

PURCHASING PROCESSES – PUBLIC PROCUREMENT PROCEDURE AT FSV UK

DIRECTIVE S_EO_002		
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Related regulations and documents: Act no. 134/2016 Sb. – Act on Public Procurements (as amended) Rector's Measure. 30/2020 – Rules for Public Procurements within Charles University (as amended) OD 7/2019 Directive for the Circulation of Accounting documents at FSV UK (currently in preparation S_EO_001) OD 1/2017 Rules for Concluding Contractual Relations (currently in preparation S_EO_003) OD 1/2018 Measures for the Management and Disposal of Property (currently in preparation S_EO_006)		
Repealed regulations: OD 4/2017 Procedure for Small-Scale Public Procurements at FSV UK		
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Appendices: SEO002_P1 Preliminary Approval of Public Procurement SEO002_P2 Sample Record of Market Research		
Brief summary of the regulation: It supplements the Rector's Measure Rules for Public Procurements within Charles University and defines schemes and basic procedures for purchasing processes and awarding public procurements at FSV UK, especially in the context of small-scale public procurements, in Categories I and II.		
Discussed with AS FSV UK: Not requested	Approved by AS FSV UK: Not requested	Discussed with trade unions: Not requested
Discussion with or approval by another body: Not requested		
In charge of accuracy: Bc. Hana Pokorná, DiS., head of Account Office JUDr. Vanda Wagnerová, Legal Office Ing. Monika Mandová, head of SD&KT Ing. Ondřej Blažek, Faculty Secretary		
Issued by: PhDr. JUDr. Tomáš Karásek, Ph.D., Dean of the Faculty		

Part I – Information about the Regulation

1. Reasons for and Explanation of the Changes

Content of the change	Point
Transformation of the regulation into a directive	

2. Purpose and Scope of the Measure

This Directive regulates and supplements the basic procedures for purchasing processes and awarding of public procurement at FSV UK in accordance with the valid Rector's Measure, which regulates the basic rules for awarding public procurements at Charles University.

The aim is to ensure that the procedures set out in this Directive comply in particular with (i) Act No. 134/2016 Coll., on Public Procurements, as amended (hereinafter referred to as "ZZVZ"), (ii) Act No. 111/1998 Coll., on Universities and on Amendments and Supplementations to Other Acts (the Act on Universities), as amended, and (iii) the internal regulations of University.

The Directive defines basic schemes according to the value of the purchase/procurement and specifies the processes to be followed and the requirements to be met. In particular, it regulates the area of small-scale public procurements, namely in the Category I and II. The specific administrative process is then regulated in the related directives on the circulation of accounting documents, contractual relations, assets, etc.

Part II – Basic Terms, Rules, and Roles

3. Definition of Terms

3.1. The award of a **public procurement** means the conclusion of a contract for pecuniary interest between the contracting authority and the supplier, which implies an obligation on the part of the supplier to provide supplies, services, or construction works. **Even an ordinary purchase paid for in cash or by credit card by FSV UK is a public procurement.**

3.2. In accordance with ZZVZ (§24), **the regime of public procurement** is determined according to its estimated value. The basic division by value is as follows:

- a) Over-the-limit public procurement - the limit is determined and updated by a government regulation
- b) Under-the-limit public procurement - it does not reach the limit of over-the-limit public procurement and exceeds the values of VZMR
- c) Small-scale public procurement (hereinafter referred to as "VZMR") - the estimated value (excluding VAT) is equal to or lower:
 - than the amount of 2,000,000 CZK for supplies or services, or
 - than the amount of 6,000,000 CZK for construction work

3.3. **The categories of small-scale public procurements** are defined as follows in accordance with the Rector's Measure:

Categories of small-scale public procurements	Estimated value of the public procurement for supplies and services (VAT excluded)	Estimated value of the public procurement for construction works (VAT excluded)
Category I	0 CZK – 100,000 CZK	0 CZK – 200,000 CZK
Category II	100,000.01 CZK – 500,000 CZK	200,000.01 CZK – 2,000,000 CZK
Category III	500,000.01 CZK – 2,000,000 CZK	2,000,000.01 CZK – 6,000,000 CZK

3.4. **CPV codes** – “Common Procurement Vocabulary” is a common vocabulary for public procurement. It is a uniform classification system for public procurement. It is used by contracting authorities to describe the subject of public procurements. It allows the item to be classified unambiguously and avoids unjustified subdivision of the subject of public procurements.

3.5. **Tender procedure** - tender procedure means a binding procedure of the contracting authority when awarding a public procurement as provided for by ZZVZ, the purpose of which is to award an under-the-limit public procurements or an over-the-limit public procurements until the conclusion of a contract or cancellation of the tender procedure.

3.6. **Selection procedure** - selection procedure means a binding procedure of the contracting authority set out in this measure, the purpose of which is to award a small-scale public procurement until the conclusion of a contract or cancellation of the selection procedure.

3.7. **Framework agreement** - in certain situations an appropriate instrument for Category III of VZMR. This is the application of a special procedure in accordance with § 130 et seq. of ZZVZ. At FSV UK it is applied e.g. for office supplies.

3.8. **Dynamic purchasing system** - in certain situations a suitable tool for Category III of VZMR. This is the use of a special procedure in accordance with § 130 et seq. of ZZVZ. At FSV UK it is applied e.g. to IT end-user equipment.

4. Roles

4.1. Charles University, Faculty of Social Sciences, represented by the Dean of the Faculty, is the **contracting authority**. Charles University, Faculty of Social Sciences is a public contracting authority in accordance with § 4 para 1 letter e) of the Act.

4.2. For the purposes of this measure, **supplier** means a person as defined in § 5 of the Act. The budget administrator and the public procurement administrator are responsible for checking the eligibility of the supplier to become a recipient of public funds or specific programme or grant titles in accordance with the current methodology of Charles University.

4.3. **Participant in the tender/selection procedure** - a supplier who has submitted a bid in the tender or selection procedure or a request for participation, expressed a preliminary interest in accordance with § 58 para 5 or § 129 para 4 of ZZVZ, or initiated negotiations with the contracting authority.

4.4. **The operation transactor** is always a head staff member authorised to manage a comprehensive part of the budget (dean, faculty secretary, vice-dean, director of an institute, secretary of an institute, head of a unit, principal investigator of budget and non-budget grants, or a head staff member authorised to manage the funds of a specific workplace or project). The scope of the delegated powers must be clearly defined in the delegating document. At FSV, the Dean is the main operation transactor, who further authorises other staff members.

4.5. The budget administrator is a head staff member responsible for the management of the budget of the Faculty and other units (head of the Account Office) or its part (secretary of the institute or unit) or an authorised staff member of another unit or department of the Faculty (head of Research Office, project accountant, etc.). The head of the Account Office is the main administrator of the FSV budget, including fund management.

4.6. The public procurement administrator is a staff member of the Legal Office, unless otherwise determined by the Faculty Secretary for specific tender and selection procedures. The public procurement administrator **administers Category III of VZMR** and under-the-limit and over-the-limit public procurements. Operation transactors and budget administrators are required to provide the necessary cooperation. The public procurement administrator, together with the Account Office and Research Office also provide **consultations** regarding the Categories I and II of VZMR.

5. Basic Rules

5.1. General Provisions

- 5.1.1. The provisions of this measure do not apply where the contracting authority is obliged to follow other rules, for example the rules of operational programmes, which lay down **stricter conditions** than those set out above.
- 5.1.2. The provisions of this measure, furthermore, do not apply in the case of a public procurement which the contracting authority is not obliged to award under this Act in accordance with **the exceptions defined in § 29 to 30 of ZZVZ**. In such cases, the contracting authority proceeds by analogy with the Act.
- 5.1.3. The contracting authority is at the same time entitled to proceed outside the scope of this measure in cases where the required performance does not exceed the limit set by law for the regime of the small-scale public procurement and **at the same time it is necessary to ensure such performance without undue delay for the reasons which the contracting authority itself did not cause** and could not have foreseen with due care.
- 5.1.4. A general **exception** to the tender procedure of small-scale public procurements under this measure is **approved by the Dean of the Faculty** on the basis of a written request with justification, submitted through the Legal Office and with comments by the Faculty Secretary.

5.2. General Principles

- 5.2.1. When handling funds according to this measure, the contracting authority always observes the basic principles for awarding public procurements according to § 6 of ZZVZ, i.e. the principles of **transparency, proportionality, equal treatment, and non-discrimination**.
- 5.2.2. The contracting authority may not restrict participation in the selection procedure to those suppliers who are established in a Member State of the European Union, the European Economic Area, the Swiss Confederation, or in another state which has concluded an international agreement with the Czech Republic or the European Union guaranteeing the access of suppliers from these states to the public procurement awarded.
- 5.2.3. The contracting authority and all its staff members undertake to act with **due diligence**. At the same time, the contracting authority is obliged to comply with the **3E** principles, i.e. efficiency, economy, and effectiveness.

5.2.4. Charles University has taken the decision to promote its ethical values when awarding public procurement to meet its needs, expressing its attitude towards socially important issues such as social and environmental aspects. To meet this end, Charles University will take into account **the principles of responsible public tender procedure** in the awarding of public procurements within the University, in accordance with the respective provision of the Rector's Measure Rules for Public Procurements within Charles University.

5.3. Determination of the Estimated Value of the Public Procurement

5.3.1. When determining the estimated value of a public procurement, the contracting authority proceeds in accordance with § 16 to 23 of ZZVZ and in accordance with the Rector's Rules for Public Procurements, in particular the provisions defining **independent, university-wide, and centralized awarding**.

5.3.2. The contracting authority is obliged to add up the estimated values of procurements, the subject of which are regularly purchased or ongoing supplies or services in accordance with § 19 of ZZVZ, except for procurements with such performance the unit price of which is variable during the accounting period and the contracting authority purchases it repeatedly according to its current needs.

5.3.3. The estimated value of a public procurement the subject of which are **regularly purchased or ongoing supplies or services** is determined as the actual price paid by the contracting authority for supplies or services of the same type **during the preceding 12 months, adjusted for changes in quantities or prices**, or as the sum of the estimated values of individual supplies and services of each supply and service, if the contracting authority does not have any previous data available.

5.3.4. The contracting authority may subdivide the public procurement into several parts if this does not circumvent the obligations laid down by law. Where the contracting authority awards several parts of a public procurement in a single tender or selection procedure, it will define the scope of those parts and lay down the rules for the participation of the supplier in individual parts and for the award of those parts.

5.3.5. A procurement for supplies, services, or construction works must not be purposefully subdivided in such a way that the value of the divided procurements falls below the limits laid down in this measure.

5.3.6. For the purpose of determining the estimated value of a public procurement for **supplies and services for which the total contract price is not determined**, the estimated value of the **48-month** payment is decisive for a contract concluded for an indefinite period of time.

5.3.7. The estimated value is always set at the price excluding value added tax.

5.4. Completion and Archiving of Documentation on Public Procurement

5.4.1. **Market research** in the prescribed form in the Appendix to this Directive is mandatory for **the Category II of VZMR** and is a necessary basis for processing the respective order or contract. The document is **kept** (at least a copy of it) with the purchase order or contract in **the Account Office**.

5.4.2. **The documentation for the selection and tender procedure** is a collection of all documents in paper or electronic form and outputs from verbal communication, the acquisition of which during the selection and tender procedure or after its completion is required by ZZVZ or

other relevant regulations. **The selection documentation is a necessary basis for the preparation of the respective contract and is kept (at least a copy of it) with the contract in the Account Office.** This includes in particular the following basic documents:

- a) a preliminary approval (see the form in the Appendix to this Directive);
- b) tender conditions defining the subject of the public procurement, including documents proving they have been sent and posted;
- c) the full text of originals of all the bids of all the participants in the tender or selection procedure, including any clarifications or additions;
- d) a report on the opening, review, and evaluation of bids signed by the respective persons;
- e) the contract concluded with the selected supplier, including any amendments thereto;
- f) a notice of the result of the tender or selection procedure sent to all the participants in the tender or selection procedure who submitted a bid within the deadline for submission of bids and whose bid was not excluded, including the documents proving they have been sent, unless the notice was published on the contracting authority's profile;
- g) a notice of exclusion of the supplier, including a proof it has been sent/posted, if any bid has been excluded;
- h) explanations of the tender specifications or explanations of the tender documentation, including the documents proving they have been sent or posted, if any of them have been requested;
- i) the appointment of the person in charge or the evaluation committee (if appointed), including a declaration of conflict of interest;
- j) the contracting authority's written report in accordance with § 217 of ZZVZ, if prepared.

Part III –Category I of VZMR

6. Rules for Category I of VZMR

6.1. Definition of Category I of VZMR according to the amount of the estimated value

Categories of small-scale public procurement	Estimated value of the public procurement for supplies and services (VAT excluded)	Estimated value of the public procurement for construction works (VAT excluded)
Category I	0 CZK – 100,000 CZK	0 CZK – 200,000 CZK

6.2. The contracting authority is entitled to carry out the Category I of public procurement:

- a) **by a regular purchase** paid for by cash or credit card or **a direct order for performance**; or
- b) **by inviting one supplier to submit a price quotation** specifying the performance required and, where appropriate, other terms and conditions of performance, unless the contracting authority already has an up-to-date price quotation available; or
- c) in accordance with the procedure applicable to Categories II or III of public procurement, the respective rules apply mutatis mutandis with regard to the subject and the estimated value of the public procurement; or
- d) in any other appropriate manner, provided that the basic principles of § 6 of ZZVZ are observed.

6.3. Significant limit values within Category I of VZMR:

4,999.99 CZK	Up to this amount, consumables, goods and small assets can be purchased through a billing of small expenses (without a purchase order), except for IT equipment, which is always purchased via the dynamic purchasing system.
5,000.00 CZK	From this amount, assets can only be purchased through purchase orders, except for IT equipment (dynamic purchasing system).
9,999.99 CZK	Up to this amount, services can be purchased through a billing of small expenses (no purchase order).
10,000.00 CZK	From this amount, services can only be purchased through purchase orders.
50,000.00 CZK	From this amount, the purchase order or contract must be posted in the register of contracts.
100,000.00 CZK	From this amount, it is recommended to conclude a contract instead of a direct purchase order, due to the specification of delivery conditions, etc.

Part IV – Category II of VZMR

7. Rules for Category II of VZMR

7.1. Definition of Category II of VZMR according to the amount of the estimated value

Categories of small-scale public procurement	Estimated value of the public procurement for supplies and services (VAT excluded)	Estimated value of the public procurement for construction works (VAT excluded)
Category II	100,000.01 CZK – 500,000 CZK	200,000.01 CZK – 2,000,000 CZK

7.2. The contracting authority is entitled to carry out the Category II of public procurement:

- a) **by a direct order for performance on the basis of market research carried out** using the form in the Appendix to this Directive, or
- b) in accordance with the procedure applicable to the Category III of public procurements, in which case the respective rules apply mutatis mutandis with regard to the subject and the estimated value of the public procurement; or
- c) by any other appropriate means, provided that such means are duly justified in writing and such means have the prior written consent of the respective head staff member referred to in Article 5 para 1 of this measure or another person authorised by him/her, while observing the basic principles of § 6 of ZZVZ.

7.3. Significant limit values within Category II of VZMR:

200,000.00	From this amount, it is obligatory to conclude a contract. Up to this amount, the form of contract is only recommended.
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Part V – Category III of VZMR

8. Rules for Category III of VZMR

8.1. Definition of Category III of VZMR according to the amount of the estimated value

Categories of small-scale public procurement	Estimated value of the public procurement for supplies and services (VAT excluded)	Estimated value of the public procurement for construction works (VAT excluded)
Category III	500,000.01 CZK – 2,000,000 CZK	2,000,000.01 CZK – 6,000,000 CZK

8.2. The contracting authority is entitled to carry out the Category III of public procurement:

- a) in an open call; or
- b) in a closed call; or
- c) appropriately applying a special procedure in accordance with § 130 et seq. of ZZVZ (i.e. framework agreement, dynamic purchasing system, or design competition) or a procedure for awarding concessions in accordance with § 174 et seq. of ZZVZ.

8.3. FSV UK follows the valid Rector's Measure - Rules for Public Procurements within Charles University.

Part VI – Other Public Procurements

9. Under-the-Limit and Over-the-Limit Public Procurements

9.1. FSV UK follows the valid Rector's Measure - Rules for Public Procurements within Charles University.