

Approved on 11 May 2020  
by decision of the Management Board of Eesti Energia AS  
**Valid from 18.05.2020**  
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## PROCUREMENT PROCEDURE OF EESTI ENERGIA AS AND UNDERTAKINGS OF THE GROUP

<b>Category</b>	<i>Decision of the Management Board of Eesti Energia AS</i>
<b>Scope</b>	<i>Eesti Energia AS and the undertakings of the Group founded under the legislation of the Republic of Estonia (except Enefit Outotec Technology OÜ)</i>
<b>Documents ceasing to apply</b>	<i>This procurement procedure repeals the decision of the Management Board of Eesti Energia AS of 01 January 2020.</i>
<b>Start of validity</b>	<i>The procurement procedure of Eesti Energia AS and the undertakings of the Group enters into force on 18.05.2020.</i>
<b>Areas concerned and documents governing them</b>	<i>Documents related to the procurement procedure for Eesti Energia AS and the undertakings of the Group include "Management Principles of Eesti Energia", "Code of Ethics of Eesti Energia", "Procedure for Document Management of Eesti Energia", "Principles of Administration of Investigations of Eesti Energia Group", "Principles of Project Management of Eesti Energia Group", "Ethical Requirements for Contractual Partners of Eesti Energia", "Occupational Health and Safety Requirements for Contractual Partners of Eesti Energia", "Representative Rights of Transactions and Legal Actions, Procedure for the Granting of Powers and the Administration of Authorisation Documents", "Principles of Approving Expense Receipts", "Instructions for Document Management of Eesti Energia Procurement Service"</i>
<b>Forms and information system solutions</b>	<i>Public Procurement Register (RHR), Eesti Energia's common document management system (EDHS), Procurement plan form, Procurement procedure matrix, Procurement form</i>
<b>Owner</b>	<i>Eesti Energia AS (Procurement Service)</i>
<b>Access restrictions</b>	<i>Public document</i>

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## 1. General

1.1 The purpose of the procurement procedure for Eesti Energia AS and the undertakings of the Group (hereinafter *the procurement procedure*) is to establish common requirements and rules of procedure for organising public procurements, incl. centralised public procurements and joint procurements.

1.2 The procurement procedure is prepared under subsection 9 (2) and in accordance with subsection (4) of the Public Procurement Act and on the basis of order No. 90 of the Government of the Republic of 5 April 2019 "Appointing a Voluntary Central Purchasing Body in Public Procurements in the Areas of Producing Electricity and Liquid Fuel, Extracting Oil Shale, Producing and Transferring Heat and in Areas Related to Offering an Electricity Network Service." The procurement procedure is applied with the Public Procurement Act (hereinafter the *Act*) and the legislation enacted thereunder.

1.3 The procurement procedure regulates the planning, preparation and execution of public procurements and competitions, the awarding and administration of procurement contracts and the general principles of supervision.

1.4 The objective of a public procurement or competition is to use the contracting authority's funds transparently, appropriately and economically, ensure the equal treatment of persons and efficiently utilise competition. The contracting authority adheres to the general principles for the organisation of public procurements when conducting a procurement.

1.5 In Eesti Energia Group, the contracting authorities of the network sector i.e. subjects to the Act are:

1.5.1 Eesti Energia Aktsiaselts, Elektrilevi OÜ, Enefit Connect OÜ, Enefit Power AS, Enefit Green AS, Enefit Wind Purtse AS and Enefit Wind OÜ, for the purchase of supplies and the contracting of services and construction works needed for operation in the field of electricity;

1.5.2 Enefit Power AS, Narva Soojusvõrk AS and Enefit Green AS, for the purchase of supplies and the contracting of services and construction works needed for operation in the field of gas and heat;

1.5.3 Enefit Power AS for the purchase of supplies and the contracting of services and construction works needed for operation in the field of exploration and extraction of oil shale, peat or other solid fuels.

1.6 Public procurements and competitions are coordinated in the Group by the Procurement Service, who:

1.6.1 prepares an annual consolidated procurement plan for the Group;

1.6.2 advises on the planning, preparation and execution of public procurements and competitions;

1.6.3 explains public procurement legislation, uses and best practices to the employees of the Group.

1.7 The costs in the procurement procedure are net of VAT.

## 2. Terms and definitions

2.1 **development investment** means an investment that results in the creation/acquisition of a new asset or value, the enhancement of existing capabilities, the reduction of fixed costs, significant changes in the business model, improved efficiency in processes and improved management quality (including major organisational changes), the development of a new product/product group and/or service/service group, entry into new markets, the creation of new technical (including IT) solutions and possibilities (regulations, fundamental research), etc.

2.2 **emergency situation** means a situation where the condition of a structure, device, item of immovable property, material or other moveable property is hazardous for a person, property, the environment or the provision of a vital service or the sustainability of business.

2.3 **budget manager** means a person designated by a directive issued based on the "Approval principles of cost statements" to be responsible for adherence to the budget for a unit, expense item, expense line, account group, project or similar. Lists of budget managers by unit, expense item, expense line, account group, project or similar for companies and central services within their areas of responsibility are established through a directive by Members of the Management Board of Eesti Energia AS.

2.4 **Electronic document management system** (hereinafter EDHS) means electronic software for managing, checking and granting access to documents and document metadata.

2.5 **e-procedure** means conducting the procurement procedure in an electronic format in the electronic system.

2.6 **exceptional procedure** means a negotiated procedure without prior publication of a contract notice. A contracting authority or entity has the right to use an exceptional procedure only pursuant to grounds stipulated in the procurement procedure or bases provided by law.

2.7 **particular procurement regimes** means the procedure set out in Chapter 3 of the Act:

2.7.1 the procedure for the simplified procurement procedure is the code for the organisation of a simplified procurement set out in the Act;

2.7.2 special procedure of social services and other specific services means a public procurement organised for ordering social or specific services.

2.8 **procurement** means a public procurement or competition.

2.9 **initiator of procurement** means a person wishing to purchase supplies, a contract for services or constructions works.

2.10 **procurement source documents** means a contract notice, a concession notice, an invitation to a design contest, an invitation to a tender and all other documents drawn up or referred to by the contracting authority, which determine the details of one specific procurement, including the conditions established for the tenderer and applicant and requirements for submitting documents, technical specifications, conditions of the procurement contract and evaluation criteria for tenders.

2.11 **person responsible for the procurement** means a person responsible for conducting a procurement in the required manner.

2.12 **procurement committee** means a committee with at least three members (including the committee chairman) appointed by the Procurement Service for conducting a procurement.

2.13 **chairman of the procurement committee** means the person responsible for organising the work of the procurement committee.

2.14 **procurement contract** means a contract for pecuniary interest concluded between the contracting authority and the entrepreneur, including a concession contract, the object of which will be supplies, services or construction works. If the cost of a procurement contract is at least EUR 20,000, the contract is concluded in writing.

2.15 **object of procurement contract** means the purchased supplies or a service or construction works contracted as a result of a procurement.

2.16 **procurement procedure** means organising a public procurement pursuant to the procedure as stipulated in Chapter 2 of the Act. Procurement procedure with prior publication of a contract notice is a procurement procedure that commences with the publishing of a contract notice in the register of public procurements and involves an open public procedure, restricted procedure, competitive dialogue, a European Innovation Partnership (EIP) and competitive procedure with negotiation:

2.16.1 when purchasing supplies or contracting services pursuant to the procedure stipulated in the Act in the amount of EUR 428,000 and above;

2.16.2 when contracting construction work in the amount of EUR 5,350,000 and above.

2.17 **contracting authority** means Eesti Energia AS or an undertaking of the Group in which Eesti Energia AS or its subsidiary or Eesti Energia AS jointly with its subsidiary constitutes a majority of the shareholders and its aim is to conclude a procurement contract.

2.18 **conflict of interests** means a situation in which the contracting authority or an employee, management board member or other competent representative of a person acting on its behalf involved in preparing the public procurement or arrangement or who could in some other way influence the outcome of the procurement has direct or indirect financial, economic or other personal interest that could be considered damaging to its impartiality and independence.

2.19 **central purchasing body** means a contracting authority providing centralised purchasing activities and, possibly, ancillary purchasing activities.

2.20 **competition** means a procedure for ascertaining the best tender by the company, who is not a contracting authority for the purposes of the Act.

2.21 **group** means a body in which the parent company with its subsidiaries forms a community for the purposes of Section 6 of the Commercial Code.

2.22 **group undertaking** means the parent company or any single subsidiary.

2.23 **prohibition of partnership** means a restriction imposed by the contracting authority on an undertaking for participating in procurements and for the conclusion of contracts and the performance of operations as a subcontractor.

2.24 **person responsible for the performance of the contract** means a person appointed by the undertaking of the contracting authority, who is responsible for the due performance of the contract.

2.25 **simple procurement** means public procurement with an estimated cost, excluding value added tax, over the threshold for a small-scale procurement but below the international threshold for a public procurement:

2.25.1 purchase of supplies or contracting of services from EUR 60,000 to 427,999;

2.25.2 contracting of construction works from EUR 300,000 to 5,349,999.

2.26 **reopening of competition** means conducting the reopening of the competition under a framework agreement, with the purpose of concluding procurement contract(s).

2.27 **purchasing** means purchasing supplies and contracting services and construction works with an estimated cost, excluding value added tax, of up to EUR 999.

2.28 **tenderer** means the undertaking who submitted a tender within the procurement. Within the meaning of this procedure, an applicant is equivalent to a tenderer.

2.29 **framework agreement** means an agreement awarded by one or more contracting authorities to one or more undertakings, generally for a term of up to eight years, the purpose of which is to establish the terms governing procurement contracts to be awarded within the term of validity of the framework agreement on the basis of the framework agreement.

2.30 **international public procurement** means a public procurement, the estimated cost of which, VAT excluded, is:

2.30.1 purchase of supplies or contracting of services from EUR 428,000;

2.30.2 contracting of construction works from EUR 5,350,000.

2.31 **public procurement** means the purchase of supplies and the contracting of services or construction works, the receipt of a conceptual design, the award of a concession contract by the contracting authority for the purposes of the Public Procurements Act.

2.32 **Public Procurement Register** (hereinafter RHR) means the repository of information in the state information system, used for conducting public procurements. The web address of the Register is <https://riigihanked.riik.ee>.

2.33 **market research** means the collection, analysis and evaluation of information concerning the market (including cost) for a product or service before commencing the procurement.

2.34 **small-scale procurement** means a procurement with an estimated cost, exclusive of value added tax, over the threshold for a purchase but below the threshold for a simple procurement:

2.34.1 purchase of supplies and contracting of services from EUR 1000 to 59,999;

2.34.2 contracting of construction works from EUR 1000 to 299,999.

2.35 **joint procurement** means a public procurement organised jointly by at least two contracting authorities as a single public procurement;

2.36 **joint contracting authority** means the contracting authority taking part in a joint procurement;

2.37 **representative of joint contracting authorities** means an authorised person or the contracting authority carrying out the joint procurement.

### **3. Planning of procurements and approval of the procurement plan**

3.1 Procurements are organised following the approved procurement plan.

3.2 Budget managers must submit initial procurement plans for the budget year to the Procurement Service by 31 October at the latest.

3.3 Within three weeks from the approval of the budget of the undertaking by the Supervisory Board of Eesti Energia, budget managers must submit to the Procurement Service a procurement plan that conforms with the budget.

3.4 The procurement plan includes all procurements starting from EUR 30,000, except for Elektrilevi OÜ and Enefit Connect OÜ low voltage, medium voltage and high voltage investments up to EUR 200,000 and Elektrilevi OÜ and Enefit Connect OÜ customers orders (subscriptions, additional services). The number of investments, customer subscriptions and additional services for the financial year is entered in the last row of the Elektrilevi OÜ and Enefit Connect OÜ procurement plans.

3.5 The procurement plan must be submitted on the procurement plan form provided in Annex 3.

3.6 When necessary, the Procurement Service specifies and supplements the procurement plans submitted by the Group's undertakings.

3.7 The management boards of undertakings approve the specified procurement plans.

3.8 Once the management boards of the undertakings have approved the procurement plans, the Procurement Service consolidates the procurement plans within three weeks.

3.9 A consolidated procurement plan is submitted to the Management Board of Eesti Energia AS for review.

3.10 The procurement plan must not be changed during the budget year.

3.11 A new procurement, a change in the object of the contract or an increase in the estimated cost shall be considered as an external procurement of a procurement plan. Low voltage, medium voltage and high voltage investments up to EUR 200,000, Elektrilevi OÜ and Enefit Connect OÜ client subscriptions (subscriptions, additional services) and subcontracting work of Enefit Solutions which are not included in the procurement plan are not taken into account as the external procurement of the procurement plan. The initiator of a procurement beyond the scope of the procurement plan must coordinate this in the manner provided in Annex 1 to the procurement procedure and thereafter inform the Procurement Service immediately in writing of a procurement beyond the scope of the procurement plan.

3.12 If a procurement in a procurement plan ends without results and the procurement is repeated, the procurement beyond the scope of the procurement plan does not require additional approval.

3.13 The Procurement Service submits a report on the completion of the consolidated procurement plan of the Group to the Management Board of the Group of Eesti Energia AS for review.

3.14 The procurement plans of undertakings and the consolidated procurement plan of the Group are kept and maintained in the EDHS.

3.15 The procurement plans are disclosed by the Procurement Service on the website of Eesti Energia AS. The procurement plan indicates the undertaking of the initiator of the procurement, the designation of the procurement and the estimated deadline for the publication of the procurement.

3.16 Public procurements (except for purchases) are organised using the e-procedure.

3.17 A public procurement may not be divided into lots in order to circumvent the procedure or requirements established for conducting the public procurement, especially if the object of the procurement contract is supplies, services or construction works operating together functionally or needed for the achievement of the same objective.

3.18 A public procurement may not be divided into lots with the aim to use a less regulated type of procedure.

3.19 In order to initiate a procurement (except for purchases), an order must be placed with the Procurement Service in a written format, which includes the information included in the form found in Annex 2. For orders submitted via the electronic database, the required fields of the database must be filled in. In addition to the above, Enefit Energiatootmine AS and Enefit Solutions AS may place orders through the IFS e-environment. Elektrilevi OÜ places orders for procurements with the information necessary for the preparation of source documents through Elektrilevi Partners' Portal (hereinafter EPP).

3.20 The Procurement Service may also initiate a procurement on its own initiative without preparing a procurement order if its purpose is to conclude a framework agreement or to establish a dynamic purchasing system.

3.21 The Procurement Service may also initiate a procurement based on a Min-Max list approved by the undertaking.

3.22 Concurrently with the procurement order, the technical specification of the object of the procurement contract must be submitted.

3.23 The heads of the procurement groups of the Procurement Service at Eesti Energia AS or the head of department of the Procurement Service that provides services to ELV decide on the organisation of a joint procurement proceeding from legal bases and practicability.

#### **4. Procurement committee**

4.1 A procurement committee must be formed for procurements with estimated costs starting from EUR 428,000.

4.2 Membership of the procurement committee is determined as stipulated in Annex 1 to the procurement procedure. The procurement committee must consist of at least three members. In the case of procurement by Elektrilevi OÜ and Enefit Connect OÜ, the number of their members must be greater than 50 percent. The line manager of the chairman of the procurement committee approves the formation of the procurement committee with a directive.

4.3 A procurement committee must be appointed before the publication of a contract notice.



4.4 The members of the procurement committee bear joint and several liability for the decisions and proposals made.

4.5 In the absence of a member of the procurement committee, a substitute member designated by a directive replaces the same.

4.6 Employees of the Group without the right to vote, who possess the necessary knowledge, and impartial experts from outside the Group may be involved in the work of the procurement committee.

4.7 Generally, a lawyer from the Legal Service is not included in the membership of the procurement committee. A lawyer is involved in the work of the procurement committee if deemed necessary by the chairman of the procurement committee.

4.8 The functions of the procurement committee include:

4.8.1 preparation of source documents;

4.8.2 arrangements for obtaining clearance for procurement source documents;

4.8.3 qualification of tenderers and applicants;

4.8.4 removal of tenderers or applicants from a procurement procedure if there are relevant grounds for doing so;

4.8.5 declaration of the compliance or non-compliance of or rejection of tenders;

4.8.6 conducting negotiations with tenderers and documenting the course and results thereof;

4.8.7 evaluation of tenders;

4.8.8 ascertainment of the tenderer that has submitted the successful tender;

4.8.9 performance of other obligations arising from the Act or this procedure.

4.9 A decision of the procurement committee has been adopted if more than half of the members of the committee vote in its favour. A member of the procurement committee is not entitled to forgo or abstain from voting. If the votes are divided equally, the committee's chairman has the casting vote. Decisions of the procurement committee are finalised as minutes, signed by all the members of the procurement committee.

4.10 The dissenting opinion of a procurement committee member not in agreement with a decision is recorded in writing in the minutes of the procurement committee or is attached to the minutes separately.

4.11 A person is prohibited from participating in the work of the procurement committee if doubt arises or may arise as to their impartiality. If there is a conflict of interest, the committee member notifies the procurement committee thereof immediately in writing and recuses themselves from the work of the committee. The duties of a recused procurement committee member are performed by a substitute member.

4.12 Decisions by the procurement committee are submitted in order to obtain consent for a transaction, as specified in Annex 1 to the procurement procedure. In order to obtain consent for a transaction, the procurement initiator must obtain prior clearance starting from the lowest level (example: An application for consent for a transaction submitted to the Management Board of Eesti Energia AS has been cleared previously by the budget manager and the Management Board Member of Eesti Energia AS responsible for the area).

4.13 The settlement of disputes and arrangements for the timely submission of related replies and documents is the responsibility of the chairman of the procurement committee, who may involve the lawyer of the legal service, if needed.

4.14 A person participating in the preparation (including the budgeting of the object of a contract, the preparation of the technical specification or terms of reference and the contract document or similar) and in the conduct of the procurement is prohibited outside their duties from performing operations that affect or may affect their own economic interests or those of their close relatives, their spouse/partner or relatives by marriage or legal persons connected with these. Close relatives mean parents, brothers, sisters, children, grandparents and grandchildren. Relatives by marriage mean any parents, brothers or sisters of unmarried partners/spouses or the latter's children. Nor may such a person be a member of the management or control body of a legal person participating in a procurement or be connected with an applicant or tenderer participating in a procurement in any other manner that creates a conflict of interest.

## **5. Source documents of the procurement**

5.1 Source documents of a procurement must be sufficient in terms of their content to clearly convey the contracting authority's wish to purchase supplies, services or a contract for construction works must comply with the requirements provided by the Act, including the following information at a minimum:

5.1.1 technical specification (terms of reference) of the object of the procurement contract, as detailed and unambiguous as possible;

5.1.2 key terms of the contract: deadline for the performance of the contract, payment terms, warranty periods, legal remedies of the contracting authority, possibilities for amendments, if necessary, etc.;

5.1.3 conditions for the qualification of tenderers;

5.1.4 minimum validity period of tenders;

5.1.5 name and contact details of the contracting authority's contact person;

5.1.6 other possible conditions related to the procurement.

5.2 The initiator of the procurement prepares the technical specifications for the object of the contract and participates in the preparation of the source documents and the organisation of the procurement in liaison with the person responsible for the procurement.

5.3 The initiator of the procurement is responsible for the preparation and submission of the technical specifications for the object of the contract to the person responsible for the procurement.

5.4 The published source documents include the essential terms and conditions of the contract or a draft contract for which clearance in writing from the lawyer providing a service to the procurement initiator has been obtained beforehand. If general terms and conditions of the contract, which have been approved by the Procurement Director, have been added to the source documents of the procurement, there is no need for clearance by a lawyer.

5.5 The contracting authority stipulates in the source documents the evaluation criteria for tenders securing the actual competition and related to the object of the procurement contract in order to determine the most economically advantageous tender. The evaluation criteria of the tender that is economically the most advantageous must be objective. Above all, the quality, warranty term, price, functional qualities, features that protect the environment, social criteria, running costs, feasibility, post-sale maintenance and technical assistance must be evaluated.

5.6 If the use of the object of the contract requires training, maintenance, etc., the obligation to state the cost of all these outlays is specified separately in the source documents. The cost of outlays must be presented on a separate row in the form of tender cost.

5.7 If maintenance, accessories, spare parts, etc. for the object of the contract can only be purchased or ordered from the provider of the object of the contract, the price lists or other relevant information concerning any subsequent maintenance, accessories, etc. is included in the tender and the relevant principles included in the technical specification.

5.8 The source documents include substantive information or references to the following Group documents: "Ethical Requirements for Contractual Partners of Eesti Energia" and "Occupational Health and Safety Requirements for Contractual Partners of Eesti Energia". Tenderers are guided by and must adhere to the substantive clauses in the above documents.

5.9 Coordination of the source documents of the procurement must follow the provisions of Annex 1. In the case of amendments to the source documents, coordination is only necessary if the amendment has a significant effect, e.g. affects the cost of the procurement.

5.10 Procurement source documents, decisions, approvals, consents and other important documents and information related to the procurement are stored and kept in writing pursuant to the valid ["Instructions on document management of Eesti Energia Procurement Service"](#).

## **6. Elimination from procurement and prohibition of partnerships**

6.1 The contracting authority is entitled to eliminate a tenderer from a procurement (incl. purchase). The Procurement Service may make the decision regarding elimination (prohibition of partnership). The decision regarding elimination (prohibition of partnership) must be formalised with a Procurement Director's directive.

6.2 In the case of public procurements, a tenderer is eliminated based on the provisions of the Act.

6.3 The contracting authority is entitled to eliminate an applicant or tenderer from a procurement (incl. purchase) under the following circumstances:

6.3.1 the tenderer and Eesti Energia AS or a Group undertaking are engaged in a dispute over the performance of a contract concluded previously, with the tenderer having breached the contract;

6.3.2 the tenderer has an outstanding collectable financial claim before Eesti Energia AS or the Group's undertaking;

6.3.3 the tenderer has breached the contract concluded with Eesti Energia AS or the Group undertaking in a manner that has caused the contracting authority to require the payment of a contractual penalty for the non-performance of the terms of the contract or have recourse to the legal remedies stipulated in Subsection 101 (1) of the Law of Obligations Act;

6.3.4 the tenderer has not completed the requirements under the documents “Ethical Requirements for Contractual Partners of Eesti Energia” and/or “Occupational Health and Safety Requirements for Contractual Partners of Eesti Energia”;

6.3.5 the tenderer, whose member of the management body, administrative body or supervisory body or any other legal or contractual representative related to the procurement in question, has been convicted for participation in a criminal organisation, breach of duty to maintain integrity or for a corruptive act, fraud, for committing a terrorist offence or for any other crime related to terrorist activity or aiding, abetting and inciting it or an attempt thereof, for money laundering or terrorist financing;

6.3.6 the tenderer has submitted false information or forged documents to Eesti Energia AS or the Group’s company;

6.3.7 the tenderer has withdrawn its tender after the closing date for the submission of tenders established in the source documents of the procurement;

6.3.8 the tenderer whose tender had been declared successful has declined to conclude a contract;

6.3.9 the tenderer has not submitted, either in part or in full, the information and/or documents required by the contracting authority;

6.3.10 in any other justified cases.

6.4 In the instances specified in Clause 6.3, the Procurement Service is entitled to eliminate a tenderer from procurements organised by undertakings of the Group as of the date of approval of the directive of prohibition of partnership to that effect.

6.5 The sanctions specified in Clauses 6.3 and 6.4 and the conditions for their application are laid down in the procurement source documents.

6.6 Undertakings subject to a current prohibition of partnership finalised under Clause 6.1. will not be subcontracted for the performance of contracts.

6.7 The prohibition of partnership also extends to persons related to the undertaking that was subjected to the prohibition and the undertakings related to these persons. Persons related to the undertaking must be members of the administrative body, management body or supervisory body or any other legal or contractual representative related to the procurement in question.

6.8 The Procurement Service decides on the premature termination of the prohibition of partnership. The decision on the premature termination of the prohibition of partnership is formalised with a Procurement Director’s directive.

6.9 The contracting authority has the exclusive right to decide on the implementation of remedial measures.

## **7. Social and specific services**

7.1 Awarding of social and specific services procurement contracts is guided by the provisions of Section 166 of the Act.

## **8. Purchase**

8.1 Application of rules of procedure is not mandatory for a purchase.

8.2 Sustainable use of funds is mandatory.

8.3 In the case of a purchase, the conclusion of a written contract is not mandatory; payment for the transaction is made on the basis of an invoice.

8.4 In order to optimise the administrative burden of transactions, it is advisable to conclude a framework agreement with one or more tenderers for the completion of purchases, whilst adhering to the procurement procedure and the provisions of the Act.

8.5 The purchase may be made by the budget manager or a person designated by the budget manager. The budget manager is responsible for the practicability of the purchase.

## **9. Small-scale procurement**

9.1 Application of rules of procedure is not mandatory for a small-scale procurement.

9.2 When organising competitions, the procedure established in this Chapter must be followed.

9.3 When organising a small-scale procurement with an estimated cost of up to EUR 20,000, the economical and appropriate use of funds is ensured by comparing tenders in a format which can be reproduced in writing. At least the purchase order, tenders and the approval of the successful decision by the contracting entity must be preserved in a format which can be reproduced. The retention period is seven years.

9.4 The organisation of a small-scale procurement with an estimated cost starting from EUR 20,000 must adhere to the following rules:

9.4.1 the contracting authority stipulates in the source documents of the procurement the evaluation criteria for tenders securing the actual competition and related to the object of the procurement contract in order to determine the economically most advantageous tender;

9.4.2 the small-scale procurement is conducted via the RHR. In exceptional cases, the head of the procurement group or the procurement department head will grant the right to organise small-scale procurements in an alternative e-environment;

9.5 The source documents of a procurement may be amended up to the deadline for the submission of tenders, extending the deadline for the submission of tenders, if necessary, by no less than one working day.

9.6 A written contract is concluded if the purchase of supplies and contracting of services or construction works is involved and it is important to agree on the terms of purchase/sale or the provision of services or the conditions for performing the construction works and agree on the quality of supplies, services or construction works in writing beforehand in order to ensure common understanding by the parties.

9.7 Important documentation related to the small-scale procurement must be stored in writing. The preservation of documents in small-scale procurements conducted by the Procurement Service is based on provisions in Clause 5.10. If the small-scale procurement is not conducted by the Procurement Service, the documentation will be preserved in a cloud catalogue.

9.8 If the tender cost for a small-scale procurement equals or exceeds the threshold of a simple procurement, the public procurement organised as a small-scale procurement must be declared invalid, except for procurements not subject to procurement regulations.

9.9 The necessary approvals and/or consents for conducting a small-scale procurement must be obtained in the manner provided in Annex 1.

## **10. Simple procurement**

10.1 When organising a simple procurement, the procedure set out in Chapter 3, Division 1 of the Act will be followed.

10.2 The performance of a simple procurement must at least adhere to the following rules:

10.2.1 the contracting authority stipulates in the source documents the evaluation criteria for tenders securing the actual competition and related to the object of the procurement contract in order to determine the economically most advantageous tender;

10.2.2 the designated minimum deadline for the submission of a tender is five business days for supplies and services and 15 days for construction works;

10.2.3 the simple procurement is conducted via the RHR;

10.2.4 if fewer than three tenders have been submitted during a simple procurement, clearance for the continuation of the simple procurement is obtained as specified in Annex 1 to the procurement procedure before qualifying the tenderers, except for in the cases specified in the chapter on specifications or exceptional procedures of the procurement procedure;

10.2.5 when conducting a simple procurement, the tenderer is notified of the reasons for the elimination or non-qualification of the tenderer or the rejection of the tender. The tenderer who submitted a tender that was declared suitable is notified of the name(s) of tenderer(s) who submitted a tender that was declared successful and the details characterising the successful tender, which gave preference to the successful tender compared to their tender;

10.2.6 the appointment of a procurement committee is mandatory starting from EUR 428,000.

10.3 The source documents may be amended up to the deadline for the submission of tenders, extending the deadline for the submission of tenders, if necessary, by no less than one working day.

10.4 The contract is concluded between the parties in writing.

10.5 Important documentation related to a simple procurement must be preserved in writing (see Clause 5.10).

10.6 If the cost of a successful tender equals or exceeds the threshold for an international public procurement, the simple procurement must be declared invalid.

10.7 The necessary approvals and/or consents for conducting a simple procurement must be obtained in the manner provided in Annex 1.

## **11. International public procurement**

11.1 The organisation of an international public procurement must adhere to the requirements under the Act.

11.2 A lawyer from the legal service may be involved in an international public procurement procedure.

11.3 The international public procurement procedure is conducted via the RHR.

11.4 Important documentation related to an international public procurement must be preserved in writing (see Clause 5.10).

11.5 The necessary approvals and/or consents for conducting an international public procurement must be obtained in the manner provided in Annex 1.

## **12. Reopening a competition under a framework agreement**

12.1 Conducting a reopening of a competition must adhere to the following rules:

12.1.1 the economical and appropriate use of funds is ensured by comparing tenders in a format which can be reproduced in writing. At least the purchase order, tenders and the approval of the successful decision by the contracting entity must be preserved in a format which can be reproduced. The retention period is seven years;

12.1.2 a written request must be submitted to the Procurement Service, unless the contracting entity organises the reopening of a competition independently without involving the Procurement Service;

12.1.3 organisation must be in a format which can be reproduced in writing;

12.1.4 in the case of a reopening of a competition, a procurement outside the scope of the procurement plan does not require approval;

12.1.5 appointment of a procurement committee is not mandatory;

12.1.6 the evaluation criteria and rules of procedure have been set out in the framework agreement;

12.1.7 an invitation to tender is presented to all partners to the framework agreement;

12.1.8 disclosure of the costs of tenders to tenderers is not mandatory;

12.1.9 the source documents may be amended up to the deadline for the submission of tenders, extending the deadline for the submission of tenders, if necessary;

12.1.10 a procurement contract is awarded to a successful tenderer, if necessary, or a written order is placed;

12.1.11 the preservation of documents in the reopening of a competition conducted by the Procurement Service is based on provisions in Clause 5.10. If the reopening of a competition is not conducted by the Procurement Service, the documentation is preserved in a cloud catalogue;

12.1.12 the necessary approvals and/or consents must be obtained in the manner provided in Annex 1;

12.1.13 reporting is prepared by a person responsible for the performance of the specific framework agreement. Reporting means an obligation to ensure that the fee paid for the supplies purchased, services or construction work contracted under the procurement contracts is not bigger or does not exceed the amount agreed within the framework agreement, incl. the monetary volume.

### **13. Preparation and conclusion of a contract and supervision of the performance thereof**

13.1 A contract is concluded in writing if its cost, excluding value added tax, is EUR 20,000 or above. The person responsible for the procurement organises the preparation or amendment of the contract in liaison with the initiator of the procurement and the legal service, if necessary.

13.2 The contract must always specify a person responsible for the performance of the contract, whose duty is to coordinate all activities connected with the performance of the contract.

13.3 Contracts concluded with natural persons and contracts concerning copyright are concluded in writing, irrespective of the cost of the contract.

13.4 Contracts must be signed by persons as specified in Annex 1 to the procurement procedure.

13.5 A transaction as a result of which a procurement contract without a term is concluded (except for employment contracts) must be coordinated with the Management Board of Eesti Energia AS or the supervisory board of a Group undertaking. Coordination must follow the provisions of Annex 1 to the procurement procedure.

13.6 The Procurement Director has the right to award a framework agreement with no financial obligation as a result of a centralised public procurement and/or joint procurement on behalf of Eesti Energia AS and an employee of the Procurement Service is appointed as the person responsible for the performance of the framework agreement by the Procurement Director.

13.7 Contracts are stored in the manner set out in the Group's procedure for document management.



13.8 A contract must be signed digitally. If the other party to a contract is unable to sign the contract digitally, the contract is prepared in a hard copy and signed in the number of copies corresponding to the number of parties to the contract and stored in accordance with the rules of administrative work established within the Group. In the case of a contract concluded in a hard copy, all pages of the copy retained by the contracting authority must be signed and the contract digitised and linked to the public procurement in the document management system.

13.9 A contract enters into force upon its conclusion, unless the contract provides otherwise. A contract is deemed concluded after the last of the parties to the contract has signed it.

13.10 Control over the performance of a contract, including submitting a letter of guarantee and the insurance policy, is performed by the person responsible for the performance of the contract.

13.11 Supervision over the performance of a contract means control over whether the parties to the contract are duly performing their obligations. Among other things, adherence to the deadlines under the contract, the quantity and quality of services or supplies delivered, the filing of complaints during the warranty period, compliance with the occupational health and safety requirements and all other obligations, which the parties have agreed upon within the contract, will be monitored.

13.12 Supervision over the performance of the contract ends upon performance of the contract, unless the contract provides otherwise (including the provisions concerning intellectual property and confidentiality). If warranty terms have been agreed on in the contract, supervision over the performance of the contract expires upon expiry of the warranty period.

13.13 Generally, amendment of the contract is initiated by the person responsible for the performance of the contract, by previously involving the Procurement Service. Upon amendment of the contract, this will be coordinated by the same level employees as it was coordinated initially for the conclusion of the contract (i.e. if initially the consent to the transaction was given by the supervisory board of the undertaking, then the consent of the supervisory board of the undertaking must also be obtained for the amendment).

13.14 Upon amending a procurement contract concluded beyond the simple procurement limit (purchase of supplies and services from EUR 60,000, commission for construction works from EUR 300,000) provided in the Act, the provisions of § 123 of the Act must be followed.

13.15 If the scope of a procurement contract needs to be decreased due to unforeseeable circumstances, a relevant annex to the contract or an agreement is concluded. The relevant criterion is laid down in the source document and/or contract.

13.16 If a business secret, special technological knowhow or intellectual property is involved, a confidentiality agreement is concluded. Clearance in writing for the confidentiality agreement is obtained in writing from the lawyer providing the service to the procurement initiator, and the agreement of confidentiality is signed by the person with the relevant authorisation.

## **14. Processing contractual penalties and claims**

14.1 The person responsible for the performance of the contract is responsible for organising activities concerning contractual penalties and claims for the compensation of damage.

14.2 The decision to enforce a contractual penalty or submit a claim for the compensation of damage is made by the person responsible for the performance of the contract who coordinates it with their line manager. Decisions will be made based on their authorisation. If the amount of the submitted claim exceeds EUR 10,000, the submission of the claim is coordinated with the management board of the company.

14.3 The claim for contractual penalties is not submitted if the amount of the contractual penalty is less than EUR 100 (VAT excluded).

14.4 If the claim for the party in breach of the contract is waived or it is submitted in a reduced capacity, the person responsible for the performance of the contract coordinates it with the Procurement Service by submitting a written statement of reasons. If the Procurement Service does not give their approval, the final decision is made by the management board of the company.

14.5 If the time limit agreed upon in the contract has expired, a notice of intention to claim a contractual penalty is sent to the contractual partner only if the item or work agreed on in the contract is not transferred or a service is not provided at the moment of submitting the notice upon becoming aware of the breach.

14.6 Standard forms are generally used when formalising contractual penalties or claims. The person responsible for the performance of the contract organises the completion of standard forms and submits them to the other party. A lawyer from the legal service may be involved, if necessary.

14.7 If the breach of contract results in patrimonial damage to the contracting entity and a contractual penalty is not prescribed for a breach of contract or the damages incurred exceed the amount of the contractual penalty, the person responsible for the performance of the contract notifies the Legal Service at the earliest opportunity, adding a description of the breach. The Legal Service may prepare a claim on the basis of the information presented.

14.8 When implementing contractual penalties and claims, set-off is used first.

14.9 If set-off is not possible, a claim or invoice for contractual penalties or claims for the compensation of damage is submitted.

14.10 The person responsible for the performance of the contract is responsible for conducting the whole process in the required manner until accounting has submitted the invoice for contractual penalties or claims.

14.11 If the contractual partner does not pay the contractual penalty and/or claim in time, the debt settlement process is implemented.

14.12 All documents submitted to the other contracting party must be submitted in writing.

14.13 The Procurement Service must be informed of all contractual penalties and claims for the compensation of damage and the waiver thereof.

## **15. Notification of termination of the procurement procedure and procurement contract**

15.1 The person responsible for the procurement submits to the RHR, within 30 days as of the termination of the procurement procedure or a simple procurement procedure, a notice on the awarding of a procurement contract or framework agreement if the cost of the procurement contract or framework agreement, excluding value added tax, is EUR 60,000 or more for purchasing supplies or contracting services or EUR 300,000 or more for contracting construction works.

15.2 Institutions and companies who took part in a centralised public procurement and/or joint procurement must submit data on the time and cost of procurement contracts awarded under the framework agreement once every 12 months after the conclusion of the framework agreement and upon expiry thereof to the Procurement Service unless such data is not available to the Procurement Service via the RHR or able to be submitted by the tenderer(s) in accordance with the source documents of the public procurement.

15.3 For a framework agreement, the contracting authority submits data to the RHR on the time and cost of procurement contracts awarded within 12 months under the framework agreement within the 30 days after the conclusion of the framework agreement once every 12 months.

15.4 The person responsible for the procurement submits the following information to the register within 30 days after expiry of the procurement contract or framework agreement:

15.4.1 actual cost of the procurement contract;

15.4.2 amendments made to the contract for which a notice on the amendment of the procurement contract was not submitted;

15.4.3 breaches of the procurement contract by the undertaking, as a result of which the legal remedies specified in subsection 95 (4) 8) of the Act have been applied and information on whether or not the contracting authority has contested the claim;

15.4.4 for a framework agreement, the respective information must be submitted after expiry of the framework agreement or the last procurement contract awarded under the framework agreement if the procurement contract ends later than the framework agreement.

15.5 The initiator of the procurement presents the information requested in the notice on terminating a procurement contract to the person responsible for the procurement within five working days after performance of the contract.

## **16. Negotiated procedure without prior publication of a contract notice**

16.1 In the case of a negotiated procurement procedure without prior publication of a contract notice, the person responsible for the procurement requests a tender from one or several tenderers in the following instances:

16.1.1 no tenders or requests to participate in the procurement procedure were submitted in a procedure with prior publication of the contract notice or all tenders or applications submitted were inadmissible and the initial public procurement conditions are not substantially altered;

16.1.2 a procurement contract is awarded purely for the purpose of research, experiments, study or development and not for the purpose of receiving profit or covering research and development costs, so that it does not restrict the awarding of future contracts for the specified purposes in accordance with the procurement procedure with prior publication of a contract notice;

16.1.3 for technical reasons or for reasons connected to the protection of exclusive rights, including for reasons connected to the protection of intellectual property rights, the public contract may be awarded to only one tenderer, and a lack of competition does not arise from the artificial restriction of conditions presented in the public procurement or artistic reasons, such as upon creating or acquiring a unique work of art or artistic presentation;

16.1.4 the urgent awarding of a procurement contract is necessary when, for reasons of extreme urgency caused by events unforeseeable by the contracting authority, the time-limit specified in Sections 93, 94 or 158 of this Act cannot be complied with;

16.1.5 supplies are being purchased from the same tenderer for the partial replacement or the supplementation of previously purchased supplies and changing the tenderer would necessitate the purchase of supplies with different technical properties not technically compatible with the existing supplies or their operation or maintenance would result in excessive technical problems;

16.1.6 new services or construction works consisting of the repetition of the services or construction works awarded to the same tenderer under a contract awarded by way of negotiated procedure with prior publication of a contract notice, whereby the possibility of awarding such a public contract has been communicated in the original contract notice and the estimated cost of the initial procurement contract also includes the total cost of subsequent services or construction works;

16.1.7 supplies are purchased on a commodity market;

16.1.8 supplies are purchased at a price considerably lower than the usual market price, taking advantage of especially advantageous terms offered within a very short time period;

16.1.9 supplies or services are purchased on particularly advantageous terms, from either a person with regard to whom a liquidation procedure has been initiated or from a bankruptcy trustee on the basis of an arrangement with creditors;

16.1.10 a procurement contract is awarded to the winner or one of the winners of a design contest and such condition has been laid down in the design contest notice; whereas if the contract is awarded to one of the winners of the design contest, all the winners will be invited to participate in the negotiations;

16.1.11 in other cases provided in Section 50 of the Act.

16.2 Negotiated procedure without prior publication of a contract notice is organised via the RHR.

16.3 Clearance for a negotiated procedure without prior publication of a contract notice is obtained based on Clauses 16.1.1–16.1.11 as specified in Annex 1 to the procurement procedure.

## **17. Specifications of the extent of application of the procurement procedure**

17.1 By decision of the Management Board of Eesti Energia AS or within the bounds of the powers granted to the Management Board of an undertaking of the Group for carrying out transactions, supplies may be purchased and services or construction works contracted within the Group without the organisation of a procurement in the manner provided by law.

17.2 In an emergency, with clearance from the budget manager, necessary items may be purchased or services or construction works may be contracted without the organisation of a procurement if this is necessary for eliminating the emergency.

17.3 In the event of an emergency, when the emergency ends, the budget manager promptly submits an explanation to the Management Board of the undertaking or to the Member of the Management Board of Eesti Energia AS responsible for the area, concerning the supplies purchased or the services or construction works contracted, stating the reasons as to their indispensability. In the event of the elimination of an emergency without the organisation of a procurement or if current contracts are not used, the entire documentation (including a statement of grounds concerning the objective reasons, the tender or tenders, minutes, decisions) is retained in writing.

17.4 When purchasing training, catering, room rental, accommodation, event organisation, communications arrangement and research services with a transaction value of up to EUR 6000, the written approval of the budget manager is required and organisation of a small-scale procurement is not compulsory.

17.5 Specifications to procurements in an amount up to EUR 60,000 if, in justified cases, the service can be ordered or an item purchased from only one tenderer, provided that the following conditions have been met:

17.5.1 when deciding on the procurement of a recruitment service, at least three employees must participate—the recruitment and employment partner, the head of recruitment and employment unit and the HR Director;

17.5.2 when deciding on the procurement of a Group-wide development activity service for managers, at least three employees must participate—the HR Director, the training development manager and the supporting HR partner;

17.5.3 when deciding on the procurement of a development service arising from the company's needs, at least four employees must participate—the supporting HR partner, the training development manager, the supporting development specialist and the HR Director.

17.6 Organising a procurement as a specification in cases other than those specified in Clauses 17.1 to 17.5 is decided in justified cases in an amount up to EUR 60,000 by the head of the procurement group or the head of the procurement department.

17.7 All documentation concerning the specifications under this Clause must be preserved in a format which can be reproduced in writing (at least the purchase order, tenders and the approval of the successful decision by the contracting entity). The retention period is seven years.

17.8 The preservation of documents in the specifications conducted by the Procurement Service are based on the provisions of Clause 5.10. If the specification is not conducted by the Procurement Service, the documentation is preserved in a cloud catalogue.

17.9 In cases with specifications, formalising the procurement via the RHR is not mandatory.

## **18. Quality control over conducting the procurement**

18.1 Quality control is performed by the head of the procurement area of the Procurement Service pursuant to their job description.

18.2 The objective of quality control is to enhance the quality of procurements, prevent fraud and implement the necessary measures to prevent losses potentially resulting from fraud and negligence.

18.3 The head of the procurement area of the Procurement Service is tasked with the notification of employees involved in the organisation and processing of procurements within the Group of their rights and obligations and drawing attention to any deficiencies in their work.

18.4 Information concerning any breaches of legislation or the procurement procedure and concerning anti-competitive operations must be e-mailed to [hanked@energia.ee](mailto:hanked@energia.ee).

## **19. Final provisions**

19.1 In conducting procurements, Eesti Energia AS and the undertakings of the Group are guided by this procurement procedure, except for those undertakings of the Group which have not been founded under the legislation of the Republic of Estonia and Enefit Outotec Technology OÜ. The undertakings of the Group which have not been founded under the legislation of the Republic of Estonia and Enefit Outotec Technology OÜ must coordinate their procurement procedure with the Procurement Director of Eesti Energia AS. In addition to this procurement procedure, Elektrilevi OÜ must follow its other relevant normative documents.

19.2 In matters related to procurements not regulated by this procedure, the Act and other legislation must be followed.