
Dean's Directive No. 5/2022

Title:	Public Procurement of the Faculty of Humanities of Charles University	
To implement:	Act No.134/2016 Coll. on Public Procurement; Rector's Directive No. 30/2020	
Date of effect:	21 March 2022	
Annexes:	<u>Annex 1:</u>	Model delegation of the Dean of the Faculty of Humanities of Charles University to exercise management control (<i>only in Czech</i>)
	<u>Annex 2:</u>	Choice of procurement mode and planning (<i>only in Czech</i>)

Public Procurement of the Faculty of Humanities of Charles University

INTRODUCTION

Article 1: Introductory provisions

1. In connection with the public procurement of the Faculty of Humanities of Charles University (hereinafter referred to as the "Faculty"), in accordance with Act No.134/2016 Coll. on Public Procurement (hereinafter referred to as the "PPA") and the Rector's Directive No. 30/2020 Rules for Public Procurement within Charles University (hereinafter referred to as "RD 30/2020"), I issue the following directive, unless a more stringent procedure is stipulated by an internal or other relevant regulation.
2. The aim of this directive is to apply at the Faculty such procedures in the management of public funds, where the primary effort is to save them and to select the most appropriate tender - i.e. either the cheapest tender or the tender otherwise most appropriate, i.e. the tender that best meets the established requirements. The Faculty takes into account the principles of responsible public procurement in accordance with RD 30/2020 and the Responsible Public Procurement Strategy of Charles University.

Article 2: Definition of terms

1. **The contracting authority** - the faculty is obliged to award its public contracts pursuant to Section 4(1)(c) of the PPA. The contracting authority acts through the dean or staff authorised by the dean to do so.
2. According to the PPA, **the award of a public contract** means the conclusion of a contract (or order) between the contracting authority and the supplier for consideration, which implies an obligation to provide supplies, services or construction work (hereinafter referred to as "award of a public contract"). However, these are not different procedures where, for example, the contracting authority concludes a contract for the sale of its assets or a procedure leading to the conclusion of a gratuitous contract (e.g. a donation contract).
3. **Procuring departments** - within the meaning of this directive, the following departments of the faculty, which, in compliance with these rules, carry out independent procurement procedures for the implementation of small-scale public procurement, but only up to the estimated value of the public contract of CZK 250 thousands. The amount of the small public procurement contract is limited to CZK 250 thousands without VAT for deliveries, for public service contracts or for public works contracts.
The staff of the contracting authorities cannot sign contracts on behalf of the contracting authority. They may only issue procurement orders up to a value of CZK 50 000 without VAT. They may sign them on behalf of the contracting authority only if they are authorised to do so in writing by the Dean.
Public contracts with a value of CZK 50 thousands to CZK 250 thousands excluding VAT may be implemented by the contracting departments only on the basis of a contract prepared and submitted to the Dean for signature.
The commissioning departments are the following faculty departments:
 - a. individual departments of the dean's office,
 - b. scientific and pedagogical workplaces,
 - c. other departments, including the faculty library,
 - d. they may also be vice-deans or the dean of the faculty if the dean so decides,

- e. temporary scientific and non-scientific departments of the faculty (hereinafter referred to as "project teams") in accordance with
 - GA UK projects,
 - programmes of basic institutional support for science and research at Charles University (hereinafter referred to as "University"),
 - earmarked support for specific university research,
 - operational programmes,
 - programmes of grant agencies (GAČR, TAČR, etc.),
 - EEA and Norway Grants,
 - public and private foundations, endowment funds.

In accordance with this directive, project teams are represented by a grant administrator employed by the faculty, or by a staff member appointed in accordance with the Dean's directive on project activities.

The commissioning departments may therefore be individual faculty departments as well as project teams.

4. **Procurement procedure** - this is a legal procurement procedure of the contracting authority under the PPA aimed at awarding a public contract, including award in a dynamic purchasing system, or on the basis of a framework agreement or in a design competition. It is in particular the award of an under- or over-limit public contract (hereinafter referred to as the "procurement procedure"). The procurement procedure shall be carried out only by the law firm, as instructed by the Secretary or the Dean of the Faculty.
5. **Selection procedure** - this is a binding procedural procedure of the contracting authority, the purpose of which is to award any small-scale public contract. These procedures are carried out by the contracting departments or procurement departments.
6. **Tenderer** - a supplier who has submitted a tender for a given public contract on the basis of a call for tenders.
7. **Participant in the procurement procedure** - this is a supplier who has submitted its bid on the basis of a published procurement procedure according to the PPA in accordance with the procurement documentation for the given public contract.
8. **Supplier** - a natural or legal person who supplies supplies, provides services or carries out construction work on the basis of a public contract awarded by the contracting authority. Respectively, it is the person who has initiated communication with the contracting authority in the context of a tendering or selection procedure (tenderer or participant in the tendering or selection procedure).
9. **Public funds** - represent public funds, assets, property rights and other property values belonging to the state or another legal entity pursuant to Section 2 of the Financial Control Act.
10. **Economic operation** (hereinafter referred to as 'operation') and its regularity - the regularity of a financial and property operation means its compliance with legal provisions and the achievement of an optimal relationship between its economy, effectiveness and efficiency (hereinafter referred to as 'operation').
11. **Value for money** means the use of public funds in such a way as to ensure that the specified tasks are carried out with the least possible expenditure of those funds, while maintaining the appropriate quality of the tasks carried out.
12. **Efficiency** means the use of public funds in such a way as to achieve the maximum possible scope, quality and benefit of the tasks performed in relation to the amount of resources spent on their performance.
13. **Efficiency** means the use of public funds in such a way as to ensure the optimum level of achievement of objectives in the performance of the tasks set.
14. **Principal of the operation** - an employee authorized in writing by the dean who handles public funds for a specific public contract.
15. **Budget Manager** - an employee authorized in writing by the Dean to manage the budget of public funds for a specific public contract.
16. **Contracting Authority Profile** - this is a certified electronic tool through which the contracting authority publishes information and documents on its public contracts. The University uses an electronic tool called E-ZAK as its contracting authority profile. According to the PPA, public contracts awarded by the Faculty in the under-limit, over-limit and simplified mode are published on this profile. This information is published by the law firm.
17. **Procurement Plan** - The faculty prepares an annual plan for all of its procurements each year no later than January 30, based on the plans and needs of the individual contracting departments, through the Procurement Department, with an update each June 30 of that year.
18. **Dynamic purchasing system** - for the purposes of public procurement, the subject of which is the acquisition of common, generally available goods, services or works, a dynamic purchasing system (hereinafter referred to as "DNS") may be introduced, which is solved exclusively by electronic means, namely the E-ZAK programme. For the purpose of determining the estimated value of the DNS, the aggregate estimated value of all the public contracts which may be awarded in the dynamic purchasing system for a given subject-matter shall be decisive. The procurement procedure for the selection of the supplier shall be carried out by a law firm and the relevant framework contract shall be prepared.
19. **Types of public procurement:**
 - a. Public supply contracts - the subject of the contract is the acquisition of things or operable natural forces, unless they are part of a public works contract. Acquisition means, in particular, purchase and hire.
 - b. Public service contracts - the subject of the contract is the provision of activities that are not public supply contracts or public works contracts.

- c. Public works contracts - the subject of the contract is mainly the construction of a building or the provision of related design activities if they are awarded together with construction work.

20. **Public procurement scheme:**

- a. The public procurement scheme shall be determined in particular by the estimated value of the contract pursuant to Section 24 of the PPA.
- b. The procurement schemes are distinguished as follows:
 - i. the small-scale public procurement regime,
 - ii. procurement under the limit,
 - iii. procurement over the limit,
 - iv. simplified procurement regime.

The first three schemes are determined by the estimated value of the public contract.

21. Classification of public contracts into schemes according to the estimated value of the subject-matter of the contract (financial limits):

- a. **Over-the-limit public contract** - a public contract awarded in accordance with the rules laid down by the PPA for the over-the-limit regime:
 - i. over-limit public contract for supplies and services over CZK 3 568 000 without VAT;
 - ii. an over-limit public contract for construction work exceeding CZK 137 366 000 excluding VAT.
- b. **Under-limit public contract** - a public contract awarded in accordance with the rules laid down by the PPA for the under-limit regime:
 - i. sub-limited public contract for supplies and services from CZK 2 000 000 to CZK 3 568 000 excluding VAT;
 - ii. sub-limited public works contract from CZK 6 000 000 to CZK 137 366 000 excluding VAT.

In the case of under-limit and over-limit public procurement, the law firm carries out the procurement procedure according to the PPA including procurement procedures in these modes for the dynamic purchasing system with implementation by a framework contract.

c. **Small-scale public contract:**

These are public contracts whose estimated values do not exceed CZK 2 million in the case of a public supply contract or a public service contract and do not exceed CZK 6 million excluding VAT in the case of public works contracts. These public contracts are considered to be small-scale public contracts, which the contracting authority is not obliged to award pursuant to the exemption provided for in Section 31 of the PPA.

Article 3: Legislation concerned

These are the following regulations:

- PPA,
- Act on Financial Control and Implementing Decree No. 416/2004 Coll.,
- Act on the Register of Contracts,
- budgetary rules,
- Act on Universities,
- Civil Code,
- Value Added Tax Act,
- RD 30/2020,
- regulations governing the management of budgetary resources,
- the rules of the relevant subsidy programmes, if the public contract is financed from these sources,
- the Dean's directives on the registration of public contracts,
- the Dean's directives on the internal control system,
- the Dean's directives on project activities.

PART ONE

GENERAL PROVISIONS

Article 4: Subject matter

This directive regulates:

- a. rules on procedures for the award of public contracts financed in whole or in part from public funds;
- b. the binding nature of the rules of procedure for faculty departments involved in public procurement procedures.

Article 5: Procurement principles

The principles of public procurement are set out in Section 6 of the PPA. These principles also apply in cases of small-scale public procurement within the meaning of Section 31 of the PPA.

Article 6: Procurement departments

Faculty departments authorised to award public contracts are:

- a. contracting departments for small-scale public contracts with a value of up to CZK 250 thousand without VAT;
- b. the Public Procurement Department for small-scale public contracts from CZK 250 thousand to CZK 2 million (up to CZK 6 million for public procurement for construction works) without VAT;
- c. advokátní kancelář pro veřejné zakázky zadávané v zadávacím řízení.

The characteristics and procedures of these sites are set out in Part Three and Part Four of this directive.

Article 7: Determination of the estimated value of the public contract

1. As part of the preparation of the procurement, the contracting authority, the procurement department or the law firm must establish the estimated value of the contract. The estimated value of a public contract is the amount of the consideration for the performance of the public contract, expressed in monetary terms, not including VAT, which is expected by the contracting authority. The estimated value of the public contract shall be determined on the basis of data and information on contracts with the same or similar subject-matter. Where such data or information is not available to the contracting authority, it shall be based on information obtained by market research, prior market consultation or other appropriate means.
2. On the basis of the estimated value, the contracting authority, the public procurement department or the law firm determines the procurement regime (small-scale procurement regime or over- or under-limit regime). The choice of the procurement mode determines the choice of the type of tender for small-scale contracts or the choice of the type of procurement procedure by the department.

Article 8: Public contracts financed or co-financed by non-university funds

The procurement rules according to the co-financing rate are set out in RD 30/2020.

Article 9: Public contracts awarded centrally or university-wide

The rules for the award of these public contracts are set out in RD 30/2020.

Article 10: Application of the Financial Control Act

Procedures for the application of financial control in the management of public funds under the Financial Control Act relating to public procurement are regulated in a separate directive of the Dean. Annex 1 to this directive contains a model of the Dean's delegation of management control in public procurement.

PART TWO

POWERS OF PERSONS ACTING FOR THE FACULTY

Article 11: Acting for the Faculty

1. Pursuant to RD 30/2020, the dean or the secretary of the faculty (to the extent stipulated by the statutes of the faculty) represents the university and makes decisions on its behalf in procurement matters if the faculty covers the cost of the contract from funds allocated to the faculty and/or from funds obtained from its supplementary activities (Article 5 of RD 30/2020).
2. The Dean determines the powers of persons acting for the Faculty in awarding public contracts as follows:
 - a. Dean
 - i. authorises the staff of the contracting departments to represent and decide for the Faculty in matters of public procurement orders with a value of the subject matter up to CZK 50 thousand. The following shall be appointed to the position;
 - ii. in accordance with the Act on Financial Control, authorises the persons responsible for exercising management control over expenditure operations to carry out a preliminary check before a commitment is made (the authorising officer and the budget administrator);
 - iii. signs the tender documentation submitted by the law firm;
 - iv. signs the invitation to tender (tender notice) submitted by the Procurement Department;
 - v. signs contracts for small-scale public procurement contracts with a value of the subject of performance from CZK 50 thousand to CZK 50 thousand without VAT submitted
 - (1) contracting departments with a value of between CZK 50 000 and CZK 250 000 without VAT,
 - (2) procurement departments with a value of up to CZK 250 000 per annum. CZK excluding VAT.
 - vi. signs contracts for pecuniary interest relating to public contracts awarded in a tendering procedure and submitted by a law firm;
 - vii. in accordance with RD 30/2020, approves the "Preliminary Approval of Procurement" prior to the start of the procurement process;
 - viii. decides on the selection of a contractor in a procurement procedure carried out by a law firm or on the selection of a contractor in a selection procedure carried out by the Public Procurement Department;
 - ix. decides on the cancellation of a procurement or tendering procedure carried out by a law firm or the Public Procurement Department.
 - b. Employee of the awarding department
 - i. implements a public contract with a value of up to CZK 50 thousand without VAT by ordinary purchase paid in cash or by credit card;
 - ii. authorized in writing by the Dean, represents and decides for the Faculty in cases of awarding a public contract in the form of an order with a value of the subject of its performance up to CZK 50 thousand. These are orders made by the ordering department).

PART THREE

RULES FOR SMALL-SCALE PUBLIC PROCUREMENT

Article 12: Contracts and Orders

1. Public contracts are awarded by a contract for consideration or an accepted order within the meaning of Section 1 of the PPA.
2. The contract for the award of a public contract must always be concluded from the value of its subject of performance from CZK 50 thousand without VAT.
3. The terms of the contract and the conditions of conclusion are set out in RD 30/2020.
4. Neither the contract nor the order may contain an arbitration clause.
5. It prepares contracts and purchase orders for the procurement:
 - a. ordering department - orders up to CZK 50 thousand without VAT;
 - b. contracting department - contracts worth from CZK 50 thousand to CZK 250 thousand without VAT;
 - c. Public Procurement Department - contracts with a value of 250 thousand to CZK 2 million excluding VAT (up to CZK 6 million for public works contracts).
6. Contracts are signed by the dean or a faculty member authorized by the dean.

Article 13: Register of contracts

1. In accordance with the Law on the Register of Contracts, the Faculty is obliged to publish contracts or orders via the Register of Contracts. Exceptions from the publication obligations apply, according to Section 3 of the Act on the Register of Contracts, also to contracts and orders if the value of the subject of the public contract amounts to CZK 50 thousand. The value of the contract or order is CZK 50 excluding VAT or less.
2. The contract and the order must be concluded in writing, in the sense of their publication according to the Act on the Register of Contracts.
3. The contract and the order are effective at the earliest on the date of their publication in the Register of Contracts (Section 6 of the Act on the Register of Contracts).

Article 14: Procurement of small-scale public contracts by contracting departments

1. When awarding public contracts for supplies, services and construction work with an estimated value of up to CZK 100 thousand, the public procurement procedure shall be carried out. The contracting authority is authorised to carry out public procurement procedures of the following types:
 - a. regular purchase with a payment card (cash) for a public contract with a value of up to CZK 50 000 without VAT;
 - b. by inviting one supplier to submit a quotation in accordance with RD 30/2020;
 - c. by other appropriate means provided that the principles of procurement under the PPA are complied with. The procedure shall be subject to prior consultation with the Procurement Department by the contracting authority.
2. When awarding public contracts for supplies, services and construction work with an estimated value of between CZK 100 000 and CZK 250 000. The contracting authority is authorised to carry out public procurement by the following types of tendering procedure:
 - a. by direct purchase order for performance on the basis of a market survey carried out in accordance with the procedure laid down in RD 30/2020;
 - b. by other appropriate means if justified in writing by the awarding department. The Dean of the Faculty shall give prior written approval to this method, provided that the basic principles of the PPL are observed. The contracting authority must consult the Procurement Department in advance.
3. Common rules of procedure of the awarding department:
 - a. maintains procurement documentation in accordance with RD 30/2020;
 - b. after the award of the public contract, the Public Procurement Department forwards this documentation in paper form;
 - c. as part of the preparation of the tender, the Public Procurement Department requests the assignment of a contract reference number;
 - d. as part of the preparation of the procurement, consult with the Public Procurement Unit on the method of determining the estimated value of the procurement and, where appropriate, the type of tender;
 - e. determines the estimated value of the public contract and chooses the type of tender, always with responsible consideration of the application of the principles under Article 6 of the PPA;
 - f. prepares an order or contract;
 - g. submits the contract to the Dean for signature.

Article 15: Procurement of small public contracts by the Public Procurement Department

The procedure for awarding public supply and service contracts with an estimated value of CZK 250 thousand or more to CZK 2 million without VAT and public works contracts with an estimated value of CZK 250 thousand or more to CZK 6 million without VAT is as follows:

- a. these contracts are awarded only by the Public Procurement Department,

- b. the award shall be made by means of a type of competitive tendering procedure by means of a sealed call for tenders in accordance with Article 17(4) of RD 30/2020, with a written invitation to at least three suppliers in each case if this number can be met for objective reasons.

Article 16: Procurement planning and choice of scheme

The procedures in the Faculty's procurement planning and the choice of scheme according to the stated expected value of the procurement are set out in Annex 2 to this Directive.

PART FOUR

RULES FOR THE AWARD OF PUBLIC CONTRACTS BY LAW FIRMS IN THE UNDER-LIMIT, OVER-LIMIT AND SIMPLIFIED PROCUREMENT PROCEDURES

In the case of contracts that are legally required to be awarded in the relevant procurement procedure in the under-limit, over-limit or simplified regime, the law firm carries out the procurement procedure. The dean or the secretary of the faculty forwards these contracts to the law firm for implementation. The law firm is required to comply with the procedures set out in RD 30/2020 (in particular the pre-approval process and responsible procurement).

PART FIVE

COMMON AND FINAL PROVISIONS

1. Exceptions to the procedures outlined in this directive shall be approved by the Dean.
2. The following annexes form an integral part of this directive:
 - a. Annex No. 1: Specimen of the mandate of the Dean of the Faculty of Humanities of Charles University to exercise management control
 - b. Annex 2: Choice of procurement scheme and planning
3. This directive shall enter into force on the date of signature.
4. This directive shall enter into force on 21 March 2022.

Prague, 17 March 2022

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Dean