heads of units for public procurement.
5. The senior officers listed in Article 14 hereof are always entitled to reserve for themselves approval of any acts to be carried out within a procurement procedure, or to reserve for themselves decision-making regarding all acts within a respective contract.
6. Paragraphs (1) – (3) of this Article apply to small-scale public contracts, below-threshold public contracts, and above-threshold public contracts. This is not to the prejudice of paragraph 7 of this Article.

² Under section 26 (2) of Act No. 586/1992 Sb. of the Czech National Council, on income taxes, as amended, tangible property means several tangible movable things, or aggregates of tangible movable things with an individual technical-economic purpose, the input price of which is higher than CZK 40,000, and their operational-technical functions last for longer than one year.

7. In the case of small-scale public contracts of Categories I and II (under Article 22 hereof) which will be awarded by a procuring entity in any formalised procurement procedure, a contracting unit has to apply for the written approval of the party ordering the transaction and of the manager of the budget prior to the commencement of a procurement procedure. In such a case it is also possible to make use of the Preliminary Approval so as to obtain the required written approval.

TITLE III – INDEPENDENT, UNIVERSITY-WIDE, AND CENTRALISED PUBLIC PROCUREMENT AT CHARLES UNIVERSITY

Article 18 – Independent Public Procurement

1. Unless otherwise provided for in the Constitution or this Directive, faculties, the Rectorate, and other units of the University entrusted with the management of property are regarded as operational units with independent competences in public procurement within the meaning of section 17 (2) of the PPA. They can thus determine the estimated value of a public contract at their level without it being necessary to add up preliminary values of public contracts regular in nature across the University. In compliance with Article 19 hereof, the Rector, or the Bursar, is entitled to restrict this right in individual cases.
2. The awarding of individual public contracts is carried out by the relevant faculties, the Rectorate, and other units of the University for their own needs or in order to perform tasks entrusted to them. The faculties, Rectorate and other units of the University have separate financial means earmarked which serve to cover their public contracts.

Article 19 – University-wide Public Procurement

1. In individual cases, the Rector may stipulate that a public contract be awarded as a university-wide one. In such a case, the right of the faculties referred to in Article 18 hereof is restricted, and public procurement will be carried out with the estimated value of a public contract totalled throughout the entire University.
2. Public contracts with a university-wide impact are usually awarded by the Rectorate; a faculty or another unit of the University may be charged with the preparation and/or awarding of a public contract. When awarding a university-wide public contract, operational units do not conclude a written agreement on the centralised public procurement. Should such a contract be co-financed from faculties' funds, procurement documentation must be discussed with the faculties and other units of the university prior to the commencement of a procurement procedure.

Article 20 – Centralised Public Procurement

1. Faculties, the Rectorate, and other Units of the University may, on the proposal of any of them, agree on a centralised public procurement for the purchase or change of certain commodities (supplies or services). In such a case they will conclude a written agreement.
2. The Rector or Bursar may determine the commodities suitable for centralised procurement.
3. An entity acting as a central procuring entity is usually the Rectorate. Should not the Rectorate participate in the centralised procurement, the central procuring entity acting is a faculty or another unit of the University which has proposed the respective public contract. In the case of centralised procurement, a contracting unit under Article 15 of this Directive of the central procuring entity proceeds in co-operation with units for public procurement under Article 16 hereof in compliance with the provisions of this Directive with the necessary modifications.
4. The central procuring entity:
 - a. will either procure supplies or services based on a procurement procedure, and will subsequently render them to faculties or other units of the University at the same price, or
 - b. will carry out a procurement procedure on the basis of which faculties or other units of the University will buy supplies, services, or works at their own expense.

PART II – PUBLIC PROCUREMENT RULES FOR SMALL-SCALE PUBLIC CONTRACTS

TITLE I – GENERAL PROVISIONS ON THE AWARDING OF SMALL-SCALE PUBLIC CONTRACTS

Article 21 – Public Contracts Subject to the Rules for the Awarding of Small-scale Public Contracts

A procuring entity is obliged to award small-scale public contracts making use of the procedures regulated in this Part II of this Directive. However, a procuring entity does not have to use the procedures set out in this Part II to award small-scale public contracts which satisfy the conditions allowing either to apply an exemption from the applicability of the Act under sections 29 and 30 of the PPA, or to use a negotiated procedure without prior publication under sections 63 - 66 of the PPA, nor to award public contracts which are based on a framework agreement.

Article 22 – Categories of Small-scale Public Contracts

1. For the purposes of this Directive, small-scale public contracts are divided into the following three categories:

Public Contract Category	Estimated Value of a Public Supply and Services Contracts (without VAT)	Estimated Value of a Public Works Contract (without VAT)
Category I	CZK 0 – CZK 100,000	CZK 0 – CZK 200,000

Category II	CZK 100,000.01 – CZK 400,000	CZK 200,000.01 – CZK 2,000,000
Category III	CZK 400,000.01 – CZK 2,000,000	CZK 2,000,000.01 – CZK 6,000,000

2. Faculties, the Rectorate, and other units of the University entrusted with the management of property are entitled to issue their own internal regulations, or as the case may be, a dean's directive, to deal with small-scale public contracts of Category I and Category II which can regulate procedures for awarding such public contracts differently from Part II and Part III hereof. The internal regulations of a faculty, the Rectorate, or another unit of the University must ensure that procedures for the awarding of Category I and Category II small-scale public contracts comply with the principles of economy, efficiency, and effectiveness, as well as with the basic principles of public procurement under section 6 of the PPA. In such a situation, Part II and Part III hereof do not apply to a given faculty, the Rectorate, or another unit of the University.

TITLE II – PROCEDURES FOR THE AWARDING OF SMALL-SCALE PUBLIC CONTRACTS OF CATEGORY I

Article 23 – Types of Contract Award Procedures

A procuring entity can realise a Category I public contract in the following ways:

- a. by way of an ordinary purchase paid for in cash or by payment card, or by way of directly ordering the fulfilment; or
- b. by way of sending an invitation to submit a quotation to one economic operator in which the required fulfilment is determined, and possibly including other conditions of performance, unless a contracting unit already has the up-to-date quotation available; or
- c. in an electronic marketplace; or
- d. by way of a procedure applicable for Category II or Category III public contracts; in such a case the rules stipulated in Title IV of this Part apply with necessary modifications, having regard for the subject and estimated value of a public contract; or
- e. in any other suitable way, provided that the principles set out in section 6 of the PPA are adhered to.

TITLE III - PROCEDURES FOR THE AWARDING OF SMALL-SCALE PUBLIC CONTRACTS OF CATEGORY II

Article 24 – Types of Contract Award Procedures

A procuring entity can realise a Category II public contract in the following ways:

- a. by way of directly ordering the fulfilment based on market research carried out pursuant to Article 25 hereof; or
- b. in an electronic marketplace; or
- c. by way of a procedure applicable for Category III public contracts; in such a case the rules stipulated in Title IV of this Part apply with necessary modifications, having regard for the subject and estimated value of a public contract; or
- d. in any other suitable way, provided that it is properly justified in writing, that it has been consented to beforehand in writing by a relevant senior officer listed in Article 14 (1) (b) hereof or by another person authorised thereto by said senior officer, and that the basic principles set out in section 6 of the PPA are adhered to.

Article 25 – Market Research

1. Market research under Article 24 (1) (a) hereof is conducted by a procuring entity based on an analysis of tenders submitted by at least three economic operators that are, according to the information the procuring entity has, capable of providing the required fulfilment. The procuring entity must not carry out the research repeatedly if it approaches the same circle of economic operators, unless it is justified by the subject of fulfilment of a public contract or by other special circumstances, or, as the case may be, by the cancellation of the previous procurement procedure.
2. Market research carried out by a procuring entity has to be recorded in writing and it has to clearly follow from it that the tenders that were being compared were mutually comparable. Tenders are not mutually comparable if they include, for example, a different scope of fulfilment, different essential technical parameters, or considerably different business conditions that have an impact on the advantageousness of the tenders, i.e. the length of guarantee, the date and place of delivery, the amount of a contractual penalty for late payment, or the scope of supplied accessories, etc.
3. A procuring entity will carry out the examination of tenders submitted by a lower number of economic operators than prescribed in paragraph 1 of this Article if the prescribed number cannot be observed for objective reasons (e.g., there is only one supplier of the object of a public contract), or if that method is inconvenient for other reasons. The procuring entity will make a written record thereof which includes justification for approaching a lower number of economic operators.

TITLE IV - PROCEDURES FOR THE AWARDING OF SMALL-SCALE PUBLIC CONTRACTS OF CATEGORY III

Article 26 – Types of Contract Award Procedures

1. A procuring entity can realise a Category III public contract in the following ways:
 - a. by way of an open call for tenders; or
 - b. by way of a restricted call for tenders; or
 - c. in an electronic marketplace.

2. In the case of an open call, a procuring entity notifies an unlimited number of economic operators, via a contract notice, of its intention to award a public contract in a respective procurement procedure; a publication of an open call notice is an invitation to economic operators to submit tenders. The contract notice will remain published for the entire time limit for the receipt of tenders:
 - a. on the procuring entity's profile, or
 - b. in the Journal of Public Contracts.
3. Upon the publication thereof, a procuring entity may dispatch a contract notice under paragraph 2 of this Article to certain economic operators; in such a case, the notice has to be dispatched to at least three economic operators.
4. In the case of a restricted call, a procuring entity invites at least five economic operators to submit tenders. The procuring entity will only invite such economic operators about whom it knows that they are capable of the provision of the required fulfilment. The procuring entity cannot repeatedly invite the same circle of economic operators unless it is justified by the subject of performance or by other special circumstances, or, as the case may be, by the cancellation of a previous procurement procedure.
5. A procuring entity will invite a lower number of economic operators than prescribed in paragraph 4 of this Article to submit tenders if the prescribed number cannot be observed for objective reasons (e.g., there is only one supplier of the object of a public contract). The procuring entity will make a written record thereof which includes justification for approaching a lower number of economic operators.
6. If the object of a public contract allows for it, a procuring entity can award the public contract in an electronic marketplace. In such a case it proceeds in compliance with Article 42 hereof.

Article 27 – Award Criteria

1. An open call notice, restricted call notice, or information published in an electronic marketplace (“the Public Contract Notice”) must include the key information about the public contract and the procurement procedure. The Public Contract Notice must include at least the following information:
 - a. identification of the procuring entity;³
 - b. title of the public contract;
 - c. type of public contract (supply, service, or works);
 - d. description of the subject of the public contract in details necessary for the preparation of a tender;
 - e. time and place of performance of the public contract;
 - f. requested method of preparation of a bid price;
 - g. conditions and requirements for the drafting of a tender, i.e., what information regarding the subject of the public contract and its implementation the tenderers should include in their tenders so that the procuring entity can assess the compliance of a tender with the procurement documentation, and a requirement that a draft agreement on the implementation of the public contract be submitted, unless it is a part of the procurement documentation;
 - h. deadline and place for the submission of tenders;
 - i. the mode of negotiating with tenderers, provided that the procuring entity intends to negotiate with them under Article 29 hereof;
 - j. the fundamental assessment criterion, which is the economic advantageousness of a tender;⁴
 - k. the mode of evaluation according to award criteria;⁵
 - l. requirements for tender variants, provided that the procuring entity allows them;
 - m. information regarding the provision of clarifications of the procurement documentation according to Article 28 (3) and (4) hereof.
2. The procurement documentation can also include the following:
 - a. requirements regarding proof of tenderers' qualifications, if set out by the procuring entity;
 - b. business conditions, including payment conditions or a binding template of an agreement on the implementation of the public contract;
 - c. requirements regarding the specification of possible subcontractors (identification data) and subject-matter determination of fulfilment rendered by such subcontractors;
 - d. information regarding the possibility to assess a tender from the point of view of an abnormally low bid price within the meaning of section 113 of the PPA;
 - e. a warning that the procuring entity has the right not to select any tender, or to cancel the public procurement.
3. A senior officer listed in Article 14 (1) (b) hereof can set out templates of agreements or business conditions for individual faculties and other units of the University. The Bursar can set out said templates for the Rectorate and

³ The identification data is the name 'Charles University' including the name of a relevant operational unit, the registered seat of the operational unit, and the ID number of Charles University.

⁴ Where the key evaluation criterion is the economic profitability of a tender, a procuring entity will always determine evaluation sub-criteria so that they represent the relationship between the utility value and the price. The evaluation sub-criteria have to relate to the fulfilment of a public contract that is being tendered for. Those criteria are particularly a bid price, quality, the technical level of an offered solution, aesthetic and functional characteristics, characteristics of the fulfilment from the point of view of its impact on the environment, impact on the employment of disabled persons, operational costs, return on costs, warranty and post-warranty service, ensuring the supplies, delivery periods or periods for completion. What cannot serve as an evaluation sub-criterion is qualification prerequisites, contractual conditions, the purpose of which is securing the contractor's obligations, or payment conditions.

⁵ In order to secure the transparency of a procurement procedure it is necessary to determine which information or parameters of tenders will be subject to evaluation, and how the evaluation will be carried out.

units, the directors of which are not entrusted with the management of property. The faculties and other units of the University can make use of the templates set out for the Rectorate by the Bursar.

4. If a procuring entity directly approaches economic operators within the framework of a restricted or open call for tenders, it always does so in writing. The procuring entity must be able to prove the dispatch of a notice to all economic operators who are being invited to submit tenders.
5. A procuring entity communicates with economic operators, or tenderers, in writing. The procuring entity cannot allow the submission of tenders via e-mail.

Article 28 – Time Limit for the Submission of Tenders and Clarification of Procurement Documentation

1. A procuring entity will always set a time limit for the submission of tenders, having regard for the subject of the public contract, in the procurement documentation by way of setting a deadline by which the tenders are to be submitted. The time limit set out pursuant to this Directive begins on the date following the date on which an event relevant for its commencement occurred. A relevant event is the publication of a contract notice / dispatch of an invitation to tender.
2. The time limit for the submission of tenders cannot be shorter than five weekdays.
3. A procuring entity may provide clarification of the procurement documentation, provided that an economic operator has delivered a written request therefor no later than:
 - a. three days before the expiration of the time limit for the submission of tenders, where the procuring entity has set the time limit for the submission of five weekdays;
 - b. four weekdays before the expiration of the time limit for the submission of tenders, where the procuring entity has set the time limit for the submission between six to nine weekdays;
 - c. five weekdays before the expiration of the time limit for the submission of tenders, where the procuring entity has set the time limit for the submission between ten to fourteen weekdays;
 - d. six weekdays before the expiration of the time limit for the submission of tenders, where the procuring entity has set the time limit for the submission of tenders of fifteen or more weekdays.
4. A procuring entity can provide clarification of the procurement documentation even without a prior request.
5. A procuring entity will dispatch the clarification of the procurement documentation, or relevant associated documents, no later than:
 - a. one weekday after the receipt of a request under the previous paragraph, in cases where the time limit for the submission of tenders of five weekdays was set;
 - b. two weekdays after the receipt of a request under the previous paragraph, in cases where the time limit for the submission of tenders between six to nine weekdays was set;
 - c. three weekdays after the receipt of a request under the previous paragraph, in cases where the time limit for the submission of tenders between ten to fourteen weekdays was set;
 - d. four weekdays after the receipt of a request under the previous paragraph, in cases where the time limit for the submission of fifteen or more weekdays was set.
6. A procuring entity will dispatch the clarification of the procurement documentation, including the verbatim request under paragraph 3 of this Article, simultaneously to all tenderers whom it approached within the framework of a restricted call for tenders, or it will publish the clarification of the procurement documentation, including the verbatim request, in the same way in which it published the open call notice, or it will attach them to the procurement documentation in an electronic marketplace.
7. If a procuring entity makes changes to the procurement documentation (through clarifications of the procurement documentation), it will reasonably prolong the deadline for the submission of tenders, having regard to the nature of the change made. In the case of such a change in the procurement documentation that may widen the circle of potential economic operators in an open call for tenders, the procuring entity will postpone the deadline for the submission of tenders so that the time limit for the submission as of the date of the change is equal to the total of the original time limit for the submission.

Article 29 – Negotiations over the Tenders

1. A procuring entity may reserve the right in the procurement documentation to negotiate over the submitted tenders with the participants in the procurement procedure. In such a case, it has to stipulate the following in the procurement documentation:
 - a. the mode and principles of negotiations over tenders with the participants in the procurement procedure;
 - b. the method of selecting participants in the procurement procedure for the subsequent negotiations, if the procuring entity decides to gradually reduce the number of participants in the procurement procedure under paragraph 8 of this Article over whose tenders the procuring entity will negotiate at individual stages.
2. After the opening, assessment, and evaluation of tenders pursuant to Article 30 hereof, a procuring entity will notify in writing all participants in the procurement procedure -- who have not been excluded and whose tenders have been evaluated -- of the preliminary result of the evaluation of the tenders. Along with notice of the preliminary result of the evaluation of the tenders, the procuring entity will invite in writing said participants in the procurement procedure to undergo the first negotiations over their tenders, and it will set the date, place, and language of negotiating.
3. A procuring entity has the right to negotiate with the participants in the procurement procedures about all conditions of performance contained in the tenders, particularly about the conditions which are subject to evaluation. The procuring entity cannot change the award conditions in the course of negotiating over the tenders.

4. A procuring entity can authorise the evaluation committee, or some of its members, or another person to conduct negotiations.
5. In the course of negotiations, a procuring entity cannot communicate to any participants in the procurement procedure any information regarding the tender of another participant in the procedure without prior consent of such participant, except the current amount of the bid price and other figures critical to the evaluation.
6. A procuring entity can negotiate over the tenders with all participants in the procurement procedure simultaneously or individually.
7. A procuring entity prepares a report on each negotiation over tenders in which it includes all agreements that can lead to a change of a tender or draft agreement (“the Report on Negotiation”). The Report on Negotiation is signed by the procuring entity and a participant, or participants, in the procurement procedure who took part in the negotiation.
8. Upon the closing of each stage of negotiations, a procuring entity will determine the order of the participants in the procurement procedure based on the results of the negotiation. The procuring entity determines the order of the participants in the procurement procedure based on the award criteria; the order is always determined on the basis of all evaluation criteria. The procuring entity is obliged to draft a report on the determination of the order of the participants in the procedure in which it states the results of negotiations over the tenders, the order of the participants in the procurement procedure, and information about which participants in the procurement procedure it will negotiate with in the subsequent stage (“the Report on the Final Evaluation Result”). The procuring entity is obliged to dispatch the Report on the Final Evaluation Result without undue delay to all participants in the procedure with whom the negotiation at any given stage was conducted.
9. Prior to the commencement of any stage of negotiations, a procuring entity can notify the participants in the procurement procedure that the given stage is the final one; the procuring entity can also agree on this in writing at any time with all participants in the procurement procedure.

Article 30 – Opening, Assessment, and Evaluation of Tenders

1. Opening, assessment, and evaluation of tenders is carried out by:
 - a. a procuring entity, or a person authorised to act on behalf of the procuring entity under Article 14 (1) hereof, or a person authorised to carry out acts in the procurement procedure under Article 17 (4) hereof; or
 - b. a person authorised thereto in writing by the procuring entity (or by a person authorised to act on behalf of the procuring entity under Article 14 (1) hereof, or by a person authorised to carry out acts in the procurement procedure under Article 17 (4) hereof); or
 - c. an evaluation committee comprising at least three members.
2. The composition of the evaluation committee is proposed by the unit for public procurement, usually in co-operation with a procuring entity, and it is approved by the head of the procuring entity. At least one member of the evaluation committee is an employee of the unit for public procurement, and at least one is an employee of the procuring entity. A particular way of constitution of the evaluation committee can be stipulated for individual faculties and other units of the University by a senior officer listed in Article 14 (1) (b) hereof, and for the Rectorate and units, the directors of which are not entrusted with the management of property by the Bursar.
3. Where it is justified by the subject of a public contract, a person evaluating tenders, or at least one member of the evaluation committee, must have relevant expertise relating to the subject of the public contract.
4. A report has to be drafted on the opening, assessment, and evaluation of tenders which contains critical information regarding the assessment and evaluation of the tenders:
 - a. a list of tenders received, including the identification information of participants in the procurement procedure;
 - b. a list of participants in the procurement procedure invited to complement / clarify their tenders, provided they were invited to do so;
 - c. a list of excluded tenders, if any, and justification for their exclusion;
 - d. a description of the mode and justification of the evaluation of tenders if the key evaluation criterion is the economic advantageousness of a tender;
 - e. the result of the evaluation.
5. Tenders cannot be opened sooner than prior to the expiration of the time limit for the receipt of tenders. Only tenders that have been submitted within the time limit for the receipt of tenders are opened.
6. The opening of a tender submitted electronically means making its content accessible. Tenders submitted electronically must not be made accessible prior to the expiration of the time limit for the receipt of tenders. Only tenders submitted within the time limit for the receipt of tenders are opened.
7. Persons who assess and evaluate tenders, or any invited experts, must not be in conflict of interest within the meaning of section 44 of the PPA and must keep confidential all information they learn of in the course of the assessment and evaluation of the tenders. Prior to the assessment and evaluation of the tenders they must declare in writing, in the form of an affidavit, that they are not in conflict of interest and that they undertake to keep confidential all information they will learn of in connection with the assessment and evaluation of the tenders.
8. After the opening of tenders, a procuring entity, the evaluation committee, or an authorised person, will assess the tenders. The assessment of tenders consists in the assessing of whether the tenders have satisfied procurement documentation requirements.
9. When assessing tenders, a procuring entity, the evaluation committee, or an authorised person further assesses whether a tender which contains an abnormally low bid price has been submitted.

10. If a procuring entity, the evaluation committee, or an authorised person assesses a bid price submitted by a participant as an abnormally low one, it will invite the participant in the procurement procedure to provide reasons in writing for those parts of the tender which are critical to the height of the bid price. After the provision of the reasons in writing for the abnormally low bid price, the participant in the procurement procedure can be invited to a meeting to explain the presented reasons.
11. If a procuring entity, the evaluation committee, or an authorised person does not find sufficient grounds that would justify the abnormally low bid price, neither after it has received reasons in writing therefor from the tenderer nor after any possible explanation provided by the tenderer thereafter, the respective tender can be excluded.
12. If a tender is found to be unclear or incomplete, a tenderer can be invited to complement or clarify it. When complementing or clarifying tenders, the bid price and/or facts and information that are subject to assessment cannot be changed.
13. If a participant in the procurement procedure fails to complement or clarify the tender within a reasonable time frame, or the procuring entity does not waive the late complementing or clarification, the respective tender must be excluded.
14. The evaluation of tenders is conducted by a procuring entity, the evaluation committee, or an authorised person according to the evaluation criteria listed in the procurement documentation. The most economically advantageous tender will be evaluated as the best tender. The evaluation of tenders can be carried out before they are assessed; in such a case, at least the tender which was submitted by a tenderer with whom a contract is to be concluded will be assessed. In such a case, this information is provided in a report pursuant to paragraph 4 of this Article.
15. A procuring entity will take a decision regarding a new assessment and evaluation if it finds out that the evaluation committee, or an authorised person, breached the procedure set out herein. The procuring entity can either establish a new evaluation committee in order to carry out a new assessment and evaluation of tenders or authorise another person thereto, or it will conduct a new assessment and evaluation by itself.

Article 31 – Conclusion of a Contract with a Selected Economic Operator

1. It applies, unless otherwise provided for herein, that a procuring entity can only conclude a contract with a participant in the procurement procedure who has submitted the best tender (“the Selected Economic Operator”). If the Selected Economic Operator refuses to conclude a contract with the procuring entity, or if it does not sufficiently co-operate therewith, the procuring entity can conclude a contract with the participant in the procurement procedure who ranked as next. The procuring entity can use the procedure under the previous sentence repeatedly. The contract must be concluded in compliance with the conditions of the procurement procedure and the selected tender. What is considered insufficient co-operation is the fact that the Selected Economic Operator does not react in any way, i.e. in paper form or electronically, to calls by the procuring entity. If the Selected Economic Operator has not provided sufficient co-operation, the procuring entity will prove this fact in writing in the form of an affidavit.
2. The procuring entity cannot conclude a contract
 - a. with the Selected Economic Operator if the tender of the Selected Economic Operator was prepared with the participation of an employee of the procuring entity, the executive body of the procuring entity or its member, a member of the managing body of the procuring entity, a member of the project implementation team, or a person who participated in the award of a public contract based on a contractual relationship; or
 - b. with the Selected Economic Operator – a member of a consortium – who is an employee of the procuring entity, or a member of the implementation team, or a person who participated in the awarding of the respective public contract based on a contractual relationship; or
 - c. with the Selected Economic Operator whose subcontractor is a person who participated in the awarding of the respective public contract based on a contractual relationship, particularly an employee of the procuring entity, or a member of the implementation team.
3. The contract must be concluded in writing and it must contain at least the elements listed in Article 43 hereof.
4. A procuring entity must not allow a substantial change of rights and obligations following from a concluded public contract. When deciding whether a change is substantial or not, sections 100 and 222 of the PPA apply with the necessary modifications.

Article 32 – Contract Award Notice

1. All participants in the procurement procedure who submitted their tenders within the time limit for the receipt of tenders and whose tender was not excluded from the procurement procedure must be notified of the result of the procurement procedure without undue delay. A contract award notice must contain at least the following information: the identification of the participants in the procurement procedure whose tenders were evaluated, the result of the evaluation of tenders from which the order of the tenders clearly follows. The notice must be sent in writing.
2. If a procuring entity reserved this right in a contract notice, it can publish a contract award notice, and possible notice of the exclusion of a tender from the procurement procedure, in the same way in which it published a contract notice. In such a case both a contract award notice and a possible notice of the exclusion of a tender from the procurement procedure is deemed as delivered to all participants in the procurement procedure concerned at the moment of publication.

Article 33 – Cancellation of the Procurement Procedure

1. A procuring entity is entitled to cancel a procurement procedure, however, no later than prior to the conclusion of a contract. The procuring entity is obliged to notify in writing and without undue delay all participants in the procurement

procedure who have filed their tenders within the time limit for the receipt of tenders of the cancellation of the procurement procedure.

2. If the procurement procedure is cancelled during the time limit for the receipt of tenders, the procuring entity will publish the information about the cancellation of the procurement procedure in the same way in which it commenced the procurement procedure.

PART III – SELECTED RULES FOR THE AWARDING OF BELOW-THRESHOLD AND ABOVE-THRESHOLD PUBLIC CONTRACTS

Article 34 – Limits and Recommended Procedures

1. When awarding below-threshold public contracts (i.e. CZK 2,000,000 - CZK 5,706,000 without VAT in the case of supply and service contracts, and CZK 6,000,000 – 142,668,000 without VAT in the case of works contracts) and above-threshold contracts (i.e. contracts exceeding, without VAT, CZK 5,706,000 in the case of supply and service contracts, and CZK 142,668,000 in the case of works contracts), a procuring entity proceeds pursuant to the PPA, with the exception of cases stipulated in sections 29 and 30 of the PPA, in which case the procuring entity is not obliged to award public contracts according to the PPA.
2. The limits stipulated in paragraph 1 always apply at the rate determined in a special legal regulation⁶.
3. The Bursar, or, upon commissioning by the Bursar, the Public Procurement Department, can adopt recommended courses of action for individual types of frequently used procurement procedures. Such recommended courses of action serve as a guideline and are not binding on a procuring entity.

Article 35 – Types of Procurement Procedures

1. When awarding a below-threshold or above-threshold public contract, a procuring entity can only employ procurement procedures listed in section 3 of the PPA, namely:
 - a. a simplified below-threshold procedure,
 - b. an open procedure,
 - c. a restricted procedure,
 - d. a negotiated procedure with prior publication,
 - e. a negotiated procedure without prior publication,
 - f. a competitive dialogue,
 - g. an innovation partnership procedure,
 - h. a concession award procedure, or
 - i. a procedure to award a public contract in a simplified regime.
2. A procuring entity can only employ a simplified below-threshold procedure, negotiated procedure with prior publication, negotiated procedure without prior publication, competitive dialogue, innovation partnership procedure, concession award procedure, or a procedure to award a public contract in a simplified regime under the conditions stipulated for the individual types of public procurement procedures in the PPA.

Article 36 – Preliminary Market Consultation

1. A procuring entity is entitled to conduct market consultations with experts or economic operators with a view to preparing procurement documentation and informing economic operators of its procurement plans and requirements.
2. However, such consultations must not distort competition.
3. Market consultations are conducted in writing; unless otherwise provided for in the PPA, a verbal consultation may also be conducted, provided that its contents are sufficiently documented, especially by way of minutes, sound recordings, or summaries of key points of communication.
4. If the procurement documentation then contains information that results from the preliminary market consultation, a procuring entity will indicate such information in the procurement documentation, it will identify persons involved in the preliminary market consultation, and it will state all important information that was the subject of the preliminary market consultation.

Article 37 – Prior Information Notice

1. A procuring entity is entitled to publish its intention to commence a procurement procedure by way of publication of a prior information notice. In such a case the procuring entity will dispatch the prior information notice for publication in the way prescribed in section 212 of the PPA.
2. Time limits for the submission of tenders under sections 54 (4), 57 (2) (b), and 59 (4), or for the submission of initial tenders under section 62 (3) of the PPA,⁷ may be shortened in such a case.

Article 38 – Award Period

1. A procuring entity may set out an award period, which is to be understood as a period during which participants in a procurement procedure cannot withdraw therefrom.

⁶ Governmental Decree No. 172/2016 Sb., to determine financial limits and amounts for the purposes of the Public Procurement Act.

⁷ A prior information notice can thus be used particularly in a situation when procurement documentation is not ready and the finalisation thereof will take longer than one month, but at the same time it will be convenient to obtain tenders in the shortest time possible after the finalisation of the documentation.

2. Where a procuring entity has set out an award period, it can require in the procurement documentation that participants in the procurement procedure provide a tender guarantee in the amount stipulated in section 41 (2) of the PPA within the time limit for the submission of tenders.
3. The beginning of an award period is also the end of the period for the submission of tenders. Therefore, the award period must be set out reasonably, having regard for the type of procurement procedure and the subject of the public contract.
4. The running of an award period is suspended for the period of time in which the procuring entity must not, pursuant to section 246 of the PPA, conclude a contract ('an excluded period').
5. The procuring entity will dispatch a notice of the selection of an economic operator within the award period unless a) otherwise agreed on with participants in the procurement procedure, or b) the procurement procedure was terminated prior the expiration of the award period.
6. If a procuring entity does not dispatch a notice of the selection of an economic operator within the award period, or if it does not proceed pursuant to paragraph 5 (a) or (b) of this Article, the procurement procedure is conclusively presumed to be terminated. The procuring entity will in such a situation reimburse the participants in the procurement procedure for reasonably expended costs connected with their participation in the procurement procedure.

Article 39 – Committee and Invited Experts

1. A procuring entity may authorise a committee to perform acts in a procurement procedure pursuant to the PPA; this is not to the prejudice of either other legal regulations governing the mode of decision-making of the procuring entity or the responsibility of the procuring entity for adherence to the rules stipulated in the PPA. Acts carried out by the committee are regarded as acts carried out by the procuring entity.
2. In the case of public contracts with an estimated value exceeding CZK 300,000,000, a procuring entity will ensure that the evaluation of tenders be done by a committee consisting of at least five members, with the majority of them having relevant expertise related to the subject of the public contract.
3. Provisions contained in Article 30 hereof apply by analogy to the constitution of a committee.
4. A procuring entity may also use the opinions of invited experts for its decision-making; the responsibility of the procuring entity for adherence to the rules set out in the PPA and in this Directive is not prejudiced thereby.

Article 40 – Course of a Procurement Procedure

1. Unless otherwise stipulated in the PPA or this Directive, a procuring entity can assess the fulfilment of conditions for participation in a procurement procedure either prior to the evaluation of tenders or after the evaluation of tenders.
2. A procuring entity must always carry out the assessment of the fulfilment of conditions for participation in the procurement procedure and the evaluation of its tender in the case of the selected economic operator.
3. A procuring entity will always consider whether the principles of public procurement would not be violated if tenders were evaluated before the assessment of the fulfilment of conditions for the participation in the procurement procedure.⁸

PART IV – COMMON PROVISIONS

Article 42 – Public Contracts Awarded via an Electronic Marketplace

1. Where suitable, a procuring entity is entitled to make use of electronic marketplaces in order to award public contracts.
2. Access to an electronic marketplace, the administration of users, methodological support, and the training of users is secured by the Public Procurement Department.
3. In the case of faculties and other units of the University, the awarding of public contracts via an electronic marketplace is conducted by units for public procurement. A relevant senior officer listed in Article 14 (1) (b) hereof can stipulate otherwise for individual faculties or other units of the University. In the case of the Rectorate, the awarding of public contracts via an electronic marketplace is conducted by the Public Procurement Department. Specific conditions can be set out by the Bursar.
4. Faculties and other units of the University can request, via the Bursar, the assistance of the Public Procurement Department in the procurement for the awarding of public contracts via an electronic marketplace.
5. A procuring entity conducts the procedure for the awarding of a public contract via an electronic marketplace according to the rules of the electronic marketplace; provisions regulating the awarding of public contracts contained herein do not apply.

Article 43 – Essential Elements of a Contract

1. A public contract concluded with an economic operator for performance exceeding the value of CZK 50,000 without VAT must be in writing, and it must contain at least the following elements, unless a special legal regulation provides otherwise:
 - a. the title of the contract and its reference number;

⁸ For example, when, in addition to a bid price, the quality of a tender is also being evaluated, a situation can occur that a winning tender will receive a higher score thanks to the fact that in one parameter, in which such a tender was not the most successful one, it was evaluated against a tender (the best one in the given parameter) which, however, would be disqualified in the assessment process, and therefore it should not be evaluated. Therefore, if only tenders satisfying all conditions prescribed in the procurement documentation were evaluated, the order of successful tenderers might be different.

- b. the denomination of contracting parties, their registered offices, entity ID number and tax ID numbers (if they have been assigned to them), bank account information, and information about the registration in a public register, including identification of their representatives;
 - c. the subject of performance (specified in terms of quantity and quality);
 - d. the price without VAT, the price including VAT, the VAT rate and its amount, or information that the contractor is not a VAT payer, and the payment conditions;
 - e. the time and place of performance;
 - f. the stipulation that it has been concluded in compliance with the legal system of the Czech Republic and is regulated by it;
 - g. provisions which will exclude the limitation of a number of possible economic operators performing under another public contract which will be procured for in the future, if in the course of the fulfilling of the public contract a work of authorship, industrial design, utility design, invention, etc. be created, (e.g. a clause granting licence for all possible uses of the work of authorship, unlimited in scope, including a right to grant a sub-licence, and the like);
 - h. other elements of individual types of contracts under Act No. 89/2012 Sb., the Civil Code, as amended, particularly
 - i. a contractual penalty,
 - ii. guarantee claims,
 - iii. warranties, insurance,
 - iv. a provision regarding the publication of the contract,
 - v. effect of the contract, conditions for termination by notice and withdrawal from the contract, and the like.
2. An agreement on the performance of a public contract cannot include:
- a. an arbitration clause, with the exception of a contract concluded based on a purchase through the commodity exchange,
 - b. any provisions which would lead to the exclusive or advantaged position of an economic operator with whom the contract is to be concluded compared to other economic operators participating in public procurement conducted in the future,
 - c. a provision stipulating the impossibility of the termination of the contract by notice, or a provision under which the termination by notice would be practicable only with difficulty.
3. The satisfaction of duties under paragraphs 1 and 2 of this Article is ensured by a contracting unit by way of listing these requirements as business conditions in the procurement documentation or in a contract draft, or, as the case may be, in a call for tenders.
4. In cases worthy of special consideration, a contracting unit can derogate from the obligations set out in paragraphs 1 and 2 of this Article. In such a situation, the contracting unit is obliged to justify such derogation in writing prior to the commencement of a procurement procedure and attach this justification to a dossier on the procurement procedure and public contract.
5. Where the contractual relationship is formed upon the making of an offer in writing and its acceptance in the form of an order, or based on an order and its acceptance in writing, the order must contain at least the elements listed in paragraph 1 (b) – (e) of this Article.

Article 44 – Completing and Storing Dossiers on Procurement Procedures and Public Contracts

1. A dossier on a procurement procedure and public contract is an aggregate of all documents in a hard-copy or electronic format and conclusions following from verbal communications, the recording of which in the course of a procurement procedure, or after the closing thereof, is required by the PPA or other relevant legislation; these are in particular the following documents:
- a. procurement documentation determining the subject of a public contract, including proof of its dispatch or publication;
 - b. unabridged wording of originals of all tenders submitted by all participants in a procurement procedure, including any possible clarifications or supplements;
 - c. a report on the opening of tenders, assessment and evaluation of tenders signed by relevant persons;
 - d. a contract concluded with the selected economic operator, including any possible amendments thereof;
 - e. the contract award notice dispatched to all participants in a procurement procedure who had timely submitted their tenders and whose tenders had not been excluded, including proof of dispatch if the notice was not published on the procuring entity's profile;
 - f. a notice of the exclusion of a tender, if any, from the procurement procedure, including proof of its dispatch / publication;
 - g. additional information, including proof of its dispatch / publication, if any additional information was requested;
 - h. the appointment of an authorised person or evaluation committee (if any has been appointed), including a statement of their impartiality;
 - i. a written report of a procuring entity according to section 217 of the PPA, if it is to be drawn up.
2. Under section 216 of the PPA, a procuring entity is obliged to store dossiers on procurement procedures and public contracts, as well as records of acts performed electronically, for the period of ten years from the date of the termination of the procurement procedure, or from the date of the alteration of an obligation following from the contract.

3. In a case of a public contract, the estimated value of which does not exceed CZK 400,000 without VAT, and at the same time any possible subsidy provided for such a public contract does not exceed 50%, a procuring entity is obliged to store accounting documents. In addition, the procuring entity has to store a written demand for performance, a written order of performance, a written offer, and a written contract, provided that these documents are drawn up when conducting public procurement. The period for which the procuring entity is to store all originals of documents relating to the implementation of a public contract is ten years from the date of the conclusion of the contract, or from the date when all payments connected with the project have been made.

Article 45 – Publication of Contracts

1. A procuring entity is obliged to publish all contracts concluded on the grounds of procurement procedures for contracts, the value of which exceeds CZK 50,000, in the register of contracts in compliance with Act No. 340/2015 Sb., on special conditions of effectiveness of certain contracts, their publication, and on the register of contracts (The Register of Contracts Act), as amended, and in compliance with Rector's Directive No. 18/2016.
2. Individual faculties and other units of the University can publish public contracts, including any amendments and alterations thereof, also on the procuring entity's profile. A duty to publish a contract in the register of contracts is not prejudiced thereby.
3. Contracts concluded on the grounds of procurement procedures for contracts, the value of which exceeds CZK 500,000 without VAT, which the University has to publish must be published within 15 days of their conclusion.

Article 46 – Audit

1. Audit of public contracts is conducted pursuant to Rector's Directive No. 25/2014 – The Conduct of the Internal Audit at Charles University, and Rector's Directive No. 47/2014 – Rules for Auditing Activities at Charles University.
2. Complaints about the course of action of procuring units or units for public procurement at individual faculties, other units of the University, and the Rectorate are decided on by the Bursar. Such complaints are not objections within the meaning of section 241 of the PPA. If it is found out that a lapse occurred in the procedures undertaken by procuring units or units for public procurement, the Bursar will take an action to rectify such lapses.

Article 47 – Determining Detailed Procedures in Public Procurement

The senior officers of the University listed in Article 14 hereof can determine the details of procurement procedures at the faculties and units of the University they are the heads of; however, such rules must not contravene this Directive. This is not to the prejudice of the right of the faculties and other units of the University and the Rectorate under Article 22 (2) hereof.

Article 48 – Transitional and Final Provisions

1. The Bursar is authorised to determine in his directive more accurate procurement procedures at the University, or to set out templates of documents to be used in public procurement at the University.
2. Exceptions to the procurement procedures stipulated in this Directive are approved by the Rector, or the Bursar, without prejudice to the right of faculties, other units of the University, and the Rectorate under Article 22 (2) hereof.
3. Rector's Directive No. 52/2015, the Key Public Procurement Principles and Rules at Charles University, is hereby repealed.
4. All procurement procedures commenced before the effect of this Directive will be completed in compliance with Rector's Directive No. 52/2015.
5. This Directive becomes effective on 1 October 2016.

In Prague, on 29 September 2016

Prof. MUDr. Tomáš Zima, DrSc., MBA
Rector

Rector's Directive No. 27/2016, as amended by Rector's Directive No. 18/2017, becomes effective on 1 April 2017.