

From Beykoz University:

## **BEYKOZ UNIVERSITY TENDER REGULATION**

*Accepted by, on and with the number: Official Gazette, 04.02.2021 / 31385*

*Additions and amendments : Senate, .....20.. /...*

*Addendum and amendment check date : .....*

### **CHAPTER ONE General Provisions**

#### **Purpose and Scope**

**ARTICLE 1 – (1)** In order to determine the procedures and principles to be applied in the procurement of goods and services, construction, real estate purchase-sale, leasing, leasing, leasing, bartering, establishment of limited real rights, and the procurement of goods and services to be made within the framework of the funds provided by public institutions and organizations and international organizations for research and development projects, this Regulation was prepared in line with the Tender Regulation for Foundation Higher Education Institutions published in the Official Gazette dated 16/11/2018 and numbered 30597.

#### **Basis**

**ARTICLE 2 – (1)** This Regulation has been drawn up and based on the Higher Education Law dated 4/11/1981 and numbered 2547 and the Tender Regulation for Foundation Higher Education Institutions published in the Official Gazette dated 16/11/2018 with the number no 30597.

#### **Definitions**

**ARTICLE 3 – (1)** The terms used in this Regulation and their definitions are as follows:

- a) Candidate: Natural or legal persons applying for pre-qualification or joint ventures formed by them,
- b) Alternative offer: In the event that there is a provision in the tender document, the submission of products with different technical specifications, which meet the minimum specifications and conditions specified in the technical specifications of the goods subject to tender by the same candidate or tenderer in the tender for the purchase of goods, as an alternative in addition to the original offer,
- c) Application document: The documents submitted by the candidate participating in the pre-qualification in the tender procedure among the qualified tenderers to be used in determining his/her qualification,
- ç) Similar work: Works that are similar in terms of quality and size to the procurement or parts of the procurement subject to tender, produced with the same or similar production methods and techniques, similar in terms of equipment, equipment, financial power and expertise, personnel and organizational requirements,
- d) E-signature: The secure electronic signature defined in Article 4 of the Electronic Signature Law No. 5070 dated 15/1/2004,
- e) Electronic notification: Notification made electronically in accordance with the Notification Law dated 11/2/1959 and numbered 7201 and the Electronic Notification Regulation,
- f) Services: Maintenance and repair, transportation, landscaping and environmental

maintenance, translation, communication, insurance, research and development, accounting, market research and survey, advocacy, consultancy, consultancy, promotion, printing and publishing, cleaning, food preparation and distribution, accommodation, meeting, organization, exhibition, protection and security, vocational training, photography, film, intellectual and fine art, services for computer systems and software services and similar services,

g) Tender document: Regarding the subject of the tender; administrative specifications including instructions to tenderers, technical specifications including the project of the work to be done, draft contract and other necessary documents and information,

ğ) Tender procedures: The tender procedures regulated in this Regulation,

h) Tender authority: The Board of Trustees or the University administrator or officials deemed appropriate by the Board of Trustees,

ı) Tender: The procedures and conditions written in this Regulation, which indicate that the purchase and sale of goods and services and works such as construction, leasing, renting, leasing, bartering, establishment of limited real rights are left to one of the tenderers to be selected among the tenderers and completed with the signing of the contract following the approval of the tender authority,

i) Tenderers: A real or legal person or a joint venture formed by them who operates in the field subject to the tender and has purchased the tender or pre-qualification document,

j) Tenderer: Real or legal persons and joint ventures bidding for the tender,

k) Certificate of completion of work: The document showing the work experience of the candidate or tenderer in the subject of the tender or similar works and issued, issued and evaluated by authorized institutions and organizations,

l) Documents showing work experience: Work completion certificate and technological product experience certificate and the contract related to the work for the works carried out to real persons or to all kinds of institutions and organizations that are not authorized to issue a work completion certificate and the invoice samples issued within the framework of the provisions of the relevant legislation for the implementation of this contract or certified copies of these samples,

m) Working day: Days excluding national holidays, general holidays and week holidays and including administrative leave days,

n) Application for objection: The application made to the University in accordance with the conditions stipulated in this Regulation by the candidate, tenderer or those who may be tenderers, claiming that the transactions and actions in the tender process are against the law,

o) Partial bid: In tenders where unit price bids are received, if the procurement consists of more than one item, one or more than one part determined in accordance with the nature of the procurement; if the procurement subject to tender is for a single commodity, the bid for one or more parts of the same commodity determined in terms of quantities,

ö) Lease: The university is the tenant party to the lease agreement,

p) Subletting: The University is the lessor party to the lease agreement,

r) Goods: All kinds of purchased necessities and movable and immovable goods and rights,

s) Board of Trustees: University Board of Trustees,

ş) Joint venture: A business partnership or consortium formed by an agreement between more than one real or legal person to participate in the tender,

t) Special manufacturing: Works that are not bought and sold ready-made in the market, that will be produced upon project design or a request, and that require

special expertise and production techniques,

u) Travel purchases: Transportation, accommodation, representation / hospitality and similar transactions for domestic / international travel, exclusively related to the university's education and training activities,

ü) Establishment of limited real rights: The establishment of real rights other than ownership as stipulated in the Turkish Civil Code dated 22/11/2001 and numbered 4721,

v) Contract: The written agreement made within the scope of this Regulation,

y) Specification: Documents showing the general, special, technical and administrative procedures and principles of the works to be performed,

z) Estimated cost: The pre-estimated price of the works subject to tender,

aa) Scheduled purchases: Purchases that can be made according to a certain tariff such as electricity, water, natural gas, telephone, data, internet services,

bb) Bid: In the tenders to be held according to this Regulation, the price offer submitted by the tenderer to the University and the documents and / or information based on the evaluation,

cc) Technological product experience certificate: The document showing the work experience issued by the Ministry of Industry and Technology within the framework of subparagraph (2) of paragraph (b) of the first paragraph of Article 10 of the Public Procurement Law No. 4734 dated 4/1/2002,

çç) Letter of guarantee: Letters of guarantee issued by banks and surety bonds issued by insurance companies resident in Turkey within the scope of surety insurance,

dd) Barter: The transactions specified in the articles of the Turkish Code of Obligations dated 11/1/2011 and numbered 6098 regarding barter,

ee) University: Beykoz University,

ff) Construction: All kinds of construction works and related installation, manufacturing, fabrication, supply, transportation, completion, repair, restoration, landscaping, drilling, demolition, reinforcement and installation works and similar construction works,

gg) Domestic goods certificate: The document issued by the authorized institutions based on the regulations in the public procurement legislation and showing that the product subject to the regulation is a domestic product,

ğğ) Contractor: The tenderer on whom the tender is made and the contract is signed.

### **Essential principles**

**ARTICLE 4 –** (1) As far as the tenders to be held according to this Regulation are concerned, the University is obliged to ensure transparency, competition, equal treatment, reliability, confidentiality, public audit, meeting the needs on time and under favourable conditions and efficient use of resources.

(2) No tender are to be made in violation of Article 28 of the Regulation on Foundation Higher Education Institutions published in the Official Gazette dated 31/12/2005 and numbered 26040.

(3) Except for turnkey construction tenders, procurement of goods, procurement of services and construction works cannot be tendered together unless there is an acceptable natural connection between them.

(4) In order to stay below the limits specified in this Regulation, the works that constitute the subject of the tender cannot be divided into parts.

(5) The University may carry out contracting for future years with the decision of the Board of Trustees. In order to be able to tender for works covering more than one year, it is mandatory that programming has been made to ensure that the appropriations foreseen

for the years in accordance with the duration of the work are available in the budgets. For works within the scope of the investment project, the appropriation foreseen for the first year cannot be less than 10% of the project cost, and the appropriation tranches initially programmed for subsequent years cannot be reduced in subsequent years.

(6) With the decision of the Board of Trustees, the University may establish or participate in electronic procurement systems where bidders meeting certain conditions are accepted into the system and can bid electronically.

### **Commissions**

**ARTICLE 5** - (1) The tender authority assigns commissions to be established with the participation of at least two people, provided that they are experts in the work subject to tender, under the chairmanship of one of the officials of the University. It is obligatory to establish a tender commission for the realization of the transactions in the tender process and an inspection and acceptance commission for the inspection and acceptance procedures.

(2) As many personnel and experts as necessary may also be assigned to assist the commissions, provided that they do not participate in the tender decisions.

(3) Commissions shall convene with the full number of members. Commission decisions are taken by majority. In case of equality of votes, the side of the chairman shall be deemed to be in the majority. No abstention shall be allowed in decisions. The member who casts a dissenting vote is obliged to write and sign the reason for the dissenting vote under the decision. The chairman and members of the commission are responsible for their votes and decisions.

(4) During the assignment of the tender commission, taking into account that the commission will convene in full, the names of the original members and a sufficient number of substitute members with the same qualifications to replace these members and the capacity in which these members will take part in the commission shall be specified.

(5) The tender commission may request from the relevant parties the documents and information it deems necessary to verify the accuracy of the documents included in the tender offer or application. Requests made by the commission in this direction shall be fulfilled immediately by the relevant parties.

### **Tender transaction file**

**ARTICLE 6** – (1) A transaction file is prepared for each job to be tendered. This file contains all documents related to the tender process, such as the approval document received from the tender official and the attached spreadsheet for the estimated price, tender document, announcement texts, applications or offers submitted by candidates or bidders and other documents, tender commission minutes and decisions.

### **Certificate of Approval**

**ARTICLE 7** – (1) An approval document shall be prepared for each work to be tendered. In the approval document; the type, nature, amount, project number (if any), estimated cost, amount of available budget, conditions if advance payment is to be made, the procedure to be applied in the tender, the text of the announcement and the amount of the provisional guarantee shall be specified. The approval document shall also indicate the cost of the specifications and annexes.

(2) The tender process starts with the approval of the tender approval document by the tender authority and ends with the signing of the contract by the parties or the cancellation of the tender.

(3) In case the Board of Trustees is the tender authority, the approval document shall be signed by writing the names, surnames and titles of the members

### **Announcement**

**ARTICLE 8 –** (1) The University is obliged to make an announcement before going out to tender. A reasonable period of time between the announcement and the date of the tender shall be determined by the tender authority to allow all tenderers to prepare their bids according to the tender procedure and the nature of the work. This period cannot be less than 7 days.

(2) Tenders shall be announced in one of the local newspapers published in the place where the tender is held and in a separate section designated for tender announcements on the official website of the University, in a manner to ensure publicity. The announcements published on the website shall not be removed from the website until the tender time. It is not obligatory to make an announcement in procurements where direct procurement and bargaining procedures are applied.

(3) The following matters must be specified in the announcements:

- a) The nature, location and quantity of the work subject to tender.
- b) Where and under what conditions the specifications and annexes may be obtained.
- c) Where, on what date and time and by what method the tender will be held. ç) The amount of the provisional guarantee.
- d) The documents required from the tenderers.
- e) The date and time of submission of the bids.

(4) Announcements that do not comply with the provisions of this article are invalid. In this case, the tender cannot be held unless the announcement is renewed. If the invalidity of the advertisements is understood after the tender is made, the tender or contract shall be terminated.

(5) No announcement may be made before the tender/prequalification document is prepared.

(6) No changes may be made to the tender/prequalification document after the announcement is made.

(7) Issues not specified in the tender/prequalification document cannot be included in the announcement.

### **Tender/pre-qualification document**

**ARTICLE 9 –** (1) The tender document includes administrative specifications including instructions to tenderers, technical specifications including the project of the work to be carried out, draft contract and other necessary documents and information. In the pre-qualification document, candidates are required to

conditions, pre-qualification criteria and other necessary documents and information shall be included. General specifications may also be prepared for service and construction works tenders.

(2) In the administrative specifications, it is obligatory to specify at least the following matters according to the subject of the tender:

- a) Name, nature, type and quantity of the work, job description for services.
- b) Name, address, telephone and fax number of the University.
- c) Tender procedure, date and time of the tender and where to submit the bids. ç) Instructions to bidders.
- d) The conditions, documents and qualification criteria required from bidders.
- e) Methods of requesting and making clarifications in the tender document.
- f) Validity period of the offers.
- g) Whether consortiums can bid for the tender, whether it is possible to bid for all or part of the work subject to the tender, whether alternative bids can be submitted in tenders for the purchase of goods, and if so, how alternative bids will be evaluated.

g) transportation, insurance, taxes, duties and charges which will be included in the bid price.

h) The procedures and principles to be applied in the receipt, opening and evaluation of bids and specified in this Regulation.

i) Whether the tender is open only to domestic tenderers and whether price advantage will be applied in favour of domestic tenderers.

j) Type of offer and contract.

k) Regulations regarding the collaterals and the provisional and definitive collateral rates if requested.

l) The University is free to cancel the tender before the tender time.

m) The University is free to reject all bids and cancel the tender.

(3) The tender and pre-qualification documents can be seen free of charge at the University. However, bidders who wish to participate in the pre-qualification or tender are obliged to obtain this document. The cost of the document is determined and announced by the University so as not to exceed the printing cost and not to prevent competition. The document fee shall be deposited only to the bank account specified in the announcement by specifying the name, title, tender name and, if any, number of the tenderer.

### **Amendments or clarifications to the tender and pre-qualification documents**

**ARTICLE 10** – (1) Changes to the tender and pre-qualification documents after the announcement

not to be made. However, if material or technical errors or deficiencies that may affect the preparation of bids or applications are detected by the University or notified to the University in writing, the document may be amended by issuing an addendum. The addendum regarding these amendments shall be sent to all document recipients at least five business days prior to the date of the tender or deadline in a manner to ensure that they are informed within the framework of the principles of notification and notification. However, in the event that the material or technical errors or deficiencies identified are also present in the advertisement, it is possible to continue the tender process by making a correction advertisement.

(2) In case additional time is needed for the preparation of bids or applications due to the amendment, the date of tender or deadline may be postponed with an addendum for a maximum of twenty days for once only. In case an addendum is issued, bidders or candidates who have already submitted their bids or applications shall be given the opportunity to withdraw their bids or applications and re-bid or apply. The announcement regarding the postponement of the tender to a later date is published on the official website of the University.

(3) Regarding the issues that need to be explained in the tender or pre-qualification document, an explanation may be requested in writing until ten business days before the tender or deadline. Requests for clarification after this date shall not be taken into consideration.

(4) If the request for clarification is deemed appropriate by the University, the explanation to be made by the University shall be sent to all those who have received documents until this date within the framework of notification and notification principles. It is also published on the official website of the University. The explanation includes the questions and the detailed answers of the University; however, the identity of the person requesting the explanation is not specified. The written explanations shall be given to those who receive the tender or pre-qualification document after the explanation is made, together with this document.

### **Those who cannot participate in the tender**

**ARTICLE 11** - (1) The following persons may not participate in the tenders within the scope of this Regulation, directly or indirectly or as subcontractors, for themselves or on behalf of others

a) Those who are in charge of preparing, executing, finalizing and supervising the works and transactions within the scope of this Regulation.

b) Those who are temporarily or permanently banned from participating in public tenders by the foundation higher education institutions or by a court decision in accordance with the provisions of the Public Procurement Law No. 4734 dated 4/1/2002 and dated 4/1/2002, this Regulation and other laws, and those who have been convicted of crimes or organized crimes within the scope of the Anti-Terrorism Law No. 3713 dated 12/4/1991 or of the crime of bribing public officials in their own country or in a foreign country.

c) Those who have been declared fraudulent bankrupt by the relevant authorities.

ç) Those who, although they were previously assigned a job at the University, do not want to make a contract in accordance with the procedure, who renounce their commitments after the contract is made, and who are found not to fulfill their commitments in accordance with the provisions of the contract and specifications, except for force majeure.

(2) Contractors providing consultancy services for the work subject to the tender cannot participate in the tender of this work. Likewise, the contractors of the work subject to the tender may not participate in the tenders for consultancy services of that work.

(3) The prohibitions listed in the first and second paragraphs shall apply to the partners and shareholders of these persons.

It also applies to joint stock companies with less than 10% and companies with which the University has a partnership and management relationship, except for companies in which the University is the controlling shareholder in accordance with the Turkish Commercial Code dated 13/1/2011 and numbered 6102, and companies in which these companies own more than half of the capital.

(4) Bidders who participate in the tender despite the prohibitions specified in this article are excluded from the tender. Their provisional guarantees shall be recorded as revenue. In addition, if a tender is awarded to one of them due to the fact that this situation cannot be detected during the evaluation of the bids, the tender shall be cancelled by recording the collateral as revenue.

### **Specifications**

**ARTICLE 12** – (1) In tenders, administrative and technical specifications specifying all kinds of characteristics of the work subject to tender are prepared. The technical criteria of the work subject to tender shall be included in the technical specifications that are part of the tender document. The technical criteria to be determined shall be of a nature to ensure efficiency and functionality, not to include issues that prevent competition and to provide equal opportunity for all tenderers. The general principles and procedures to be applied in the execution of the works in service and construction works tenders may be regulated in the general specifications.

### **Business partnerships and consortia**

**ARTICLE 13** – (1) More than one real or legal person may participate in any tender by forming a business partnership.

(2) Those who form a business partnership shall make a partnership to perform all the work together with their rights and responsibilities.

(3) The business partnership must submit the Declaration of Business Partnership, in which the pilot partner is also identified, together with its application or bid.

(4) The partner with the highest number of shares in the business partnership must be shown as the pilot partner. However, in a business partnership where the share ratios of all partners are equal or where there are partners who have more shares than the other partners and whose shares are equal to each other, one of these partners is determined as the pilot partner. The share ratios of the partners are shown in the Business Partnership Declaration.

(5) In case the tender is awarded to a business partnership; a notarized partnership agreement must be submitted to the University by the business partnership before signing the contract. In this contract; the share ratios of the partners and that the pilot partner and other partners are jointly and severally responsible for the fulfilment of the work are clearly stated.

(6) The University shall specify in the pre-qualification specifications or administrative specifications whether consortia can participate in the tender, and in the tenders in which they can participate, the parts of the work that require different expertise.

(7) The consortium must submit the Consortium Declaration, in which the coordinating partner is also identified, together with its application or bid.

(8) The documents to be submitted by business partnerships and consortia in order to participate in the tender and the evaluation of the qualification criteria shall be based on the regulations made in the tender document.

(9) If the tender is awarded to a consortium, a notarized consortium agreement must be submitted to the University before the contract is signed by the consortium. In this contract, it is stated which part of the work the real and/or legal persons forming the consortium undertake and that they will ensure coordination between them through the coordinator partner in the fulfilment of the work.

### **Subcontractors**

**ARTICLE 14** – (1) If deemed necessary due to the nature of the work subject to the tender, the tenderers may be asked to specify the works they intend to have subcontracted during the tender phase and to submit the list of subcontractors for the approval of the University before signing the contract. However, in this case, the responsibility of the subcontractors for their work does not eliminate the responsibility of the contractor.

### **Local Tenderers**

**ARTICLE 15** – (1) Local tenderers, real persons who are Turkish citizens and legal entities established in accordance with the laws of the Republic of Türkiye are considered local bidders.

(2) The fact that natural persons are local tenderers is understood from the Republic of Turkey identification number in the application or offer letter. The domestic bidder status of legal entities shall be evaluated on the basis of the documents submitted within the scope of the application or offer. No additional document shall be requested for being a domestic bidder.

(3) In order for joint ventures to be considered as domestic tenderers, each of the partners forming the joint venture must be a domestic tenderer.

(4) Based on Article 63 of the Law No. 4734, arrangements may be made regarding the participation of only domestic bidders in tenders and granting price advantage in favour of domestic bidders and bidders offering domestic goods.

### **Notices and notification principles**

**ARTICLE 16** – (1) Notification to the candidates, tenderers and potential tenderers shall be made by the University primarily by hand against signature or by registered mail



with return receipt requested or via the national electronic notification system. Provided that it is specified in the tender document, notification may also be made by fax and electronic mail.

(2) In the notification made by registered letter with return receipt, the date of delivery of the letter shall be deemed as the date of notification. In the notification made by fax, the date of notification by fax shall be deemed as the date of notification. The notification must be documented separately to cover the date of notification. Otherwise, the notification shall be deemed to have been made irregularly and the provisions of Law No. 7201 regarding irregular notification shall apply. In the notification made in this way, it is sufficient that the notification is sent by registered letter with return receipt on the same day.

(3) Notification and notification to be made by the University to joint ventures shall be made to the pilot or coordinator partner within the framework of the principles specified. However, in joint ventures where the pilot or coordinator partner is a foreign bidder, if the notification cannot be made by hand against signature;

- a) The one with the highest share ratio among domestic bidders,
- b) In the event that there is more than one local tenderer with the highest share ratio, notification shall be made to any of these tenderers.

## **CHAPTER TWO**

### **Procurement of Goods and Services, Acquisition of Limited Rights in Kind, Leasing and Construction Works**

#### **Estimated cost**

**ARTICLE 17** – (1) Before issuing the tender approval document, the University shall calculate or have calculated the estimated cost of the work subject to tender, excluding VAT, in accordance with the principles and procedures set out in this Regulation. The estimated price shall be shown in a calculation report to which its bases are also attached and kept among the tender documents. The estimated price shall not be included in the tender and pre-qualification announcements. It shall not be disclosed to tenderers or other persons not officially involved in the tender process.

(2) It is essential that the estimated price is calculated by the University. However, due to the nature of the work, if the technical specifications are prepared by receiving consultancy services because it is not possible to be prepared by the University, the estimated price may also be calculated by the same consultancy service provider.

(3) If partial bidding will be allowed in the tender, the estimated price is calculated separately for each part, taking into account the entire work.

(4) In tenders for the purchase of goods requiring a special manufacturing process, the estimated price is calculated by taking into account labor, materials and other issues related to the purchase.

(5) The materials and equipment to be given to the contractor by the University for the realization of the work subject to the tender are not taken into account in the calculation of the estimated price.

(6) If the tender commission determines that the estimated price has changed in the period until the tender date, it shall take into account the updated estimated price by stating the reasons for the change.

(7) The University shall calculate the estimated price by using one, some or all of the prices obtained within the framework of the following provisions, taking into account the nature of the work subject to tender and market conditions:

- a) The University may calculate the estimated price by requesting prices from public institutions and organizations and professional organizations in the nature of public

institutions or experts according to the nature of the work subject to procurement.

b) The University may calculate the estimated price by requesting a price notification or proforma invoice from real or legal persons who produce or market the goods subject to purchase in the market.

c) The University may calculate the estimated price by using the prices included in the budget implementation instructions and/or health implementation communiqués in medical equipment and service purchases. If these prices include VAT or expenses of a different nature, these expenses are deducted from the prices and the estimated price is calculated.

ç) If the University has made purchases in previous periods related to the work subject to procurement, it can calculate the estimated price by updating the contract prices arising in these purchases by using the index or the appropriate one of the relevant indices published by the Turkish Statistical Institute. For purchases made in foreign currency, the estimated price can be calculated by updating the prices based on the Central Bank of the Republic of Turkey foreign exchange buying rate or cross rate.

d) The University can calculate the estimated price by using the prices published on the websites of public institutions and organizations and professional organizations in the nature of public institutions.

e) For the determination of the estimated price in the purchase, sale, lease, lease, barter, and establishment of limited real rights, the value determinations in the valuation reports to be prepared by Capital Market Board (CMB) licensed real estate appraisal companies in accordance with the CMB legislation and without any limitation shall be taken as basis. In addition, if there is a fair value appraised or determined by the competent authorities or courts in relation to these works, this value may be accepted as the estimated value.

f) The University may use one, more than one or all of the prices and market prices specified in the following subparagraphs in determining the estimated price of the construction work subject to tender, provided that it gives priority to subparagraph (1):

1) Unit prices and market prices determined and published by public institutions and organizations.

2) The prices that emerged in the contracts of the works similar to the work subject to the tender.

3) Prices and market prices determined and published by the relevant professional chambers, universities or similar organizations.

4) Costs related to works similar to the work subject to tender, to be obtained from experienced persons and organizations operating as contractors or subcontractors.

5) Market and price determinations based on the University's market research.

g) The following issues are taken into consideration in the calculation of the estimated price in the tenders for service procurement based on personnel employment:

1) Personnel cost is calculated by taking into account the costs found to be not less than the sum of the gross minimum wage amount determined for workers outside of agriculture and over the age of 16 and the employer's share calculated over this amount. If it is foreseen that the personnel will be paid above the minimum wage, the estimated price is calculated over this rate by determining by the University how many percent (%) more than the gross minimum wage will be, and this rate is clearly shown in the administrative specifications.

2) In cases where it is foreseen to include costs such as meals and transportation costs related to the personnel who will work in the work subject to the tender in the bid price, the gross amounts of these costs are also added to the calculations made above. In addition, the daily gross amounts of the meal and travel costs foreseen to be paid in cash to the personnel and the number of days in a month over which such meal and travel costs

will be paid shall be shown in the administrative specifications.

3) In the calculation of the estimated price, the short-term insurance premium rate determined in accordance with the relevant legislation is taken into account.

4) In the procurement of services based on personnel employment, in case there are work items for which it is not deemed appropriate to receive bids on the number of workers considering the nature of the work subject to the tender, bids may be received on the work item or items constituting the work to be done, instead of the number of workers, provided that the minimum number of personnel to be employed to fulfill the work subject to the tender, including the works within the scope of these items, is specified in the tender document.

ğ) If the estimated price is outdated, it shall be updated until the date of the first announcement or invitation.

h) Price notifications and proforma invoices that do not have the required features or are not realistic compared to other prices shall not be taken into consideration in the studies conducted for the estimated price research.

### **Technical specifications**

**ARTICLE 18** – (1) The technical criteria and specifications of the work subject to tender shall be set out in the technical specifications that are part of the tender document. The technical criteria and specifications must be aimed at ensuring efficiency and functionality, must not contain any issues preventing competition and must ensure equal opportunity.

(2) In the technical specifications, arrangements may be made to ensure compliance with national standards and equivalent international standards, if any. However, in the absence of a national standard, arrangements may be made only on the basis of the international standard.

(3) In the technical specifications, a specific brand, model, patent, origin, source or product cannot be specified and features and definitions for a specific brand or model cannot be included. However, in cases where there are no national and/or international technical standards or it is not possible to determine the technical specifications, the brand or model may be specified provided that the phrase “or equivalent” is included.

(4) In the technical specifications, arrangements may be made for the packaging and labelling of the goods subject to procurement and the user manual.

(5) In the technical specifications, arrangements may be made for the installation and after-sales service of the goods subject to purchase and the provision of spare parts.

(6) In the preparation of technical specifications, the legislation on the preparation and implementation of technical legislation on products should be taken into consideration.

(7) The arrangements to be made in the technical specifications must be compatible with the professional and technical qualification criteria and documents stipulated in the pre-qualification specifications or administrative specifications as qualification criteria for participation in the tender.

(8) The arrangements in the technical specifications must be clear in such a way as not to create any doubt in the examination and evaluations to be made by the tender commission and the inspection and acceptance commission.

(9) In the procurement of goods that require a special manufacturing process, arrangements can be made in the technical specifications for the contractor to first submit the prototype of the good to the University and to produce it after the acceptance of this prototype.

(10) In the event that the contractor is envisaged to employ personnel based on the nature of the goods subject to procurement and the regulations stipulated in this

Regulation, the number and qualifications of these personnel shall be specified in the technical specifications or draft contract.

(11) In the procurement of goods requiring a special manufacturing process, if the goods are covered by technical regulations in accordance with the relevant legislation and their placing on the market is subject to certain rules; the obligations of the University and the contractor for the conformity assessment of the goods shall be specified in the technical specifications and/or the draft contract.

(12) It is essential that the technical specifications are prepared by the University. However, in cases required by the nature of the goods to be purchased, technical specifications may be prepared by consultancy service providers in accordance with the provisions of the Law, provided that they are approved by the tender authority.

### **Qualification rules for participation in the tender**

**ARTICLE 19** – (1) The documents to be requested for the qualification assessment of candidates or tenderers and the criteria to be sought in the qualification assessment shall be specified in the tender or pre-qualification announcement and administrative specifications or pre-qualification specifications.

(2) The following information and documents may be requested from the candidates or tenderers to participate in the tender in order to determine their economic and financial competence and professional and technical competence:

a) For the determination of economic and financial competence:

1) Documents related to the financial status of the tenderer to be obtained from banks.

2) The candidate's or tenderer's balance sheet or parts of the balance sheet deemed necessary or equivalent documents.

3) The total turnover of the candidate or tenderer showing the business volume or documents showing the turnover related to the work subject to tender.

b) For the determination of professional and technical competence:

1) Documents proving that the candidate or tenderer is registered with the relevant chamber in accordance with the legislation and is legally authorised to bid.

2) Documents showing work experience related to the work subject to tender or similar works undertaken under a contract in the public or private sector.

3) Documents showing that the candidate or tenderer carries out innovation or research projects.

4) Documents for ensuring quality in production and/or manufacturing capacity and production process.

5) Information and/or documents regarding the organisational structure of the candidate or tenderer and that it employs or will employ sufficient number and quality of personnel to perform the work subject to tender.

6) Documents showing the training and professional qualifications of the tenderer's management staff and technical personnel who will carry out the work in the service or construction works subject to tender.

7) Documents regarding the facilities, machinery, equipment and other equipment deemed necessary for the fulfilment of the work subject to tender.

8) Documents relating to the relevant technical personnel or technical organisations responsible for quality control, whether or not directly affiliated with the candidate or tenderer.

9) Certificates issued by quality control organisations accredited in accordance with international rules, showing that the work subject to tender complies with the standards specified in the tender document.

10) At the request of the University, samples, catalogues and / or photographs of the

goods to be supplied, or documents containing answers and explanations to the technical specifications in order to confirm their accuracy.

11) Documents regarding the control of production or goods by test-analysis-calibration laboratories or inspection bodies.

12) Documents for after-sales service, maintenance and repair services, taking into account the characteristics of the goods subject to purchase.

13) Considering the nature of the goods subject to procurement, commitment documents and/or documents proving that spare parts and consumables will be provided for a certain period of time and price guarantee will be given.

(3) In order to certify their work experience, candidates or tenderers may be asked for documents showing their work experience in the work subject to the tender or similar works that they have undertaken within the scope of a contract involving a price to the public or private sector in Turkey or abroad. In the applications of engineers or architects who do not have work experience to tenders for construction works in accordance with their undergraduate education, each year after their graduation, provided that the total period does not exceed 15 (fifteen) years, the updated amount in subparagraph (h) of the first paragraph of Article 62 of Law No. 4734 is taken into account as similar work experience. This period is not applied for architects and engineers with work experience. The experience obtained within the scope of the aforementioned subparagraph can also be used by legal entities in which the engineer and architect have at least 51% shares for 5 (five) years.

(4) In the works carried out in the private sector and in the works carried out by subcontractors, the contract related to the work and the invoice samples issued within the framework of the relevant provisions of the Tax Procedure Law No. 213 for the implementation of this contract or the notary public, independent accountant, sworn financial advisor, independent accountant financial advisor

Certified copies of certified copies of certified public accountant or tax office and copies of self-employment receipts or certified copies of these copies by notary public, certified public accountant, independent accountant or tax office are the documents showing work experience. The candidate or tenderer shall submit these documents showing work experience together with their applications or offers. Even if a certificate of completion is issued for the works specified in this article, it shall not be taken into consideration by the tender commission.

(5) For the works performed abroad, the documents showing work experience issued by the official institutions of that country or the contract and the invoice samples issued in accordance with this contract or the copies of these samples certified by the competent authorities or the invoice equivalent documents are the documents showing work experience. The documents submitted must be issued according to the legislation of that country. In the contract; the name, surname or trade name of the owner of the work, the place and nature of the work, the name, surname or trade name of the contractor, the contract price and date and the date of completion and / or acceptance of the work must be shown.

(6) Arrangements for professional and technical obligations that are not specified as qualification criteria for participation in the tender in the pre-qualification specifications or administrative specifications, but which are foreseen to be necessary for the fulfilment of the work during the execution of the contract, shall be included in the technical specifications and/or draft contract. These arrangements are based on the nature of the procurement and the provisions of the relevant legislation. The documents to be submitted by the contractor to the inspection and acceptance commission regarding these obligations are specified in the tender document.

(7) By the decision of the Board of Trustees, standard tender documents and type

contracts may be prepared for the implementation of this Regulation. These documents are published on the official website of the University and put into force.

(8) Tenderers in the following situations are excluded from the tender:

a. Bankrupt, in liquidation, in liquidation, whose affairs are carried out by the court, declares concordat, suspends its business or is in a similar situation according to the provisions of the legislation in its own country.

b. has been declared bankrupt, has been granted a compulsory liquidation order, is under court administration due to its debts to creditors, or is in a similar situation according to the provisions of the legislation in its home country.

c. In the five years preceding the date of the tender, it has been proved by this administration and notified to the relevant contractor that it has engaged in activities contrary to business or professional ethics during its work for the contracting authority.

ç) As of the date of the tender, he/she has been banned from any professional activity by the chamber to which he/she is registered in accordance with the legislation.

d) Does not provide the information and documents specified in this article or is found to have provided misleading information and/or false documents.

e. According to Article 11, participates in the tender even though it is stated that he/she cannot participate in the tender.

f. Were found to have engaged in prohibited acts or behaviours specified in Article 44.

(9) Which of the documents required under this article can be submitted as a letter of undertaking is determined by the University. In the event that a letter of undertaking containing untrue matters is submitted or the documents certifying the situation undertaken by the tenderer who is awarded the tender are not submitted before the contract is signed, those in this situation are excluded from the tender.

### **Updating the amounts in the qualification documents**

**ARTICLE 20** – (1) Document amounts related to business volume are updated as follows:

a. The total annual turnover is updated over the coefficient found by proportioning the index of June of the year in which the income is obtained to the index of the month preceding the month in which the first announcement or invitation date is included.

b. The monetary amount of the realised part of the works under commitment or the monetary amount of the completed works shall be updated over the coefficient found by proportioning the index for the month preceding the month in which the invoice date is included to the index for the month preceding the month in which the date of the first announcement or invitation is included.

(2) The amounts written in the documents showing work experience shall be updated as follows:

a) Documents showing work experience for the works tendered within the scope of Law No. 4734 shall be updated over the coefficient found by proportioning the index of the month preceding the month in which the tender date of the work subject to the document is included to the index of the month preceding the month in which the first announcement or invitation date is included.

b) Documents showing work experience for the works other than subparagraph (a) are updated over the coefficient found by proportioning the index for the month preceding the month in which the contract for the work subject to the document is made to the index for the month preceding the month in which the date of the first announcement or invitation is included.

c) Regarding the works contracted in foreign currency, the documents showing the

work experience for the works tendered within the scope of Law No. 4734 shall be converted into Turkish Lira on the date of the tender of the work subject to the document; other documents shall be converted into Turkish Lira at the exchange buying rate of the Central Bank of the Republic of Turkey published in the Official Gazette on the date of the contract of the work subject to the document. This amount is updated according to subparagraph (a) for the works tendered within the scope of Law No. 4734 and contracted in foreign currency, and according to subparagraph (b) for the works not included in this scope.

#### **Provisional Guarantee**

**ARTICLE 21** – (1) In the tenders, a provisional guarantee of not less than 3% and not more than 6% of the price offered shall be collected from the tenderers. Provided that it is specified in the tender document, it is not obligatory to obtain a provisional guarantee.

#### **Performance bond**

**ARTICLE 22** – (1) In order to ensure that the commitment is fulfilled in accordance with the provisions of the contract and the tender/prequalification document, a maximum of 6% performance bond calculated over the tender price is taken from the tenderer who is awarded the tender before the contract is concluded. Provided that it is specified in the tender document, it is not obligatory to obtain a performance bond.

#### **Tender procedures**

**ARTICLE 23** – (1) In the tenders of goods and service purchases and construction works to be carried out by the University, one of the open tender procedure, tender procedure among certain tenderers or bargaining procedure is applied.

(2) (2) In tenders for procurement of goods and services and construction works, open tender procedure shall be applied.

(3) (3) The total of goods and service purchases and construction works to be made through the bargaining procedure regulated in subparagraph (c) of the first paragraph of Article 26 and through direct procurement regulated in subparagraph (ç) of the first paragraph of Article 27 cannot exceed 10% of the total budget expenditure of the University in the relevant year. The said limit may be increased up to 15% with a reasoned decision of the Board of Trustees showing that it will produce results in favour of the University.

#### **Open tender procedure**

**ARTICLE 24** – (1) Open tender procedure is a procedure where all tenderers can bid.

#### **Tender procedure between certain tenderers**

**ARTICLE 25** – (1) Tendering procedure among certain tenderers is the procedure in which tenderers invited by the University as a result of the pre-qualification evaluation can bid. If the nature of the work requires specialisation and/or advanced technology procurement of goods and services and construction works for which the open tender procedure cannot be applied due to the reason that the open tender procedure cannot be applied may be tendered according to this procedure.

(2) The pre-qualification criteria and conditions to be determined in order to evaluate the financial and technical capacities of the candidates shall be specified in the pre-qualification announcement to be given at least seven days before the deadline.

(3) Provided that it is specified in the pre-qualification announcement and document, a certain number of tenderers who are ranked according to the criteria specified in the

document among those whose qualifications are determined, or all of the tenderers found qualified may be invited to bid. Those who are not invited to bid shall be notified in writing of the reasons for not being invited. If the number of tenderers to be invited to tender is less than three or the number of tenderers submitting a bid is less than two, the tender shall be cancelled.

(4) All documents required as a condition to participate in the pre-qualification are submitted to the University in accordance with the procedures and principles set out in the tender document.

### **Negotiated procedure**

**ARTICLE 26** – (1) In the following cases, tenders may be made by bargaining procedure:

a) No tender is received as a result of open tender procedure or tender procedure among certain tenderers.

b) It is mandatory to make the tender urgently upon the occurrence of force majeure such as natural disasters, epidemics or sudden and unexpected events such as the danger of loss of life and property.

c) Goods and service purchases and construction works of the University, the estimated cost of which will not exceed the amount corresponding to six hundred and sixteen thousand six thousand seven hundred and forty-eight TL, which will be updated every year according to the CPI rate of the total expenses of the previous accounting period.

ç) Works such as the purchase, lease and establishment of limited real rights to movable and immovable properties that cannot be acquired through another tender procedure due to the nature of their use and the special benefit they will provide to the University.

(2) It is not obligatory to make an announcement in the bargaining procedure. Except for the cases where no advertisement is made and except for the cases specified in subparagraph (ç) of the first paragraph, at least three tenderers are invited and these tenderers are asked to submit their qualification documents and written price offers together. The tender commission shall also interview each tenderer. As a result of the negotiations, the tender commission receives the final written price offers from each tenderer, which will be the basis for the tender decision, and the tender is finalised. The manner in which the bargaining is conducted, the bids submitted and the reason for the preference of the tenderer shall be shown in the bargaining decision. In the procurement of goods made within the scope of this paragraph, it is not obligatory to conclude a contract and obtain a performance bond.

(3) In the tenders to be made according to subparagraphs (a) and (c) of the first paragraph, the tenderers, whose competence is determined according to the evaluation criteria specified in the tender document, first submit their first offers, which do not include the price, on issues such as technical details and realisation methods of the work subject to tender. The tender commission negotiates with each tenderer on the methods and solutions that will meet the needs of the university in the most appropriate way and receives the first price offers. As a result of these negotiations, the tender is finalised by receiving the final written price offers that will be the basis of the tender decision from the tenderers, not exceeding the initial price offers.

(4) In the works to be carried out pursuant to subparagraph (ç) of the first paragraph, if there is a fair market value appraised or determined by the competent authorities or courts, this price shall be accepted as the estimated price. Otherwise, negotiations shall be conducted over the estimated price to be determined. The estimated price shall be kept confidential in the negotiations.



### **Direct procurement**

**ARTICLE 27** – (1) In the following cases, direct procurement procedure may be applied without making an announcement and without obtaining a guarantee:

- a) It is determined that the need can only be met by a single natural or legal person.
- b) Procurement of goods and services, which are mandatory for ensuring standardisation and compatibility with existing goods, equipment, technology or services, from the natural or legal person from whom the first procurement is made, through contracts not exceeding 20% of the original contract price and to be issued on the basis thereof, with a total duration not exceeding three years.
- c) Purchases of medicines, vaccines, serum, anti-serum, blood and blood products, orthosis, prosthesis and other patient-specific medical consumables, test and examination consumables that can be determined according to the patient during the application, such as medicines, vaccines, serum, anti-serum, blood and blood products and orthosis, prosthesis, which are uneconomical to stock due to their speciality and the necessity to be used within a certain period of time or to be used in emergencies.
- ç) Purchases of goods and services, tariffed purchases and travel purchases of the University, the estimated cost of which will not exceed the amount corresponding to three hundred and eighty-eight thousand three hundred and seventy-four TL to be updated according to the CPI rate of the total expenses of the previous accounting period.

(2) In the purchases to be made according to this article, without the obligation to establish the commissions specified in Article 5 and to seek the qualification conditions specified in Article 20, the needs shall be procured by the person or persons to be assigned by the tender authority by making price research in the market and by binding a report.

### **Preparation and submission of bids**

**ARTICLE 28** – (1) All documents required to participate in the tender, including the offer letter and provisional guarantee, are placed in an envelope. On the envelope, the name, surname or trade name of the tenderer, the open address for notification, the work to which the tender belongs and the name and open address of the University making the tender are written. The affixed part of the envelope shall be signed and sealed by the tenderer. Bid letters are submitted in writing and signed. In the offer letter, it is obligatory to state that the tender / pre-qualification document has been fully read and accepted, the price offered must be clearly written in numbers and writing in accordance with each other, there must be no scrapes, erasures, corrections on it, and the offer letter must be signed by authorised persons by writing the name, surname or trade name. In tenders for the purchase of goods, if there is a provision in the tender document that alternative bids may be submitted, alternative bids shall be prepared and submitted in the same manner.

(2) The bids are submitted to the University in return for numbered receipts until the tender time specified in the tender/prequalification document. Bids submitted after this time are not accepted and returned unopened. Bids can also be sent by registered post. Bids to be sent by post must be delivered until the tender time specified in the tender / pre-qualification document. The time of receipt of the bids that will not be processed due to delay in the mail is determined by a minute.

(3) The bids submitted cannot be withdrawn or changed for any reason.

(4) The validity period of the bids shall be specified in the tender/prequalification document.

(5) In purchases made by negotiation and direct procurement procedure, the offer letter and all documents required as a condition of participation in the tender can be obtained by using electronic media.

(6) With the decision of the Board of Trustees, the University may establish or

participate in electronic purchasing systems where bidders meeting certain conditions are accepted into the system and can bid electronically.

### **Evaluation of bids**

**ARTICLE 29** – (1) At the time specified in the tender/prequalification document by the tender commission, the number of bids submitted is determined with a report, announced to those present and the tender is started immediately. The tender commission examines the tender envelopes in the order of receipt. The envelopes which do not comply with the first paragraph of Article 28 shall be determined with a minute and shall not be taken into consideration. The envelopes are opened in the order of receipt in front of the tenderers and those present.

(2) It is checked whether the documents of the tenderers are missing or not, and whether their offer letters and provisional guarantees are in compliance with the procedures. The tenderers whose documents are incomplete or whose offer letter and provisional guarantee are not in accordance with the procedure shall be determined with a report. The bidders and bid prices and estimated price amount are announced. The minutes prepared for these procedures are signed by the tender commission. At this stage, no bid shall be rejected or accepted, and the documents constituting the bid shall not be corrected or completed. The session is closed to evaluate the bids immediately by the tender commission.

(3) The bids of the tenderers whose documents are found to be incomplete or whose tender letter and provisional guarantee are found to be not in compliance with the procedure according to the first and second paragraphs shall be decided to be excluded from the evaluation in the first session. However, if there is a lack of information and / or documents that do not affect the merits of the bid, the tenderers are requested in writing to complete this missing information and / or documents within the period determined by the University. Bidders who do not complete the information and/or documents within the specified period are excluded from the evaluation and their provisional guarantees are recorded as revenue.

(4) As a result of this initial evaluation and procedures, the detailed evaluation of the bids of the bidders whose documents are complete and whose tender letter and provisional guarantee are in accordance with the procedure is started. At this stage, it is examined whether the bids comply with the qualification criteria determining the capacity of the tenderers to perform the work subject to the tender and whether the bids comply with the conditions specified in the tender/prequalification document. The bids of the tenderers determined to be ineligible are excluded from the evaluation.

(5) After evaluating the bids, the tender commission determines those whose bid price is extremely low compared to other bids or the estimated price determined by the University. Before rejecting these bids, it asks the bidders in writing for details about the components that it determines to be important in the bid within the period determined by it. As a result of this evaluation, the bids of the bidders whose explanations are not deemed sufficient or who do not provide a written explanation shall be rejected.

(6) If the date determined for the tender coincides with a holiday, the tender shall be held at the same place and time on the first working day following the holiday without the need for re-announcement and the bids submitted until this time shall be accepted. The tender time is determined by taking into account the working hours. Even if the working hours change after the announcement, the tender shall be held at the announced time.

### **Decision and approval of the tender**

**ARTICLE 30** – (1) As a result of the evaluation made by the tender commission according to the arrangements made in the tender document, the tender is awarded to the

tenderer who submits the most economically advantageous tender.

(2) The most economically advantageous bid shall be determined on the basis of price only or by taking into consideration factors other than price such as operation and maintenance cost, cost effectiveness, efficiency, quality and technical value together with price. In tenders where the most economically advantageous tender will be determined by taking into account factors other than price, the monetary values or relative weights of these factors shall be determined in the tender/prequalification document.

(3) In tenders where the lowest price is evaluated as the most economically advantageous offer, if it is understood that the same price is offered by more than one tenderer and these are the most economically advantageous offers, the tender is finalised by determining the most economically advantageous offer by taking into account the factors other than the price specified in the second paragraph.

(4) The tender commission shall determine its reasoned decision and submit it to the approval of the tender authority. In the decisions, the names or trade names of the tenderers, the prices offered, the date of the tender and the reasons for which the tender was awarded to which tenderer, and the reasons for not awarding the tender shall be stated.

(5) The tender authority approves the tender decision within five business days at the latest following the date of the decision or cancels it by clearly stating the reason.

(6) The tender shall be deemed valid if the decision is approved and null and void if it is cancelled.

(7) The result of the tender shall be notified to all tenderers, including the successful tenderer, within three business days at the latest following the day on which the tender decision is approved by the tender authority. In the notification of the tender result, the reasons for not evaluating or rejecting the bids shall also be included. In case the tender decision is cancelled by the tender authority, the tenderers shall also be notified by stating the reasons.

(8) The contract cannot be signed until five business days after the notification of the tender result to all tenderers.

(9) Within three business days following the end of the period specified in the eighth paragraph, the tenderer who is awarded the tender shall be notified to sign the contract by submitting the performance bond within ten business days following the date of notification.

### **Duties and responsibilities of the parties to the contract**

**ARTICLE 31 –** (1) The tenderer who is awarded the tender must sign the contract by depositing the performance bond. Immediately after signing the contract, the provisional guarantee shall be returned. If these obligations are not complied with, the provisional guarantee of the bidder who is awarded the tender shall be recorded as revenue without the need to protest and obtain a judgement. In this case, the University may sign a contract with the tenderer with the second most economically advantageous bidder in accordance with the provisions of this Regulation, provided that it is deemed appropriate by the tender authority. However, in order to sign a contract with the second most economically advantageous bidder, the second most economically advantageous bidder shall be notified within three days following the end of the ten-day period specified in the ninth paragraph of Article 30 in the manner specified in the said paragraph. In the event that the second most economically advantageous bidder does not sign the contract, the provisional guarantee of this bidder is recorded as revenue and the tender is cancelled.

(2) The University is obliged to fulfil its duties to conclude the contract within the periods written in the first paragraph and according to Article 30. In the event that the University fails to fulfil this obligation, the tenderer may withdraw from its commitment within five business days at the latest from the day following the expiry of the period,

provided that it notifies with a ten-day notary notice. In this case, the provisional guarantee shall be returned and the tenderer shall be entitled to claim the documented expenses incurred to provide the guarantee. This damage shall be compensated to those who caused it.

#### **Inspection and acceptance procedures**

**ARTICLE 32** – (1) The inspection and acceptance procedures of the delivered goods, services, construction or work shall be carried out by the inspection and acceptance commission to be established by the tender authority. The inspection and acceptance commission examines whether the procurement of goods and services and construction works subject to tender comply with the qualifications specified in the tender document.

### **CHAPTER THREE**

#### **Sale of Goods and Services and Sale, Lease, Exchange and Establishment of Limited Real Rights and Similar Transactions**

##### **Tender procedures**

**ARTICLE 33** – (1) One of the closed bidding procedure, open bidding procedure and bargaining procedure shall be applied in the tenders related to the sales of goods and services of the University and transactions such as sale, lease, barter, and establishment of limited real rights of immovable property.

(2) In tenders, it is essential to apply the sealed bidding procedure and open bidding procedure, which ensure that the bids are submitted confidentially. The contracting authority shall decide which of these two procedures shall be applied.

##### **Sealed bid procedure**

**ARTICLE 34** – (1) In the sealed bid procedure, bids are made in writing. After the offer letter is placed in an envelope and sealed, the name, surname and open address of the tenderer for notification purposes are written on the envelope. The affixed part of the envelope shall be signed and sealed by the tenderer. This envelope is placed in a second envelope together with the receipt of the provisional guarantee and other required documents and sealed. On the outer envelope, the name and surname of the tenderer, his/her full name and address and the work to which the tender belongs shall be written.

(2) It is obligatory that the offer letters are signed by the tenderer and it is stated in these letters that the specification and its annexes are fully read and accepted, and the price offered must be written clearly in numbers and writing. Bids which are not in compliance with any of these or which have any scratches, erasures or corrections on them shall be rejected and deemed not to have been made at all.

(3) The bids are submitted to the University until the time specified in the announcement, in return for numbered receipts. The receipt number is written on the envelope. Bids may also be sent by registered mail. In this case, the name and address of the University to be sent to the tender commission, the name and surname of the tenderer and the full name and address of the tenderer are written on the outer envelope. The bids to be sent by post must reach the University by the time specified in the announcement. The time of receipt of the bids that will not be processed due to delay in the post is determined by a minute. Bids submitted to the tender commission cannot be withdrawn for any reason.

(4) When the time for opening the bids arrives, after the number of bids is stated in a minute, the outer envelopes are opened in the order of receipt in front of the bidders present, and it is searched whether the required documents and the provisional guarantee have been given in full. The receipt sequence number on the outer envelope is also written on the inner envelope. The inner envelopes bearing the tender letter of the tenderers whose

documents and security deposits are not duly and fully submitted shall not be opened and returned to them or their proxies together with the other documents without further processing. These cannot participate in the tender.

(5) Before the opening of the inner envelopes bearing the tender letters, anyone other than those who will participate in the tender shall be removed from the tender room. After that, the envelopes are opened in order of number, the bids are read or read by the chairman of the commission and a list is made. This list is signed by the chairman and members of the commission. Bidding letters that do not comply with the specifications or have other conditions or do not comply with the provisions of the second paragraph shall not be accepted.

(6) In bidding tenders made by sealed bidding procedure; the tender shall be finalised by receiving the final oral or written bid from the bidders present in the session, provided that it is not below the highest valid bid.

### **Open bidding procedure**

**ARTICLE 35** – (1) Tenders under the open tender procedure are made by the tenderers submitting their written bids to the tender commission. In the following rounds, bids are received orally. However, bidders may also send their bids, which they will organise in accordance with the provisions of Article 34, by registered letter with return receipt, provided that they have reached the University by the tender time specified in the announcement. If the bidder is not present at the commission, the bid sent by mail is accepted as the final and final bid.

(2) When the tender time specified in the advertisement arrives, the chairman of the commission examines the documents of the tenderers and whether they have submitted a provisional guarantee or not, and declares who can participate in the tender. It is decided to return the documents and collaterals of those who cannot participate. These procedures shall be recorded in a report in front of the tenderers. After the report, those who cannot participate in the tender are removed from the tender place. The other bidders are first called to sign the specifications and then to submit their bids in turn. The bids shall be written on the bidding and auction paper and signed by the bidders.

(3) After the first bids are determined in this way, the chairman of the commission reads the bids made by mail, if any, and ensures that these bids are also written on the auction and auction paper belonging to the tender. After this, the bidders continue to make bids in turn. This situation of the bidders who withdraw from the tender is written on the auction and auction paper and their signatures are taken. In case the relevant person abstains from signing, the situation shall be stated separately. Those who withdraw from the tender cannot make a new bid. During the bidding, if it is understood that the discounts or increases made will prolong the work, the bidders are asked to submit their final bids in writing in the presence of the commission. Those who have previously withdrawn from the tender cannot submit a written bid in this case.

### **Negotiated procedure**

**ARTICLE 36** – (1) In the following cases, tenders may be made by bargaining procedure:

a) Failure to receive a bid as a result of a tender made by closed tender procedure or open tender procedure.

b) Sale of goods that are perishable, dangerous to store, or whose storage costs are high compared to their value or the benefit arising from waiting.

(2) In the tenders made by the negotiated procedure, at least two tenderers are invited and asked to submit their price offers in writing. The tender commission shall also interview each tenderer. As a result of the negotiations, the tender commission

asks each tenderer to submit their final price offers that will be the basis for the tender decision. The tender is finalised by receiving the final written price offers.

(3) The manner in which the bargaining is conducted and what kind of offers are made and the reasons why the tenderers are preferred are shown in the bargaining decision.

(4) The value determinations in the valuation reports to be prepared by the real estate valuation companies licensed by the Capital Markets Board (CMB) in accordance with the CMB legislation and without any limitation shall be taken as basis in the trades of immovable properties. In this case, there may be a difference of maximum 10% between the values of immovable properties subject to barter.

### **Determining the appropriate price**

**ARTICLE 37** – (1) In tenders related to the sales of goods and services of the University and transactions such as the sale, lease, barter, and establishment of limited real rights of immovable property, the contract is signed with the bidder who offers the appropriate price.

(2) In auctions, the appropriate price is the highest of the prices offered, not less than the estimated price.

(3) In auctions, the appropriate price is the most favourable of the prices offered, provided that it does not exceed the estimated price. The reasons showing that the preference is in favour of the University shall be stated in the decision.

(4) In tenders made by sealed bidding procedure, the appropriate price is the one deemed worthy of preference among the prices offered, provided that it is not less than the estimated price. Reasons for preference shall be stated in the decisions.

(5) The criteria to be used in the preference of the appropriate price and the maximum amount or rates of discount to be accepted in auctions; the nature, type and quantity of the work, unit prices, payment time and other issues related to the technical and financial competence of the tenderer are determined in the tender document.

### **Provisional bond**

**ARTICLE 38** – (1) A provisional bond not exceeding 6% of the estimated price is collected from the tenderers. Provided that it is stated in the tender document, it is not obligatory to obtain a provisional guarantee.

### **Performance bond**

**ARTICLE 39** – (1) In order to ensure that the commitment is fulfilled in accordance with the provisions of the contract and specifications, the winner of the tender before the contract is made a performance bond not exceeding 6% of the tender price is taken from the tenderer. Provided that it is specified in the tender document, it is not obligatory to obtain a performance bond.

(2) In the event that the tenderer does not comply with this obligation, the tender shall be cancelled without the need to make a protest and obtain a judgement, and the provisional security shall be recorded as revenue.

### **Award and approval of the tender**

**ARTICLE 40** – (1) The decisions taken by the tender commissions shall be signed by stating the names, surnames and main duties of the chairman and members of the commission. In the decisions, the names and addresses of the tenderers, the prices they bid, the date of the tender and the reasons for the award of the tender to which tenderer, and the reasons for not awarding the tender shall be stated.

(2) The tender authority approves the tender decision within five business days at

the latest following the date of the decision or cancels it by clearly stating the reason.

(3) The tender shall be deemed valid if the decision is approved and null and void if it is cancelled.

(4) The result of the tender shall be notified to all tenderers, including the successful tenderer, within three business days at the latest following the day on which the tender decision is approved by the tender authority. In the notification of the tender result, the reasons for not evaluating or rejecting the bids shall also be included. In case the tender decision is cancelled by the tender authority, the tenderers shall also be notified by stating the reasons.

(5) The contract cannot be signed until three business days have elapsed following the notification of the tender result to all tenderers.

(6) Within three business days following the expiry of the period specified in the fifth paragraph, the tenderer who is awarded the tender shall be notified to sign the contract by submitting the performance bond within ten business days following the date of notification..

### **Duties and responsibilities of the parties to the contract**

**ARTICLE 41** – (1) The tenderer who is awarded the tender must sign the contract by depositing the performance bond. Immediately after signing the contract, the provisional guarantee shall be returned. If these obligations are not complied with, the provisional security of the tenderer who is awarded the tender shall be recognised as revenue without the need to make a protest and obtain a judgement. In this case, provided that the price offer is approved by the tender authority, the contract may be signed with the tenderer with the second most appropriate price offer according to the procedures specified in this Regulation. However, in order to sign the contract with the tenderer with the second most favourable price offer, the tenderer with the second most favourable price offer shall be notified to sign the contract by submitting the performance bond within three business days following the end of the ten-day period specified in the sixth paragraph of Article 40. In the event that the second most appropriate price bidder does not sign the contract, the provisional guarantee of this bidder is recorded as revenue and the tender is cancelled.

(2) Within the periods written in the first paragraph, the University is obliged to fulfil its duties regarding the conclusion of the contract, and in the sale of immovable property, to complete the transactions related to the transfer, and to deliver the goods sold according to the limits and specifications specified in the specifications to the tender winner. In the event that the University fails to fulfil this obligation, the bidder may waive its commitment within five business days at the latest from the day following the end of the period, provided that it is notified by a ten-day notary notice. In this case, the provisional guarantee shall be returned and the tenderer shall be entitled to claim the documented expenses incurred to provide the guarantee. This damage shall be compensated to those who caused it.

(3) Provided that the tender price, taxes, duties, fees and other expenses have been paid, the tenderer who wins the tender is obliged to have the immovable property registered in his name within the period written in the specifications. Otherwise, no claim can be made from the University due to damage, loss, unlawful occupation and other reasons.

## **CHAPTER FOUR**

### **Miscellaneous and Final Provisions**

#### **Values to be accepted as collateral**

**ARTICLE 42 –** (1) The values that may be accepted as collateral other than Turkish currency in circulation shall be determined by the tender authority and shown in the announcement.

(2) In case an arrangement is made for the tenderer or contractor to provide a bank letter of guarantee as collateral, the scope and form of these letters of guarantee must comply with the standard forms attached to the tender document. Letters of guarantee that are not issued in accordance with the standard forms are not considered valid. The validity date must be specified in the letters of guarantee submitted as provisional security. This date is determined by the tenderer not less than thirty days from the end of the bid validity period specified in the tender document.

(3) The duration of the letters of guarantee shall be determined by the University by taking into account the date of final acceptance of the goods subject to tender and the warranty period for purchases for which a warranty period is foreseen.

(4) In case the tenderer is a joint venture, the total amount of guarantee can be covered by one or more of the partners regardless of the partnership ratio or the amount of bids submitted for the parts of the work requiring expertise.

(5) Under no circumstances whatsoever, the guarantees received by the University cannot be attached and no precautionary measure can be placed on them.

(6) When deemed necessary, letters of guarantee may be confirmed by the University from the head office or branch of the relevant bank. The confirmations must have the signatures of at least two officials of the bank.

(7) In the works tendered by foreseeing the payment of price difference, an additional performance bond is taken over the values accepted as collateral at the rate of six per cent of the amount to be paid as price difference, and in case of an increase in the contract price, at the rate of six per cent of the amount of this increase. The additional performance bond calculated over the amount to be paid as price difference may also be covered by deductions from progress payments.

#### **Cancellation of the tender**

**ARTICLE 43 –** (1) In cases where the University deems necessary or it is determined that there are issues that prevent the tender from being held and cannot be corrected in the documents included in the tender / pre-qualification document, it may cancel the tender before the tender time by stating the reason.

(2) In this case, the cancellation of the tender by specifying the reason for cancellation is immediately announced to the tenderers in the section on tender announcements on the official website of the University. Those who have bid until this stage are also notified that the tender has been cancelled. If the tender is cancelled, all bids submitted shall be deemed rejected and the bids shall be returned to the tenderers without opening. No claim can be made by the tenderers from the University due to the cancellation of the tender.

(3) In case the tender is cancelled, the reasons for cancellation may be reviewed and the tender may be re-tendered.

#### **Prohibited acts and behaviours**

**ARTICLE 44 –** (1) It is forbidden to engage in the following acts or behaviours in tenders:

a) Mixing or attempting to mix up the transactions related to the tender by means of



fraud, promise, threat, use of influence, gaining benefit, agreement, extortion, bribery or by other means.

b) Making tenderers hesitate, preventing participation, offering or encouraging agreements to tenderers, engaging in behaviours that may affect competition or tender decision.

c) Organising, using or attempting to use forged documents or forged guarantees.

ç) Except in cases of alternative bidding, submitting more than one bid directly or indirectly, in person or by proxy, on behalf of oneself or others by a bidder in tenders.

d) Participating in the tender even though it is stated that he/she cannot participate in the tender according to Article 11.

(2) Those who engage in these prohibited acts or behaviours shall be excluded from the tender. If the prohibited act or behaviour is detected after the contract is signed, the performance bond shall be recorded as revenue and the tender shall be liquidated according to the general provisions. The University takes a decision of the board of trustees regarding the sanction to be imposed on those who engage in prohibited acts or behaviours. This decision is announced by the University.

### **Contracting of the tender**

**ARTICLE 45** – (1) All tenders, except for those exempted under this Regulation, are bound to a contract. The contracts prepared by the University are signed by the manager with signature authority and the contractor. If the contractor is a joint venture, the contracts are signed by all partners of the joint venture. Unless otherwise specified in the tender/prequalification document, the contracts are not required to be registered and notarised. No contract may be issued contrary to the conditions specified in the tender/prequalification document.

### **Prohibited acts and behaviours during the contract process**

**ARTICLE 46** – (1) It is forbidden to engage in the following acts or behaviours during the execution of the contract

a) To interfere with or attempt to interfere with the transactions related to the contract by means of fraud, promise, threat, use of influence, gaining benefit, agreement, extortion, bribery or by other means.

b) Forging, using or attempting to forge documents.

c) Using fraudulent materials, tools or methods during the execution or delivery of the work subject to the contract, making incomplete, faulty or defective manufacturing contrary to the rules of science and art.

ç) Damaging the administration while fulfilling its commitment.

d) To use his/her knowledge and experience to the detriment of the administration.

e) Failure to fulfill its commitment in accordance with the tender document and contract provisions, except for force majeure

### **Transfer of contract**

**ARTICLE 47** – (1) The contract can be transferred to someone else with the written permission of the University. However, the conditions in the first tender are sought in the transferees.

### **Objection**

**ARTICLE 48** – (1) Candidates or tenderers who claim that they have suffered or are likely to suffer a loss of right or damage due to unlawful transactions or actions in the tender process may appeal to the University within five business days from the date of the end of the tender with the claim that the transactions or actions in the tender process are

unlawful.

(2) In the event that the objection application is made to administrative authorities or judicial authorities other than the University and the application petitions are sent to the University by these authorities, the date the petitions are entered into the University records is accepted as the date of application.

(3) Those who claim that they have suffered or are likely to suffer a loss of right or damage due to unlawful transactions or actions in the tender process;

a) Tenderers; submission of the pre-qualification and/or tender document, regulations included in the pre-qualification and/or tender announcement or pre-qualification and/or tender document and/or inconsistencies between these regulations and administrative practices,

b) Candidates; administrative procedures and actions related to the submission, evaluation and finalization of pre-qualification applications in tenders made through the tender procedure between certain tenderers,

c) Tenderers may file an appeal regarding the administrative procedures or actions regarding the submission and evaluation of the qualification applications or bids and the finalization of the tender.

(4) The appeal application is made with a signed petition to the University. It is obligatory to attach to the petition the documents indicating that they are authorized to apply for an objection and the original or a copy of the signature circular approved by the competent authorities. However, if these documents are included in the candidate's or tenderer's application documents or offer envelope, such documents are not required in the petition attachment. The following points shall be included in the petitions:

a) The name, surname or title, address and fax number of the applicant or his/her proxy or representative, if any.

b) Name of the university and the tender.

c) The date of becoming aware of or being notified of the situation subject to the application. ç) The subject of the application, its reasons and the evidence on which it is based.

(5) The objection application to be made on behalf of the joint venture must be made by the pilot partner/coordinating partner or the special partner or partners authorized to represent. In these applications, the joint venture declaration or contract must be attached, and in the applications made by the private partner, the document indicating that the private partner has been authorized to represent the joint venture must also be attached. Applications cannot be made by the same person for more than one tender, by more than one person for the same tender or for more than one tender with a single petition.

(6) As a result of the examination made by the University upon objection

a) Cancellation of the tender if a violation of the law that will prevent the continuation of the tender process and cannot be eliminated by corrective action is detected,

b) To determine corrective action in cases that can be remedied by making a correction and where there is no need to interrupt the tender process,

c) In cases where the application does not comply with the time, procedure and form rules, the contract has been duly signed, or no violation of law that would require the cancellation of the tender or determination of corrective action cannot be detected in the transactions subject to the objection, it is decided to reject the application.

(7) The University shall make a reasoned decision within ten days by making the necessary examination upon the objection. The decision shall be notified to the objector, other candidates or tenderers and potential tenderers within three days following the date of the decision. Except for the announcement and the applications for the tender or pre-qualification document, no notification is made to those who may be tenderers.

(8) In case of an objection to the University, all works and transactions related to the tender shall be suspended. The contract cannot be signed before the expiry date of this period if a decision is not taken within the deadline of the last notification date of the decision taken on the objection. After the objection, the University cannot sign a contract unless it is approved by the tender authority to continue the tender procedures due to urgency and public interest. This justified approval to proceed with the tender procedures shall be notified at least seven days before the contract is signed, taking into account the time required to ensure that it is notified to the tenderer who has filed an objection. If the contract is signed without proper notification by the University, the tender decision and the contract shall be deemed null and void.

**Operations not subject to the provisions of this Regulation ARTICLE 49**

– (1) The University is not bound by the provisions of this regulation in the purchases to be made in the following cases and these purchases are made by direct tender procedure;

- a) Public administrations and fixed or revolving capital institutions affiliated to these administrations and unions established by special budget administrations,
- b) State economic enterprises and organizations with more than half of their capital belonging to the State, state economic enterprises or local administrations, alone or jointly,
- c) Foundations established for the purpose of strengthening the Turkish Armed Forces and organizations, companies and institutions more than half of the capital of which belongs to these foundations,
- d) Partnerships and their associations established by special law and having legal personality and buying, processing, evaluating, improving, selling the products of their partners or, where stipulated by law, of non-partners, and providing tools and equipment for production needs,
- d) Organizations with legal personality established by special laws and entrusted with public duties,
- e) From the commercial enterprises of the University whose capital is wholly owned by the University,
- f) Purchases for digital and printed database subscriptions related to education and training activities.

(2) The provisions of this Regulation shall not apply to the sales made by the economic enterprises of the University and the sales of services produced during education and training activities such as health application and research centers.

**Purchases of goods and services within the scope of research and development funds**

**ARTICLE 50** – (1) Goods and service purchases to be made within the scope of the funds provided by public institutions and organizations and international organizations for research and development projects are carried out according to the procedure to be determined within the framework of the protocol made with the funding institution/organization, based on the purpose and amount of the fund, provided that it remains within the field of activity of the University. In case there is no provision in the protocol regarding the purchase of goods and services, the provisions of this Regulation shall apply.

**Framework agreements**

**ARTICLE 51** – (1) The University may make framework agreements for the

procurement of goods and services and construction works it needs, provided that it applies the open tender or tender procedure among certain tenderers. Framework agreements cannot be used in a way that prevents, limits or distorts competition.

(2) Goods and service purchases and construction works to be procured under the framework agreement shall be announced according to Article 10 of the Tender Regulation for Foundation Higher Education Institutions. The estimated amounts of need to be met within the scope of the framework agreement are shown in the announcement.

(3) Framework agreements with a maximum duration of forty-eight months may be concluded with at least two bidders in cases where all conditions are determined from the beginning. As a result of the evaluation, the bidders whose bids are deemed valid shall be listed in order starting from the most economically advantageous bid. In the event that the number of tenderers party to the framework agreement falls below two, the parties shall be notified of the termination of the existing framework agreement.

(4) Bidders shall certify their continued qualification every twelve months. The framework agreements of those who do not continue to be qualified and of the bidders who do not submit valid bids twice despite being invited to bid shall be terminated.

(5) The framework agreement with the tenderer who fails to sign a contract within the period specified in the tender document despite being invited for an individual contract shall be terminated and a prohibition decision shall be issued.

(6) The fact that a framework agreement has been concluded does not obligate the University to make purchases. The University may also procure its needs within the scope of the framework agreement by using other procedures in this Regulation.

### **Dynamic Procurement system**

**ARTICLE 52** – (1) The dynamic procurement system may be used for the electronic procurement of goods available in the market as finished goods. Open tender procedure shall be applied in the establishment of the system. The dynamic procurement system may not be operated in a way that prevents, limits or distorts competition.

(2) The fact that the system will be established is announced by means of an announcement in accordance with Article 10 of the Tender Regulation for Foundation Higher Education Institutions. The tender document shall include information on the nature, type and quantity of the planned procurement, as well as the procurement system, the electronic equipment to be used in the operation of this system, the arrangements necessary for technical connection to the system, the rules governing the operation of the system and other issues.

(3) All natural and legal persons and joint ventures that fulfill the qualification criteria and submit a preliminary bid in accordance with the conditions set out in the tender document shall be given the opportunity to be included in the system. Pre-bids may be continuously improved as long as they comply with the conditions set out in the tender document.

(4) The evaluation of the preliminary bids shall be completed within fifteen days from the date of submission. If the invitation to bid has not yet been made, the evaluation period may be extended once for up to fifteen days.

(5) The bidders shall be notified within three business days at the latest after the decision is taken that the dynamic purchasing system has been established or the establishment of the system has been abandoned and that the preliminary bids have been accepted or rejected.

(6) All tenderers accepted into the system shall be invited to submit bids by allowing them sufficient time to submit their bids.

(7) The procurement is finalized and contracted by evaluating the bids according to the principles specified in the tender document.

(8) The duration of the dynamic procurement system may not exceed forty-eight months.

(9) An electronic platform shall be used in the tenders to be held in the dynamic procurement system. No fee shall be charged for being accepted to the system and for the execution of the

system.

### **Electronic auction**

**ARTICLE 53** – (1) Provided that it is specified in the advertisement and tender documents, electronic auction may be conducted after the completion of the evaluation of bids in tenders. Electronic auction may also be applied in tenders made under the dynamic procurement system and framework agreements. Electronic auction shall not be applied in consultancy service procurement tenders.

(2) Electronic auction may be used only in cases where all technical specifications of the procurement subject to tender are clearly determined.

(3) Before starting the electronic auction, the initial evaluation of the bids shall be made according to the conditions specified in the tender document.

(4) The bidders deemed to be qualified are invited at the same time to bid again electronically. The invitation shall include the date and time of the start of the auction and all information necessary for the bidder to connect to the electronic tool in use. A timetable showing each stage of the electronic auction shall be transmitted with the invitation. An electronic auction may be conducted in more than one consecutive stage. The auction cannot be started until two business days after the invitation is sent.

(5) In cases where the most economically advantageous bid is determined by taking into account non-price factors, the mathematical formula regulating the ranking according to the initial evaluation result and the new bids submitted in the auction shall also be notified in the invitation. This formula shall also include the relative weights, if any, of all the factors used in determining the most economically advantageous tender as specified in the tender announcement or tender document.

(6) At each stage of the electronic auction, the bidders shall be immediately provided with the information necessary for them to know their current ranking. Provided that it is specified in the tender document, information about the bids of other bidders and the number of bidders at any stage of the auction may also be announced. However, the identities of the bidders cannot be disclosed during the electronic auction.

(7) The auction shall be terminated in the event of one or more of the following situations:

a) The date and time specified in the invitation for participation in the auction expires.

b) Failure to receive bids that meet the minimum difference interval within the waiting period specified in the invitation for the submission of new bids.

c) Completion of the number of rounds specified in the invitation.

### **Legislation to be applied in case of contradiction**

**ARTICLE 54** – (1) In case of any conflict between the provisions of this Regulation and the provisions of the Regulation on Foundation Higher Education Institutions, the provisions of the Regulation on Foundation Higher Education Institutions shall apply.

### **Repealed regulation**

**ARTICLE 55** – (1) Beykoz Logistics Vocational School of Logistics Procurement and Tender Regulation published in the Official Gazette dated 11/8/2011 and numbered 28022 has been repealed.

### **Effectiveness**

**ARTICLE 56** – (1) This Regulation takes effect on the date of its publication.

**Execution**

**ARTICLE 57** – (1) The provisions of this Regulation are executed by the Board of Trustees of Beykoz University.