



## **Introduction into the public procurement system**

### **Legal basis**

The applicable legal bases for the allocation of public contracts are extensively harmonized at the federal and cantonal levels. In the Canton of Zurich, the following legal bases apply:

- Intercantonal Agreement on Public Procurement (IVöB)
- Law on accession to the Intercantonal Agreement on Public Procurement (BeiG IVöB, LS 720.1)
- Submission Ordinance (SVO, LS 720.11)
- State treaties
  - WTO Agreement on public procurement (Government Procurement Agreement, GPA)
  - Bilateral Agreement Switzerland and the EU (SR 0.172.052.68)
  - Bilateral Agreement Switzerland and the UK (SR 0.946.293.671)
  - Further state treaties ([Link](#))
- Federal Act on the Internal Market (FIAMA)

The law on the accession to the Intercantonal Agreement on Public Procurement of 20th March 2023 (BeiG IVöB) as well as the completely revised Submission Ordinance of 28th June 2023 (SVO) have been in force since 1st October 2023.

### **Subjective scope of application article 4 IVöB**

The University of Zurich is a public-law institution of the canton with its own legal entity (Art.1 para.1 UniG).

### **Objective scope of application article 8 IVöB**

Allocation of public contracts:

- Construction services (main and ancillary construction trades)
- Supplies
- Services

### **Procedural principles article 11 IVöB**

In the allocation of public contracts, the contracting authority shall observe the following procedural principles:

- It conducts award procedures transparently, objectively and impartially;
- It takes measures to prevent conflicts of interest, unauthorised competitive agreements and corruption;
- It ensures equal treatment of bidders at all stages of the procedure;
- It dispenses with bidding rounds;
- It preserves the confidential nature of the information provided by bidders.

### **Taking the stand article 13 IVöB**

The contracting authority may not involve any persons in the award procedure who:

- have a personal interest in a contract;
- are related to a bidder or a member of one of its bodies by marriage or registered partnership or live in a de facto cohabitation;



- are related by blood or marriage in the direct line or up to the third degree in the collateral line to a bidder or a member of one of its bodies;
- are representatives of a bidder or have worked for a bidder in the same matter;
- lack the independence required for the performance of public procurements due to other circumstances.

**Measures against conflicts of interest and corruption article 2 SVO / Art. 11 lit. b IVöB**

Employees of the contracting authority and third parties commissioned by it are obliged to disclose secondary employment and contractual relationships as well as vested interests that could lead to a conflict of interest in the award procedure and to submit a declaration of impartiality if the contracting authority so requests.

The contracting authority regularly instructs its employees involved in award procedures on how to effectively avoid conflicts of interest and corruption. To this end, Asset Management organises regular training courses.

**Determination of contract value article 15 IVöB**

The contracting authority shall estimate the probable contract value. A public contract may not be divided in order to circumvent the regulations of this agreement. The entirety of the services or fees to be tendered must be taken into account when estimating the contract value, as far as they are closely related in factual or legal terms. All components of the fees are to be included, including renewal options and options for follow-up orders as well as all expected premiums, fees, commissions and interest, excluding VAT.

- For contracts with a fixed term, the contract value is calculated on the basis of the cumulative fees over the fixed term, including any extension options. As a rule, the specified term may not exceed five years. In justified cases, a longer term may be provided.
- For contracts with an indefinite term, the contract value is calculated on the basis of the monthly fee multiplied by 48.
- In the case of contracts for recurring services, the contract value is calculated on the basis of the fees paid for such services during the last 12 months or, in the case of an initial order, on the basis of the estimated requirements over the next 12 months.

**Award procedure article 16 IVöB**

The choice of procedure depends on the contract value. Depending on the contract value and the threshold values, public contracts are awarded either by open tendering procedure, selective tendering procedure, invitation procedure or single-tendering procedure, at the choice of the contracting authority.

Type of procedure	Supplies* / services (excl. VAT)
Single-tendering procedure	under CHF 150'000
Invitation procedure **	under CHF 250'000
Open / selective tendering procedure (non-state contract area)	from CHF 250'000



Open / selective tendering procedure (state treaty area)	from CHF 350'000
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\* Purchase, leasing, rent, lease and hire purchase

\*\* Consideration of training of apprentices in basic vocational training (weighting 5-10%) article 5 BeiG IVöB

### **Single-tendering procedure article 21 IVöB**

In the single-tendering procedure, the contracting authority awards a public contract directly without inviting tenders.

Wherever possible, several offers should be obtained and the most favourable offer selected (article 69 para. 1 lit. a FHB UZH).

Under certain conditions, the contracting authority may award a public contract by private treaty irrespective of the threshold value (article 21 para. 2 IVöB). Procurement is authorised by Asset Management.

### **Invitation procedure article 20 IVöB**

The invitation procedure applies to public contracts outside the scope of the international treaty jurisdiction. In the invitation procedure, the contracting authority determines which bidders it wishes to invite to submit tenders without a public invitation to tender. For this purpose it generalises up tender documents. The training of apprentices in basic vocational training must be taken into account as an award criterion and weighted with a minimum of five per cent and a maximum of ten per cent. If possible, at least three offers should be obtained.

### **Open tendering procedure article 18 IVöB**

In the open tendering procedure, the contracting authority puts the contract out to public tender. All bidders may submit a tender.

In the non-state contract area (under CHF 350,000), the training of apprentices in basic vocational training must also be taken into account as an award criterion and weighted at a minimum of five per cent and a maximum of ten per cent.

### **Selective tendering procedure Art. 19 IVöB**

In the selective tendering procedure, the contracting authority issues a public invitation to tender for the contract and invites bidders to submit an initial request to participate. The contracting authority selects the tenderers who may submit a tender on the basis of their suitability. The contracting authority may limit the number of tenderers admitted to tender to such an extent that effective competition is ensured. If possible, at least three bidders should be admitted to tender.

### **Renouncement of bidding rounds / price negotiations Art. 11 IVöB**

With the exception of single-tendering procedures, bidding rounds / price negotiations / price reductions / changes of service content are prohibited.



### **Appeal article 56 IVöB**

Appeals must be submitted in writing and substantiated within 20 days of the opening of the ruling. No judicial holidays apply. The appeal may be lodged against violations of the law, including exceeding or abusing discretion, as well as incorrect or incomplete determination of the legally relevant facts.

### **Support through Asset Management**

From the invitation procedure onwards or in the case of single-tendering procedures in accordance with Art. 21 Para. 2 IVöB and regardless of the type of financing (investment fund, operational fund, start-up fund, third-party fund), Asset Management **MUST** be contacted **before** the start of the procurement project. From the invitation procedure onwards or in the case of single-tendering procedures in accordance with Art. 21 Para. 2 IVöB, Asset Management supports and advises all organizational units. Asset Management determines the necessary tendering procedure and ensures that public procurement is carried out in a legally correct manner.

### **Procurements from investment credit**

Procurements from investment credit must be started immediately after the budget has been communicated so that the mobile investment goods can be delivered and commissioned by the end of the year. If the investment credit granted is not utilized in the current year, it expires at the end of the year.

### **Duration of public invitation to tender**

The duration of a public invitation to tender in the invitation procedure is approximately three to four months. Tenders in open / selective procedures take six to eight months (excluding contract preparation and contract negotiations), including any necessary university management decisions.

### **Preparation of tender documentation**

Asset Management introduces the organizational unit to the upcoming tendering process and the completion of the tender documents. The organizational unit is responsible for the needs and market analysis and then draws up the resulting technical requirements/criteria.

### **Publications**

In open and selective procedures, Asset Management publishes the prior notice, the invitation to tender, the contract award and the cancellation of the procedure on an internet platform ([Link](#)) for public procurement operated jointly by the Confederation and the cantons. It also publishes contract awards that have been made by private treaty (in accordance with Art. 21 Para. 2 IVöB).

### **Contact**

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