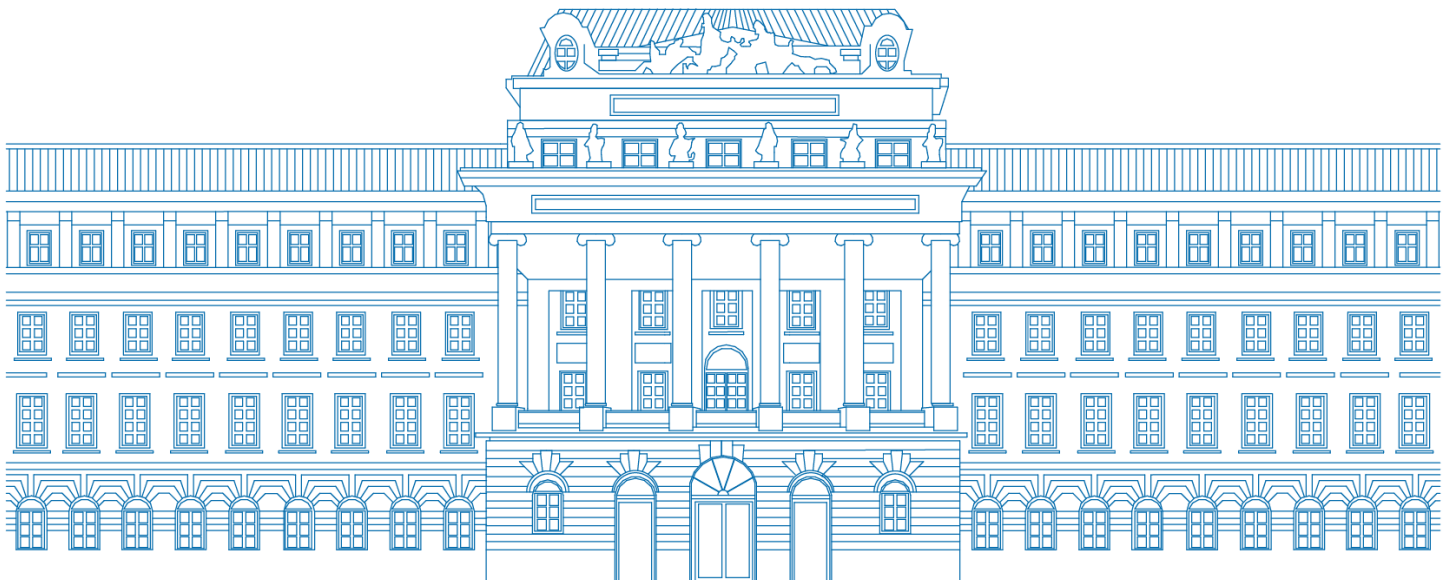




TECHNISCHE  
UNIVERSITÄT  
WIEN

# Procurement

Procurement Guidelines of TU Wien



University Gazette no. 48/2022 dated 24.11.2022 (ser. no. 501)

[www.tuwien.at](http://www.tuwien.at)

## DOCUMENT INFORMATION

(online 23/11/2022)

Decision of the Rectorate of	22.11.2022
Administrative Assistants	Pascal Prabitz/Astrid Steiner
Ref:	30002.04/038/2022

These guidelines are entering into force for the first time.

# CONTENTS

<b>PREAMBLE</b>	<b>4</b>
<b>DEFINITIONS</b>	<b>4</b>
<b>1 SCOPE OF APPLICATION</b>	<b>5</b>
<b>2 RESPONSIBILITIES</b>	<b>5</b>
<b>3 PROCUREMENT PRINCIPLES</b>	<b>5</b>
<b>4 PROCUREMENT CONDITIONS</b>	<b>6</b>
<b>5 TYPES OF PROCUREMENT</b>	<b>6</b>
5.1 Direct award	6
5.2 Procurement from EUR 100,000 excluding VAT	7
5.3 Special forms	7
5.3.1 R&D contracts	7
5.3.2 Procurement of large equipment	7
5.3.3 Procurement through the BBG	7
<b>6 DISCLOSURE OF CONTRACTS AWARDED</b>	<b>8</b>
<b>7 CONSEQUENCES IN THE EVENT OF INFRINGEMENTS</b>	<b>8</b>
<b>8 ENTRY INTO FORCE</b>	<b>8</b>
<b>APPENDIX: DIAGRAM</b>	<b>9</b>

## Preamble

As a public body, TU Wien is subject to the provisions of the Federal Procurement Act 2018 (BVerG 2018). The purpose of procurement law is to ensure, in particular, that taxpayers' money is used in an efficient, economical and transparent manner.

In addition to these guidelines, TU Wien employees are also required to comply, in particular, with the following laws and internal guidelines when procuring goods and services:

- Federal Procurement Act 2018 (BVerG 2018) <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20010295>
- Universities Act 2002 (UG) <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20002128>
- Financial Management Guidelines <https://www.tuwien.at/index.php?eID=dms&s=4&path=Richtlinien%20und%20Verordnungen/Gebarungsrichtlinie.pdf>
- Guideline on Powers of Attorney <https://www.tuwien.at/index.php?eID=dms&s=4&path=Richtlinien%20und%20Verordnungen/Vollmachtsrichtlinie.pdf>
- Guideline on Conflicts of Interest <https://www.tuwien.at/index.php?eID=dms&s=4&path=Richtlinien%20und%20Verordnungen/Interessenkonflikte.pdf>
- Guideline on the Internal Control System <https://www.tuwien.at/index.php?eID=dms&s=4&path=Richtlinien%20und%20Verordnungen/IKS-Richtlinie.pdf>
- Anti-corruption and Transparency Guideline [https://www.tuwien.at/index.php?eID=dms&s=4&path=Richtlinien%20und%20Verordnungen/Antikorruption\\_Transparenz.pdf](https://www.tuwien.at/index.php?eID=dms&s=4&path=Richtlinien%20und%20Verordnungen/Antikorruption_Transparenz.pdf)

## Definitions

- **Contract value:** The estimated contract value is the value that a prudent and competent client would estimate to have to pay to procure a particular service after examining the relevant market segment (e.g. by studying catalogues, price lists, etc.). It must be ensured that all services that, in terms of their function, form part of the same project are included in the calculation of the estimated contract value. If large equipment is procured, for example, the necessary installation costs must also be taken into account in the calculation of the contract value. Whether these services are then procured simultaneously or separately in successive transactions is irrelevant. The same applies to any options as regards placing additional orders and extending the duration of a contract: these must also be taken into account in the calculation of the estimated contract value. It is not permitted to award contracts for related services separately in order to bring spending below the public procurement thresholds (ban on splitting!). The basis for calculating the estimated contract value of a contract is the total value excluding VAT that the public-sector client expects to pay. The estimated contract value is the basis for deciding which type of tender process can be carried out.
- **Procurement:** Procurement refers to the acquisition of any services (supply, works and service contracts) in return for consideration. The consideration does not necessarily have to consist of a monetary payment, but may also take the form of another type of asset. Consequently, any legal transactions in which, for example, equipment is received in exchange for research and development services provided by TU Wien also fall under the Procurement Guidelines.
- **TU Wien procurement bodies:** Buildings and Technology Service Department (GuT, E080-50-3) and Research and Transfer Support Service Unit (FTS, E058-02).

- Bundesbeschaffung GmbH (BBG): The BBG is the public procurement service provider. TU Wien is able to place orders under the framework agreements that the BBG has concluded with suppliers without having to carry out its own tender process.
- TU Wien uses the term large equipment to refer to equipment with an individual acquisition cost of at least EUR 50,000 excluding VAT.
- TU GIB: TU Wien Großgeräte Investitions- und Betriebs- GmbH, an indirect wholly owned subsidiary of TU Wien.

## 1 Scope of application

These guidelines apply to all employees of TU Wien.

The guidelines do not apply to

- employment contracts, contracts relating to freelance service contracts
- contracts relating to the acquisition, rental or leasing of land or buildings
- donations

## 2 Responsibilities

- a) Up to a contract value of EUR 50,000 excluding VAT, procurement may take place within the scope of the power of attorney granted for the role in question, without having to involve the TU Wien procurement bodies (see Guideline on Powers of Attorney, point VI 'Power of attorney for the award of contracts and procurements including project power of attorney'). Certain legal transactions and legal acts are, however, excluded (see Guideline on Powers of Attorney, point IV).
- b) From a contract value of EUR 50,000 excluding VAT, procurement, in particular of large scientific equipment, is carried out by the structural element for which the good or service is being procured, in collaboration with the FTS, E058-02.
- c) Irrespective of the contract value, works, trades, supplies and services required for the general operation of the buildings (e.g. cleaning services, structural adaptations to accommodate new equipment) are procured by the GuT, E080-50-3.

## 3 Procurement principles

- Economy and efficiency when awarding public contracts
- Principle of sustainability
- Appropriateness of prices
- Equal treatment of all candidates and tenderers
- Purely objective evaluation of tenderers and bids

- Award of contract to legally authorised, efficient and reliable suppliers
- Free competition
- Transparency of the procurement process (public announcements of invitations to tender, disclosure of contracts awarded)

## 4 Procurement conditions

- Procurement may only take place if it is necessary to allow TU Wien to carry out its tasks and if there is a sufficient budget available to cover it in advance.
- A corresponding order must be created in SAP for every procurement, with the exception of orders transferred to TU GIB.
- If the procurement in question (including the acceptance of donations) requires infrastructural measures (e.g. rooms, structural analysis, building services), the power of attorney holder must arrange these with the GuT, E080-50-3 in good time prior to procurement and obtain the approval of the Rectorate member responsible for infrastructure according to the Rectorate's rules of procedure.
- A relevant power of attorney must have been granted for the conclusion of procurement contracts (see Guideline on Powers of Attorney, point VI).

## 5 Types of procurement

### 5.1 Direct award

If the contract value is less than EUR 100,000 excluding VAT, a direct award is possible. This involves procuring a service from a selected, suitable supplier without any formal requirements. However, the following procedure must be observed:

Estimated contract value excluding VAT	Procedure
up to EUR 5,000	no comparative bids required
from EUR 5,001 to EUR 20,000	at least 2 bids must be obtained
from EUR 20,001 to EUR 49,999	at least 3 bids must be obtained
from EUR 50,000	contact FTS, E058-02

The best-bidder principle applies, based on the criteria of price, quality, functionality and service. If the lowest-price bidder is not the best bidder, this must be justified in writing and documented in the form of a file note.

The requirement to obtain multiple bids may only be waived if, for objectively understandable reasons, it is not expedient or possible to obtain bids for the procurement in question (e.g. the good or service can only be supplied by one particular company). This procedure must be documented in the form of a file note. Up to a contract value of EUR 49,999 excluding VAT, all documents, including comparative bids and any justification as to why the lowest bid has not been accepted, must be attached to the SAP order in the form of a scan.

## 5.2 Procurement from EUR 100,000 excluding VAT

In principle, from an estimated contract value of EUR 100,000 excluding VAT a public tender must take place. However, in situations where there is only one supplier of a particular service a public tender may be dispensed with, after the facts have been fully documented ('monopoly situation').

## 5.3 Special forms

### 5.3.1 R&D contracts

If TU Wien awards a service contract itself relating to research and development services (e.g. as a subcontractor), this procurement procedure is subject to procurement law if the following conditions apply:

- The results of the research and development contract will be the exclusive property of the public-sector client TU Wien for use in carrying out its own activities
- and
- full consideration will be paid by the public-sector client TU Wien

Both conditions must apply for such a procurement to fall under the BVerG 2018. Research and development contracts that are concluded in pursuit of general political and economic objectives and are therefore not linked to the specific contract, e.g. contracts relating to fundamental research and research funding, are not covered by the BVerG 2018.

### 5.3.2 Procurement of large equipment

If the final contract value for large equipment amounts to at least EUR 50,000 excluding VAT, the procurement must be handled as follows:

- Tender process carried out by TU Wien, with mandatory involvement of FTS, E058-02, and subsequent transfer of the contract, and consequently ownership of the subject of the contract, to TU GIB.
- Investments in equipment exceeding EUR 50,000 excluding VAT that are made within the framework of projects funded by third parties are not generally transferred to TU GIB.
- If large equipment with a contract value of at least EUR 50,000 excluding VAT is to be procured by TU GIB through the BBG, the written approval of the competent person(s), according to the Rectorate's rules of procedure, must be obtained in advance.

### 5.3.3 Procurement through the BBG

The BBG carries out tenders on behalf of the Republic of Austria. Central federal offices are obliged to make use of these contracts. TU Wien is a 'third-party customer' and can place orders for goods and services under the contracts against payment of a fee, which is already included in the prices. However, TU Wien is not under any obligation to procure goods and services through the BBG.

All information on the BBG (registration, placement of orders, etc.) can be accessed in the form of a PDF document on the download page of the Buildings and Technology Service Department (GuT, E080-50-3) under 'BBG-Anmeldung E-

Shop' ('BBG E-Shop Registration') (<https://www.tuwien.at/tu-wien/organisation/zentrale-bereiche/gebaeude-und-technik/downloads-und-links>).

If you have any questions about the BBG, please contact the procurement body of the GuT, E080-50-3: [beschaffung@gut.tuwien.ac.at](mailto:beschaffung@gut.tuwien.ac.at).

## 6 Disclosure of contracts awarded

TU Wien is subject to statutory duties to disclose information in public databases: contracts awarded with a value from EUR 50,000 excluding VAT must be disclosed. Such disclosure is the responsibility of the procurement bodies.

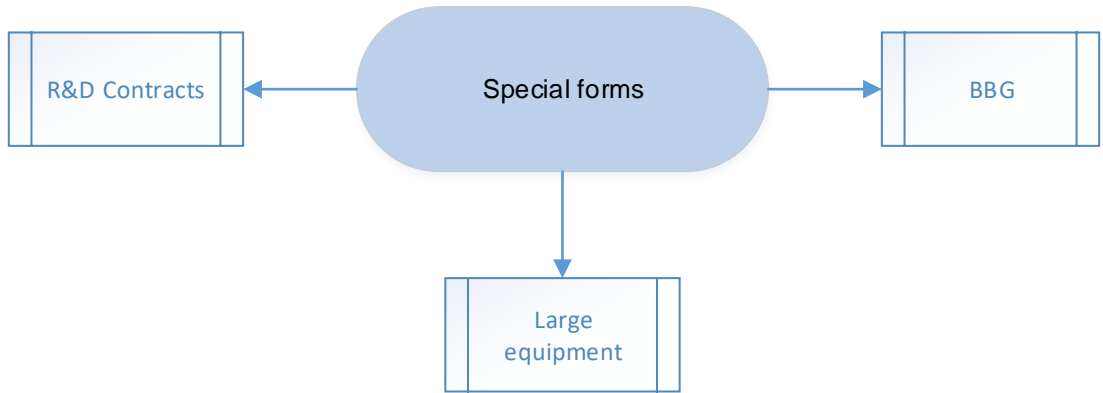
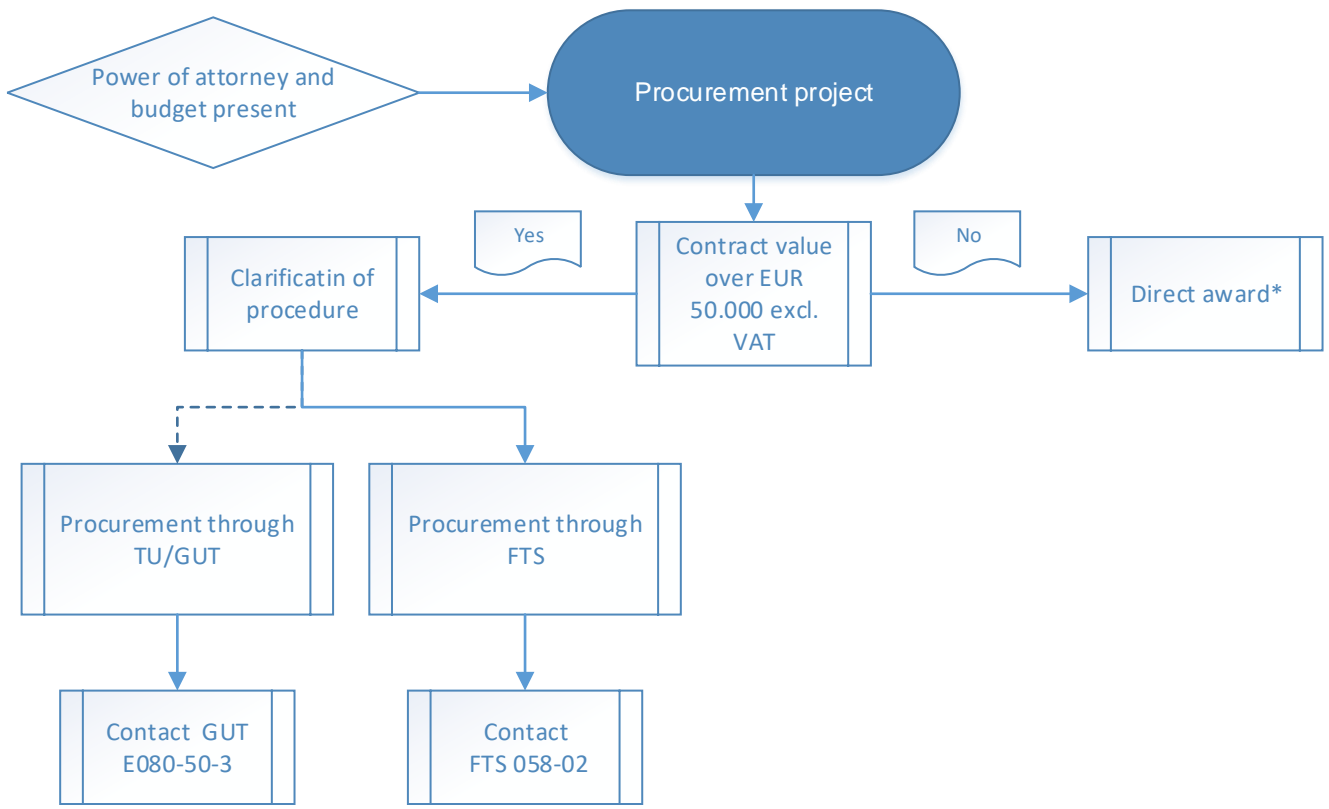
## 7 Consequences in the event of infringements

Failure to comply with the provisions of procurement law or the internal guidelines may result in an award being declared invalid and TU Wien having to pay compensation. There may also be consequences for the employee(s) concerned under criminal and employment law.

## 8 Entry into force

These guidelines will enter into force on the day following that on which they are published in the University Gazette.





\*irrespective of the contract value, the works, trades, supplies and services required for the general operation of the buildings (e.g. cleaning services, structural adaptations to accomodate new equipment) are procured by GUT (Buildings and Technology Service Department / E080-50-3)