

AIB PROCUREMENT POLICY

SPONSORING PARTY: BOARD

In order to function optimally and maintain an effective organisation, the AIB needs certain goods and services. Procurement is a structured procedure designed to consult the market for the purchase of these goods and services. This document sets out the framework for procurement within the AIB at the background of the applicable legal public procurement context.

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1 PURPOSE OF THE AIB PROCUREMENT POLICY

The purpose of this procurement procedure is fourfold:

- i. To obtain the best quality of services, supplies and works in the most cost-efficient way.
- ii. To guarantee the widest possible participation of economic operators.
- iii. To ensure transparency of operations within AIB, most of all towards its members.
- iv. To respect the applicable legal obligation with regard to public procurement.

2 LEGAL FRAMEWORK

The **Belgian legislation on public procurement** applies to AIB.¹

The Public Procurement Act of 17 June 2016 - [Wet inzake overheidsopdrachten van 17 juni 2016](#) contains the transposition into Belgian law of the European Procurement Directives 2014/24/EU and 2014/25/EU.

The most important Royal Decrees implementing the Act of 17 June 2016 are:

- i. Royal Decree on public procurement procedures in the classic sectors of 18 April 2017 (hereafter: Royal Decree 18/04/2017) - [Koninklijk besluit plaatsing overheidsopdrachten in de klassieke sectoren van 18 april 2017](#)
- ii. Royal Decree laying down the general implementing rules for public procurement of 14 January 2013 (hereafter: Royal Decree 14/01/2013) - [Koninklijk besluit tot bepaling van de algemene uitvoeringsregels van de overheidsopdrachten van 14 januari 2013](#)

This regulatory framework governing public procurement has been complemented by the **Act of 17 June 2013** concerning the motives, the information, and the legal remedies with regard to public procurement contracts and certain contracts for works, supplies and services - *Wet betreffende de motivering, de informatie en de rechtsmiddelen inzake overheidsopdrachten, bepaalde opdrachten voor werken, leveringen en diensten en concessies van 17 juni 2013*.

3 GENERAL PRINCIPLES OF PROCUREMENT BY AIB

Notwithstanding any other legal obligations, all procurement procedures within AIB must be carried out bearing in mind the following fundamental principles.

3.1 Competition

The public procurement process shall not be manipulated for the benefit of any organisation or individual. Given that public procurement is funded primarily with tax-payers' money, all eligible organisations and individuals shall be allowed to participate by submitting offers in response to a specific requirement for which they are qualified.

¹ Art.2, 1° (c), iii of the Public Procurement Act: (a) AIB is an "ivzw" (an international non-profit organization established according to Belgian law), thereby having legal personality, (b) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; (c) financed, for the most part, by organisations subject to public procurement law.

3.2 Equal treatment and non-discrimination

Following EU law, no discrimination is allowed based on nationality.

The choice of contractor must be made based on objective criteria allowing equal assessment of all interested suppliers. Throughout the procedure, all tenderers must have access to the same information. All relevant information and legislation must be available in English.

Furthermore, the procurement must follow both the procedure that was established beforehand and the applicable legal provisions.

3.3 Transparency

All procurement procedures must be transparent, meaning that all interested parties know and understand the actual methods, processes, and deadlines by which contracts are awarded and managed. The procurement procedure must be documented in a file and be motivated, both formally and content-wise.

Also, within AIB, transparency is key and reporting structures are installed to ensure this (see below “checks and balances”)

3.4 Motivation

All public procurement decisions must be supported by factual and legal reasons.²

3.5 Insider agreements and the prevention of conflicts of interest

AIB can close contracts with its members, or anyone directly or indirectly related to that member in accordance with this procurement policy. Any such agreement shall be at arms’ length, meaning that it is closed against normal market prices and commonly negotiated terms and conditions.

AIB takes the necessary measures to effectively prevent, recognize and resolve conflicts of interest during the award and execution of contracts, in order to avoid distortion of competition and to ensure equal treatment of all potential suppliers.

The concept of conflict of interest covers at least every situation in which a person involved in the placement or performance who is in any way affiliated with AIB, as well as any person who can influence the placement or the result thereof, directly or indirectly, financial, has any economic or other personal interests that may be deemed to compromise their impartiality and independence in placement or performance.

Any person who is affiliated with AIB in any way is forbidden, in any way whatsoever, to intervene directly or indirectly in the placement or execution of a government contract as soon as he, personally or through an intermediary, may end up in a state of conflict of interest with a candidate or tenderer. In exceptional circumstances, however, this prohibition does not apply if it would prevent AIB from meeting its needs.

² Belgian Act of 29 July 1991 on the formal notification of the reasons for administrative acts.

A conflict of interest is in any case suspected to exist:

- i. as soon as a person affiliated with AIB is related by blood or marriage in the straight line to the third degree and in the side lines to the fourth degree or in the case of legal cohabitation, with one of the candidates or tenderers or with any other natural person who exercises representation, decision-making or control powers on behalf of one of them.
- ii. if a person affiliated with AIB, himself or through an intermediary is the owner, co-owner or working partner of one of the applying or registering companies or legally or in fact, himself or, if necessary, through an intermediary, an exercise representation, decision or control powers.

The person who is in a state of conflict of interest is obliged to declare this and inform AIB in writing and without delay.

If a person affiliated with AIB, himself or through an intermediary, owns one or more shares or units worth at least five percent of the share capital of one of the applicants or registering companies, he is obliged to inform AIB thereof.

3.6 Checks and balances

The following monitoring mechanisms are in place:

- Procurement decisions shall be based on pre-announced economic and qualitative factors, which can be retrospectively verified.
- Procurement material (including invitation to tender, all tenders and procurement decision) shall be well documented and archived.
- A tender evaluation team shall consist of at least three persons, under the supervision of a Board member.
- All AIB's procurements shall be budgeted.
- Following Article 8.3.3 of the Articles of Association, The Board needs the prior consent of the General Meeting for any undertaking, commitment, agreement, deed, mortgage, bond, contract, or other measure involving obligations or liabilities:
 - o that is above 3% of the annual Association budget and that has not been approved or cannot be categorised as part of this annual Association budget.
 - o without a threshold in case the total value of expenditure and commitments outside the annual Association budget exceeds 3% of the annual Association budget since this was approved by the General Meeting.
- All AIB's procurements shall be reported to the next General Meeting, including a summary of every tender procedure that was held.

4 ALTERNATIVES TO PUBLIC PROCUREMENT

Only in very limited cases, no official tender procedure must be followed.

4.1 Purchases below € 30.000

For purchases below € 30.000, no public tender needs to be held. However, three quotes shall be requested. These purchases can be done with the approval of the Secretary General alone or, in case the total value of expenditure and commitments outside the annual Association budget exceeds 3% of the annual Association budget since this was approved by the General Meeting; by the Board upon prior consent of the General Meeting.

4.2 A member's framework contract

Where possible, AIB can use a framework contract concluded by one of its members. This framework agreement shall contain the explicit possibility for AIB to use the contract, and this possibility shall already be included in the tender documents before it was concluded.

4.3 Employment contracts

Employment contracts are exempt from public procurement rules. .

4.4 Acquisition and lease of real estate

Acquisition and lease of real estate is exempt from the public procurement rules.

5 THRESHOLDS

Depending on the **value of the contract**, different procurement procedures apply. The contract value is calculated based on the total remuneration of all the services for the whole term of the contract, including extensions, with a maximum of in principle 4 years.

The Belgian procurement legislation contains a number of methods and **principles for the calculation** of the contract value, depending on the type of contract and services.

It is **forbidden to subdivide a contract** into different contracts in order to avoid certain threshold values.

The public procurement legislation makes the following distinction in function of the value of the contract:

5.1 Assignments with a value up until € 30.000 (excl. VAT)

In line with Belgian law, contracts with an estimated value up until €30.000 (excl. VAT) can be based on an accepted invoice. This means that the public contract between the contracting authority and the contractor is concluded with a simple purchase order. The invoice (issued by the contractor) without any tender specifications is valid proof for a concluded public procurement contract. General market screening but no minimum of official offers or publication is required.

No tender specifications need to be written, no publication needed, 3 offers to be requested.

5.2 Assignments with a value between more than € 30.000 and less than € 140.000 (excl. VAT)

Formal tender including tender specifications, no publication needed.

5.3 Assignments with a value from € 140.000 to € 215.000 (excl. VAT)

Basically, no possibility for a tender procedure without publication.

Assignment to be published on Belgian and European (TED) level.

5.4 Assignments with a value over € 215.0000 (excl. VAT)

Assignment to be published at European (TED) level.

All assignments with a value above € 215.000 require a specific a priori mandate from the General Meeting.

6 CONTRACT SIGNING AUTHORITY

Unless otherwise described in the delegation matrix or an ad hoc mandate, all contracts are signed jointly by the Chair of the Board and the Secretary General.

7 INVOICES AND PAYMENT

Upon receipt, all invoices are checked by the Secretary General. After approval they are submitted for payment to the financial responsible who prepares payment in the banking app.

Each payment requires electronic signature from the Treasurer and the Secretary General.