

**DECISION No 2022/02**

**OF THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT COMMUNITY**

**of 15 December 2022**

**on the revised procedure for the implementation of the budget and the presenting and auditing of accounts, applicable to the Transport Community**

THE REGIONAL STEERING COMMITTEE OF THE TRANSPORT COMMUNITY,

Having regard to the Treaty establishing the Transport Community, and in particular Article 24(1) and Article 35 thereof,

HAS ADOPTED THIS DECISION:

**Sole Article**

The revised financial rules and auditing procedures applicable to the Transport Community, attached to this Decision, are hereby adopted.

Done in Belgrade on 15 December 2022

*For the Regional Steering Committee*

*The President*

  
Emina Mujević Kara

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FINANCIAL RULES AND AUDITING PROCEDURES  
APPLICABLE TO THE TRANSPORT COMMUNITY

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# **TITLE I**

## **SUBJECT MATTER**

### *Article 1*

These rules establish the procedure for the implementation of the budget and for the presenting and auditing of accounts in accordance with Article 35 of the Treaty establishing the Transport Community (the ‘Treaty’)<sup>1</sup>.

## **TITLE II**

### **OBLIGATIONS OF THE PARTIES**

### *Article 2*

1. The Parties shall transfer 75 % of their financial contributions to the Transport Community no later than the 31 March of each year. The Parties shall transfer the remaining 25 % of their contributions no later than 30 June of each year.
2. The financial contributions of the Parties to the Transport Community must be made in euro.
3. The Transport Community shall bear the transaction cost levied by its payment service provider and the Contracting Parties to the Treaty shall bear the transaction cost levied by their payment service provider.

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<sup>1</sup> OJ EU L 278, 27.10.2017, p. 3.



## **TITLE III**

### **BUDGETARY PRINCIPLES**

#### *Article 3*

The implementation of the budget of the Transport Community ('the budget') shall comply with the principles of budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management which requires effective and efficient internal control, and transparency as set out in these rules.

### **Chapter 1**

#### **Principle of budgetary accuracy**

#### *Article 4*

No expenditure shall be committed or authorised in excess of the authorised appropriations.

## **Chapter 2**

### **Principle of annuality**

#### *Article 5*

Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the financial year in which they are effected.

#### *Article 6*

1. The appropriations authorised in the budget for a relevant year may be used solely to cover expenditure incurred and legally committed in that financial year.
2. Commitment appropriations shall be entered in the accounts for the financial year on the basis of the legal commitments entered into up to 31 December of that year.
3. Payment appropriations shall be entered in the accounts for the financial year on the basis of the payments effected by the accounting officer by 31 December of that year.

4. Appropriations corresponding to legal obligations duly contracted at the end of the financial year shall be carried forward automatically to the following financial year only, and shall be identified respectively in the accounts.
5. Appropriations which have not been used by the end of the financial year for which they were entered shall be cancelled, unless they are carried over in accordance with paragraph 4.
6. Appropriations placed in reserve and appropriations for staff expenditure shall not be carried over. For the purposes of this Article, staff expenditure comprises remuneration and allowances for staff who are subject to the Staff Regulations.
7. Appropriations which have not been used and have not been committed at the end of the financial years for which they were entered shall be cancelled and paid back to the Parties in accordance with the percentages established in Annex V of the Treaty and the actual contributions paid by the parties.

## **Chapter 3**

### **Principle of equilibrium**

#### *Article 7*

The Transport Community shall not raise loans.

## **Chapter 4**

### **Principle of unit of account**

#### *Article 8*

The budget shall be implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the Permanent Secretariat shall be authorised to carry out operations in other currencies.

## **Chapter 5**

### **Principle of universality**

#### *Article 9*

1. The following deductions may be made from payment requests, invoices or statements, which shall then be passed for payment of the net amount:
  - (a) penalties imposed on parties to contracts, including procurement contracts;
  - (b) adjustments for amounts paid unduly, which can be made by means of direct deduction against a new payment of the same type to the same payee under the chapter, article and financial year in respect of which the excess payment was made, and which give rise to interim payments or payments of balances.
2. Discounts, refunds and rebates on invoices and payment requests shall not be recorded as revenue of the Transport Community.
3. Any negative balance shall be entered in the budget as expenditure.

## **Chapter 6**

### **Principle of specification**

#### *Article 10*

1. The Director may take decisions on transfers of appropriations (excluding the human resources budget line) within the budget up to a maximum of 15 % of the appropriations for the year shown on the line from which the transfer is made.
2. The Director shall inform the Chairs of the Budget Committee and the Regional Steering Committee within 7 days upon taking a decision in accordance with paragraph 1.
3. Transfers of budget appropriations other than those referred to in paragraph 1 must receive the preliminary agreement of the Regional Steering Committee.
4. Appropriations carried over in order to meet legal obligations signed at the end of the given year shall not be eligible for the use referred to in paragraph 1. They shall not be taken into account for determining the maximum amount corresponding to the limit of 15 % referred to in that paragraph.

## **Chapter 7**

### **Principle of sound financial management**

#### *Article 11*

1. Budget appropriations shall be used in accordance with the principle of sound financial management, which comprises the principles of economy, efficiency and effectiveness.
2. The principle of economy requires that the resources used by the Transport Community for the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.
3. The principle of efficiency concerns the best relationship between resources employed and results achieved.
4. The principle of effectiveness concerns attaining the specific objectives set and achieving the intended results. Those results shall be evaluated.

## **Chapter 8**

### **Principle of transparency**

#### *Article 12*

1. The budget shall be implemented and the accounts presented in compliance with the principle of transparency.
2. The budget and amending budgets, as finally adopted, shall be published on the website of the Permanent Secretariat.

## **Chapter 9**

### **Internal control of budget implementation**

#### *Article 13*

1. The budget of the Transport Community shall be implemented in compliance with effective and efficient internal control.



2. For the purposes of the implementation of the budget of the Transport Community, internal control is defined as a process applicable at all levels of the management and designed to provide reasonable assurance of achieving the following objectives:
  - (a) effectiveness, efficiency and economy of operations;
  - (b) reliability of reporting;
  - (c) safeguarding of assets and information;
  - (d) prevention, detection, correction and follow-up of fraud and irregularities;
  - (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.
3. Effective and efficient internal control shall be based on best international practices and include, in particular, the elements laid down in Article 36(3) and (4) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>1</sup>, taking into account the structure and size of the Transport Community, the nature of the tasks entrusted to it and the amounts and financial and operational risks involved.

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<sup>1</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ EU L 193, 30.7.2018, p. 1).

## **TITLE IV**

### **BUDGET COMMITTEE**

#### *Article 14*

1. A Budget Committee is hereby established.
2. The Budget Committee shall advise the Director in the financial management of the operations of the Transport Community. In order to fulfil this task, the Budget Committee shall be provided with all the necessary information or explanations regarding budgetary matters and matters with potential budgetary impact.
3. The Budget Committee may report to the Regional Steering Committee and issue recommendations on budgetary matters and on any matter which may have an impact on the budget.

#### *Article 15*

1. The Budget Committee shall consist of one member from each of the South East European Parties and two members of the European Union, represented by the European Commission.

2. Meetings of the Budget Committee shall be chaired by the European Commission. The Chairperson may appoint a Co-chair.
3. The Budget Committee shall hold at least two ordinary meetings a year. In addition, it shall meet at the instance of the Chairperson or at the request of at least one third of its members.
4. The Budget Committee shall adopt its internal rules of procedure. Its recommendations may be adopted by written procedure. The Budget Committee shall act by simple majority of the votes including the positive vote of the European Union. In case of an equal vote, the European Union shall have the deciding vote.
5. The Permanent Secretariat shall provide administrative support to the Budget Committee.
6. The Permanent Secretariat shall be represented at the meetings of the Budget Committee without voting rights.

# **TITLE V**

## **IMPLEMENTATION OF THE BUDGET**

### **Chapter 1**

#### **General provisions**

##### *Article 16*

The Director shall perform the duties of authorising officer.

##### *Article 17*

The Director may delegate powers of budget implementation to staff of the Permanent Secretariat. Those so empowered may act only within the limits of the powers expressly conferred upon them and are bound by these rules. The Director shall send a copy of any delegation decision taken under this Article to the Regional Steering Committee.

### *Article 18*

1. All financial actors within the meaning of Chapter 2 of this Title shall be prohibited from taking any measures of budget implementation which may bring their own interests into conflict with those of the Transport Community. Should such a case arise, the actor in question must refrain from such measures and refer the matter to the competent authority.
2. There is a conflict of interests where the impartial and objective exercise of the functions of an actor in the implementation of the budget or an auditor is compromised for reasons involving family, private life, political or national affinity, economic interest or any other shared interest with the beneficiary or contractor.
3. The competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the Director, the competent authority shall be the Regional Steering Committee.

### *Article 19*

Technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgement may be entrusted by contract to external entities or bodies, where this proves to be indispensable.

## **Chapter 2**

### **Financial actors**

#### **SECTION 1**

#### **PRINCIPLE OF SEGREGATION OF DUTIES**

### *Article 20*

The duties of authorising officer and accounting officer shall be segregated and mutually incompatible.

## **SECTION 2**

### **AUTHORISING OFFICER**

#### *Article 21*

1. The authorising officer shall be responsible for implementing revenue and expenditure.
2. To implement expenditure, the authorising officer shall make budget commitments and legal commitments, shall validate expenditure and authorise payments in accordance with the relevant provisions of these rules and shall undertake the implementation of appropriations.
3. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements where appropriate.
4. The authorising officer shall assure that all the supporting documents related to operations are properly preserved for a period of five years.

## *Article 22*

1. Having due regard to the risks associated with the management environment and the nature of the actions financed, the authorising officer shall put in place the organisational structure, internal management, control systems and procedures suited to the performance of the duties of the authorising officer, including where appropriate, *ex post* verifications.
2. Before an operation is authorised, the operational and financial aspects shall be verified by staff members other than those initiating the operation. Initiation and the *ex ante* and *ex post* verification of an operation shall be separate functions.
3. The staff responsible for the verifications shall be different from those initiating the operation and shall not be their subordinates.

## *Article 23*

The Director, as authorising officer, shall submit to the Regional Steering Committee an annual activity report which contains financial and management information.



#### *Article 24*

Any member of staff who is involved in the financial management and control of transactions shall inform the Director in writing if they consider that a decision which their superior requires them to apply or agree to is irregular or contrary to these rules or to the professional rules the staff member is required to observe. The Director shall take action within a reasonable period. If the Director fails to do so, the staff member shall inform the Regional Steering Committee.

#### *Article 25*

Where powers of budget implementation are delegated, Article 21 of these rules shall apply *mutatis mutandis* to the authorised officer.

### **SECTION 3**

#### **ACCOUNTING OFFICER**

##### *Article 26*

1. Upon proposal of the European Commission, the Director shall appoint an accounting officer, in accordance with the rules of procedure in force for the recruitment, working conditions and geographic equilibrium of the staff of the Permanent Secretariat, who shall be responsible in the Permanent Secretariat for:
  - (a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
  - (b) preparing and presenting the accounts in accordance with Title V;
  - (c) keeping the accounts in accordance with Title V;
  - (d) implementing, in accordance with Title V, the accounting rules and methods and the chart of accounts;

(e) laying down and validating the accounting systems and where appropriate validating systems laid down by the authorising officer to supply or justify accounting information;

(f) treasury management.

2. Subject to paragraph 3, only the accounting officer is empowered to manage monies and other assets and shall be responsible for their safekeeping.
3. If necessary, the accounting officer may delegate certain tasks, without prejudice to the principle of segregation of duties.

## **Chapter 3**

### **Liability of the financial actors**

#### **SECTION 1**

#### **GENERAL RULES**

##### *Article 27*

1. The responsibility under these rules is personal.
2. In the event of any illegal activity, fraud, corruption or irregularity which may harm the financial interests of the Transport Community, the financial actor affected shall without delay inform the Director or, if considered useful, the Regional Steering Committee, or the European Anti-Fraud Office (OLAF). The ‘financial interests of the Transport Community’ means all revenues, expenditure and assets covered by, acquired through, or due to the Transport Community budget.

3. Where an activity has been subject to irregularities or fraud, the authorising officer responsible shall suspend the procedure and may take any necessary measures, including the cancellation of any decision taken in the framework of the said activity. The authorising officer responsible shall inform all competent authorities, including where applicable OLAF and the European Public Prosecutor's Office (EPPO), immediately of suspected cases of fraud or irregularities.

#### *Article 28*

1. The authorising officer may withdraw any delegation at any time temporarily or definitively. The Regional Steering Committee and the Chairman of the Budget Committee shall be immediately informed of such an action with a proper justification.
2. The accounting officer may at any time be suspended temporarily or definitively from duty by the Director, upon preliminary agreement of the European Commission. On a proposal of the European Commission, the Director shall appoint an interim accounting officer and consequently a permanent accounting officer in accordance with the recruitment rules of the Transport Community.

## *Article 29*

1. The provisions of this chapter are without prejudice to the criminal law liability which the authorising officer and the persons referred to in this Chapter may incur as provided in the applicable national law of the country of domicile and in the provisions in force on the protection of the financial interests of the Transport Community and on the fight against corruption involving officials of the Transport Community or officials of the Contracting Parties to the Treaty.
2. In the event of evidence of illegal activity, fraud or corruption which may harm the financial interests of the Transport Community, the matter shall be referred to the competent authorities and bodies.

## **SECTION 2**

### **RULES APPLICABLE TO THE AUTHORISING OFFICER**

## *Article 30*

1. The authorising officer may be required to make good, in whole or in part, any damage suffered by the Transport Community as a result of serious misconduct on his part in the course of or in connection with the performance of his duties, in particular if he determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with these rules. The same shall apply where, through serious misconduct, the authorising officer:
  - (a) fails to draw up a document establishing an amount receivable;

- (b) fails to issue a recovery order or is, without justification, late in issuing it;
- (c) fails to issue a payment order or is late in issuing it, thereby rendering the Transport Community liable to civil action by third parties.

2. An authorising officer by delegation who considers that a decision falling under their responsibility is irregular or contrary to the principles of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation to implement the decision in question, the authorising officer by delegation must implement it and may not be held liable.
3. In the event of delegation, the delegating authority shall continue to be responsible for the effectiveness of the internal management rules put in place and for the choice of the authorising officer by delegation.
4. The authorising officer shall not be held responsible for any decisions taken by the Regional Steering Committee, in case they are strictly followed. Should the authorising officer disagree with any of those decisions, they have the right to notify the relevant authority in writing. However, the authorising officer is obliged to follow the relevant decisions.

## **Chapter 4**

### **Revenue operations**

#### **SECTION 1**

#### **GENERAL PROVISIONS**

##### *Article 31*

Interest accrued on the accounts of the Transport Community shall form part of its revenue, in addition to the contributions of the Contracting Parties to the Treaty.

#### **SECTION 2**

#### **ESTIMATE OF AMOUNTS RECEIVABLE**

##### *Article 32*

An estimate of the amount receivable shall first be made by the authorising officer responsible in respect of any measure or situation which may give rise to or modify an amount owing to the Transport Community.



### **SECTION 3**

#### **ESTABLISHMENT OF AMOUNTS RECEIVABLE FROM THIRD PARTIES**

##### *Article 33*

1. Establishment of an amount receivable is the act by which the authorising officer or authorising officer by delegation:
  - (a) verifies that the debt exists;
  - (b) determines or verifies the reality and the amount of the debt;
  - (c) verifies the conditions in which the debt is due.
2. Any amount receivable that is identified as being certain, of a fixed amount and due must be established by a recovery order given to the accounting officer, accompanied by a debit note sent to the debtor. Both of those documents shall be drawn up and sent by the authorising officer responsible.

3. In duly substantiated cases, certain routine revenue items may be established provisionally.

Provisional establishment shall cover the recovery of several individual amounts which therefore do not need be established individually.

Before the end of the financial year, the authorising officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

#### *Article 34*

The authorisation of recovery is the act whereby, having established an amount receivable, the authorising officer responsible, by issuing a recovery order, instructs the accounting officer to recover that amount receivable.

### *Article 35*

1. Amounts wrongly paid shall be recovered.
2. The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer or authorising officer responsible. The accounting officer shall exercise due diligence to ensure that the Transport Community receives its revenue and shall see that its rights are safeguarded.
3. Where the authorising officer responsible is planning to waive recovery of an established amount receivable, the authorising officer shall ensure that the waiver is in order and complies with the principle of sound financial management. Such a waiver shall be by decision of the authorising officer, which must be substantiated. The authorising officer may not delegate such a decision. The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.

4. The authorising officer responsible shall cancel an established amount receivable when the discovery of a mistake as to a point of law or fact reveals that the amount had not been correctly established. Such cancellation shall be by decision of the authorising officer responsible and shall be suitably substantiated.
5. The authorising officer responsible shall adjust the amount of an established debt upwards or downwards when the discovery of a factual error entails the alteration of the amount of the debt, provided that this correction does not involve the loss of the established entitlement of the Transport Community. Such an adjustment shall be by decision of the authorising officer responsible and shall be suitably substantiated.
6. Where a debtor has a claim against the Transport Community, of a fixed amount and due relating to a sum established by a payment order, the accounting officer shall, after expiry of the deadline specified in the debit note, recover established amounts receivable by offsetting.

In exceptional circumstances, where it is necessary to safeguard the financial interests of the Transport Community and where the accounting officer has justified grounds to believe that the amount due to the Transport Community would be lost, the accounting officer may recover by offsetting before the expiry of the deadline specified in the debit note.

The accounting officer may also recover by offsetting before the expiry of the deadline specified in the debit note when the debtor agrees.

7. Before proceeding with any recovery in accordance with paragraph 6, the accounting officer shall consult the authorising officer and inform the debtor(s) concerned.
8. The offsetting referred to in paragraph 6 shall have the same effect as payment and discharge the Transport Community for the amount of the debt and, where appropriate, of the interest due.

#### *Article 36*

1. Upon actual recovery of the sum due, the accounting officer shall make an entry in the accounts and shall inform the authorising officer responsible.
2. A receipt shall be issued in respect of all cash payments made to the accounting officer.

### *Article 37*

1. If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law.
2. The accounting officer shall recover amounts by offsetting them against equivalent claims that the debtor has on the Transport Community, provided that the claim is certain, of a fixed amount and due, and that offsetting is legally possible.

### *Article 38*

The accounting officer, in collaboration with the authorising officer responsible, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, provided that the following two conditions are met:

- (a) the debtor undertakes to pay interest for the entire additional period allowed, starting from the date on which the payment was originally due at the rate applied by the European Central Bank for its main refinancing operations in euro (the reference rate) plus eight points. The reference rate is the rate in force, as published in the C series of the *Official Journal of the European Union*, on the first day of the month in which the payment period ends;

- (b) in order to safeguard the rights of the Transport Community, the debtor provides a financial guarantee covering both the principal sum and the interest.

## **Chapter 5**

### **Expenditure operations**

#### *Article 39*

Every item of expenditure shall be committed and paid.

### **SECTION 1**

#### **COMMITMENT OF EXPENDITURE**

#### *Article 40*

1. The budget commitment is the operation reserving the appropriation necessary to cover subsequent payments to honour a legal commitment.
2. The legal commitment is the act whereby the authorising officer responsible enters into or establishes an obligation which results in a charge for the budget.

#### *Article 41*

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budget commitment before entering into a legal commitment with third parties.
2. Individual legal commitments relating to individual budget commitments shall be concluded by 31 December of the financial year concerned.

#### *Article 42*

1. The unused balance of budget commitments relating to year N shall be de-committed by the authorising officer responsible by 31 March of year N+1.
2. The legal commitments entered into for actions extending over more than one financial year and the corresponding budget commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance with the principle of sound financial management. Any parts of such commitments which have not been executed six months after that final date shall be de-committed.
3. Where a legal commitment has not then resulted in a payment after a period of three years, the authorising officer responsible shall de-commit it.



### *Article 43*

When adopting a budget commitment, the authorising officer responsible shall ensure that:

- (a) the expenditure has been charged to the correct item in the budget;
- (b) the appropriations are available;
- (c) the expenditure conforms to the applicable provisions, in particular those of the Treaty and the internal management rules of the Transport Community;
- (d) the principle of sound financial management is complied with.

## **SECTION 2**

### **VALIDATION OF EXPENDITURE**

### *Article 44*

Validation of expenditure is the act whereby the authorising officer responsible:

- (a) verifies the existence of the creditor's entitlement;
- (b) verifies the conditions in which payment is due;
- (c) determines or verifies the reality and the amount of the claim.

#### *Article 45*

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment.
2. The validation decision shall be expressed by the signing of a 'passed for payment' voucher by the authorising officer responsible.

### **SECTION 3**

#### **AUTHORISATION OF EXPENDITURE**

#### *Article 46*

1. Authorisation of expenditure is the act whereby the authorising officer responsible, by issuing a payment order, instructs the accounting officer to pay an item of expenditure which the authorising officer responsible has validated.
2. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer. The supporting documents shall be kept by the authorising officer responsible in accordance with Article 21(4).
3. Where appropriate, the payment order sent to the accounting officer shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 60.

## SECTION 4

### PAYMENT OF EXPENDITURE

#### *Article 47*

1. Payment of expenditure shall be made on production of proof that the relevant action has been carried out in accordance with the basic act and shall cover one of the following operations:
  - (a) payment of the entire amount due;
  - (b) payment of the amount due in any of the following ways:
    - (i) pre-financing, which may be divided into a number of payments;
    - (ii) one or more interim payments;
    - (iii) payment of the balance of the amounts due. Pre-financing shall count in full or in part against the interim payments.

The entire pre-financing and interim payments shall count against the payment of balances.
2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

*Article 48*

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

**TITLE VI**  
**PROCUREMENT**

*Article 49*

Directive 2014/24/EU of the European Parliament and of the Council<sup>1</sup> shall apply.

For procurement procedures with a total value below the threshold set in Directive 2014/24/EU, detailed rules are laid down in Annex I to these Financial Rules.

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<sup>1</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ EU L 94, 28.3.2014, p. 65).

# **TITLE VII**

## **PRESENTATION OF THE ACCOUNTS AND ACCOUNTING**

### **Chapter 1**

#### **Presentation of the accounts**

##### *Article 50*

The annual accounts of the Transport Community shall comprise:

- (a) the financial statements of the Transport Community and accompanying annexes;
- (b) the report on implementation of the budget of the Transport Community.

##### *Article 51*

The accounts must comply with the accounting rules set out in Regulation (EU, Euratom) 2018/1046 and be accurate and comprehensive and present a true and fair view:

- (a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities and cash flow;
- (b) as regards report on budget implementation, of revenue and expenditure operations.

#### *Article 52*

The financial statements shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable. The financial statements shall be drawn in accordance with generally accepted accounting principles as outlined in the accounting rules in accordance with Article 80 of Regulation (EU, Euratom) 2018/1046 or the accrual based International Public Sector Accounting Standards ('IPSAS').

#### *Article 53*

1. In accordance with the principle of accrual-based accounting, revenue and expenses are recorded in the period in which they are earned or incurred regardless of the date of payment or collection.
2. The value of assets and liabilities shall be determined in accordance with the valuation rules laid down by the accounting methods provided for in the International Accounting Standard and, if necessary, in National standards of the country of domicile.

#### *Article 54*

1. The financial statements shall be presented in euro and shall comprise:
  - (a) the balance sheet and the statement of financial performance, which represent all assets and liabilities, the financial situation and the economic result at 31 December of the preceding financial year; they shall be presented in accordance with the accounting rules in Article 80 of Regulation (EU, Euratom) 2018/1046 or the accrual based IPSAS;
  - (b) the cash-flow statement showing amounts collected and disbursed during the financial year and the final treasury position;
  - (c) the statement of changes in equity during the financial year.
2. The annex to the financial statements shall supplement and comment on the information presented in the financial statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the Transport Community's activities.

## **Chapter 2**

### **Accounting**

#### **SECTION 1**

#### **COMMON PROVISIONS**

##### *Article 55*

1. The accounting system of the Transport Community is the set of manual and computerised procedures and controls that provide for identifying relevant transactions or events, preparing accurate source documents, entering data into the accounting records accurately, processing transactions accurately, updating master files properly, and generating accurate documents and reports.
2. The accounts shall consist of general accounts and budget accounts. These accounts shall be kept in euro on the basis of the calendar year.
3. The figures in the general accounts and the budget accounts shall be adopted at the close of the budget year so that the accounts referred to in Chapter 1 can be drawn up.
4. The accounting officer shall apply accounting rules and methods which take account of the IPSAS, and if necessary of the rules applied by the public authorities of the host country.



## **SECTION 2**

### **GENERAL ACCOUNTS**

#### *Article 56*

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the Transport Community.

#### *Article 57*

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.
2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.
3. The accounting system must be such as to leave a trail for all accounting entries.

#### *Article 58*

The accounting officer of the Transport Community shall, after the close of the budget year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts in compliance with these rules.

## **SECTION 3**

### **BUDGET ACCOUNTS**

#### *Article 59*

1. The budget accounts shall provide a detailed record of budget implementation.
2. For the purposes of paragraph 1, the budget accounts shall record all budget revenue and expenditure operations.
3. The Permanent Secretariat shall establish an annual report at the latest on 30 March of each year. The annual report shall include:
  - an operational report explaining the work carried out by the Permanent Secretariat and the results achieved, giving an overview of the progress towards the objectives set in the annual work programme of the Permanent Secretariat;
  - a financial report on the budget implementation.

## **Chapter 3**

### **Property inventories**

#### *Article 60*

The Transport Community shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Transport Community property.

## **TITLE VIII**

### **EXTERNAL AUDIT AND PROTECTION OF FINANCIAL INTERESTS**

#### *Article 61*

Each year, the accounting officer shall establish the accounts of the previous year no later than 31 March. Those accounts shall be validated by the Director.

#### *Article 62*

Independent external auditors, to be designated by the Regional Steering Committee, shall carry out the annual audit of the Transport Community (the ‘external auditors’). The term of service of the external auditors is renewable every year, unless otherwise specified by the Regional Steering Committee.

#### *Article 63*

1. The external auditors shall submit to the Regional Steering Committee a report, together with the statement of assets and liabilities and certified accounts, not later than eight months after the end of the financial year to which they relate.
2. The Director shall make such observations as the Director considers appropriate on the external auditors’ report.

3. The external auditors shall conduct such audits as deemed necessary, in accordance with their approved Terms of Reference. The external auditors shall, in particular, inspect the accounting records and procedures of the Transport Community for the purpose of verifying the accuracy and completeness of the records. The external audit determines the overall validity of financial statements.
4. The external auditors shall submit an audit report and certified accounts, together with a statement of assurance relating to the reliability of the accounts and the legality and regularity of the underlying transactions, to the Regional Steering Committee not later than eight months after the end of the financial year to which the accounts relate. If so requested by the Regional Steering Committee, the Budget Committee shall make such observations to the Regional Steering Committee as it considers appropriate on the documents submitted by the external auditors.

#### *Article 64*

1. The authorising officer and the Regional Steering Committee shall transmit without delay to OLAF and the European Commission any information obtained in accordance with Article 27.

2. The Regional Steering Committee and the staff of the Transport Community shall fully cooperate in the protection of the financial interests of the Union, in particular with the EPPO and OLAF and provide them with the relevant information and, upon request, any assistance necessary to exert their respective competences, including to carry out investigations in accordance with Council Regulation (EU) 2017/1939<sup>1</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>2</sup>. The authorising officer shall also assure that any third person involved in the implementation of the Transport Community's budget will fully cooperate and grant the EPPO and OLAF equivalent rights.
3. OLAF shall have the power to carry out administrative investigations at the premises of the Transport Community, including the right of access for inspection in accordance with Regulation (EU, Euratom) No 883/2013.

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<sup>1</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ EU L 283, 31.10.2017, p. 1).

<sup>2</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ EU L 248, 18.9.2013, p. 1).

## **TITLE IX**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 65*

The Regional Steering Committee shall be empowered to obtain any necessary information or explanations regarding the implementation of the budget.

#### *Article 66*

Upon approval of the European Commission, the Director may adopt, where necessary, guidelines for the implementation of these rules.

#### *Article 67*

Until the appointment of the members of the Budget Committee, its functions under Article 14(2) will be performed by the European Commission.

#### *Article 68*

These rules shall be binding in their entirety on the Contracting Parties to the Treaty and the bodies set up under the Treaty.

#### *Article 69*

These rules shall apply from the day following their adoption.

## Annex

to the

### FINANCIAL RULES AND AUDITING PROCEDURES APPLICABLE TO THE TRANSPORT COMMUNITY

#### 1. PREAMBLE

The present Annex shall apply to the Permanent Secretariat of the Transport Community ('the Secretariat') when procuring goods, works or services on its own account below the threshold set out in Directive 2014/24/EU of the European Parliament and of the Council. It does not cover operations such as staff recruitment, to which different rules apply.

#### 2. SECTION 1

##### 2.1. Scope and principles applicable to contracts

All procurement procedures concluded by the Secretariat on its own account must comply with the budgetary principles of transparency, proportionality, equal treatment and non-discrimination as well as sound financial management. This shall ensure fair competition between economic operators.

Contracts shall be planned on the basis of clearly defined objectives which shall support fulfilling the objectives of the Transport Community Treaty (the ‘Treaty’) and of the bodies established thereunder, as well as to allow the Secretariat to fulfil its mandate as per Article 28 of the Treaty.

The estimated value of a contract shall neither be determined with a view to circumventing the applicable rules, nor shall a contract be split up for that purpose.

The Secretariat shall divide a contract into lots, whenever appropriate, with due regard to broad competition.

The Secretariat shall not use framework contracts improperly or in such a way that their purpose or effect is to prevent, restrict or distort competition.

In general, participation in procurement procedures is open to all natural persons who are nationals of, and all legal persons who are effectively established in a Member State of the European Union, a Member State of the European Economic Area or a South East European signing party of the Treaty. Natural persons who are nationals of, and all legal persons established in, a third country which has a special agreement with the Union in the field of procurement can participate in a procurement procedure under the conditions laid down in such an agreement. Participation is also open to international organisations.

All stages of each procurement procedure shall be properly documented and reported in writing for each procurement file, in order to ensure transparency and auditability.



The Secretariat is not legally bound vis-à-vis an economic operator until the contract is signed. This shall be made clear in all contacts with economic operators. Up to the time of signature, the Secretariat may cancel the procedure without the tenderers being entitled to any compensation. Reasons must be given for the decision and the tenderers must be notified in writing within 15 days from the day when the decision was made.

The tasks entrusted to contractors may not involve exercising public authority powers or budgetary implementation tasks.

Procurement procedures below the threshold set out in Directive 2014/24/EU may be used for the following types of purchase:

- ‘services’, which cover all intellectual and non-intellectual services other than those covered by supply contracts, works contracts and buildings contracts;
- ‘supplies’, which cover the purchase, leasing, rental or hire purchase, with or without option to buy, of goods (also including siting, installation and maintenance); and,
- ‘works’, which cover either the building, or the design and building, of works corresponding to the requirements specified by the Secretariat. A “work” means the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic or technical function.;

### 3. SECTION 2

#### 3.1. Framework contracts and publicity

##### 3.1.1. Framework contracts and specific contracts

A framework contract (FWC) is concluded between the contracting authority and one or more economic operators to lay down the basic terms for a series of specific contracts to be concluded over a given period, particularly the duration, subject, price, implementing conditions and quantities envisaged. Signing a FWC does not commit the authorising officer to purchasing.

##### 3.1.2. Advertising of procedures for contracts with a value below the thresholds referred to in Article 49 of the Treaty Financial Rules and forms of advertising

Contracts of a value exceeding EUR 20 000 and below the thresholds referred to in Directive 2014/24/EU shall be deemed of middle value. The Secretariat shall apply a simplified tender procedure and at least five candidates/tenderers must be invited. Request for expression of interest shall be published on the website of the Secretariat, at least one month before the launch of the procurement procedure envisaged.

A contract of a value equal to or below EUR 20 000 shall be deemed of low value. A simplified tender procedure shall be applied and the Secretariat must invite at least three candidates/tenderers of its choice. Ex ante publicity stated in point 3.1.2 is not mandatory.

Payments of amounts not exceeding EUR 2 500 in respect of items of expenditure may be carried out simply as payment against invoices, without prior acceptance of a tender.

By 31 March every year, the Secretariat shall publish on its website a procurement plan containing the list of planned procurements for the current year of a value exceeding EUR 20 000, containing: the subject, estimated value and estimated launching time.

#### 4. SECTION 3

##### 4.1. Middle and low value procurement procedures

##### 4.1.1. Preliminary market consultation

The contracting authority may conduct a preliminary market analysis with a view to preparing the procurement procedure.

#### 4.1.2. Procurement documents

The procurement documents shall consist, as a minimum, of:

- (a) if applicable, the ex-ante publicity;
- (b) the invitation to tender;
- (c) the tender specifications, including technical specification and the relevant criteria;
- (d) the draft contract.

In the procurement documents, the Secretariat shall identify the subject matter of the procurement procedure by providing a description of their needs and the characteristics of the works, supplies or services to be acquired. These documents must contain all the provisions and information that candidates need in order to submit a tender: the procedure to follow, the documents to provide, the exclusion, selection and award criteria as well as the duration and the estimated value of the contract. The Secretariat shall also indicate which elements define the minimum requirements to be met by all tenders. Minimum requirements shall include compliance with applicable environmental, social and labour law obligations established by Union law, national law, collective agreements or the applicable international social and environmental conventions listed in Annex X to Directive 2014/24/EU.

The three documents mentioned above (b to d) may be sent by e-mail to the prospective candidates/tenderers.

#### 4.1.3. Invitation to tender

An invitation to tender shall:

- (a) specify the rules governing the submission of tenders, including in particular the conditions to maintain them confidential until opening, the closing date and time for receipt and the address to which they are to be sent or delivered or the internet address in case of electronic submission;
- (b) state that submission of a tender implies acceptance of the terms and conditions set out in the procurement documents and that such submission binds the contractor to whom the contract is awarded during performance of the contract;
- (c) specify the period during which a tender will remain valid and shall not be modified in any respect;
- (d) forbid any contact between the contracting authority and the tenderer during the procedure, save, exceptionally, under the conditions laid down in the procurement documents, and, where provision is made for an on-the-spot visit, specify the arrangements for such a visit;

- (e) specify the means of proof for compliance with the time limit for receipt of tenders; and,
- (f) state that submission of a tender implies acceptance of receiving notification of the outcome of the procedure by electronic means.

#### 4.1.4. Tender specifications

Tender specifications shall contain the following:

- (a) the exclusion and selection criteria;
- (b) the award criteria and their relative weighting or, where weighting is not possible for objective reasons, their decreasing order of importance, which shall also apply to variants if they are authorised in the contract notice;
- (c) the technical specifications referred to in point 4.1.6; and,
- (d) the requirement to indicate in which country the tenderers are established and to present the supporting evidence normally acceptable under the law of that country.

#### 4.1.5. Draft Contract

The draft contract shall contain at least:

- (a) data on the contracting parties;
- (b) the subject matter of the procurement;
- (c) duration;
- (d) the terms of payment;
- (e) guarantee requirements (if applicable);
- (f) data protection;
- (g) intellectual property rights;
- (h) the law applicable to the contract and the competent court for hearing disputes.

#### 4.1.6. Technical specifications

The technical specifications shall be comprehensive, clear and precise and shall not have the effect of creating unjustified obstacles to competitive tendering. They shall define (lot by lot where appropriate) the characteristics required of supplies, services or works, taking into account the purpose for which they are intended by the Secretariat. They shall be proportionate to the objective and/or to the budget for the required services, supplies and works.

The technical specifications shall not refer to or describing product of a given brands or origins, and they may not have the effect of creating unjustified obstacle to competitive tendering.

The technical specifications shall include as minimum:

- (a) the exclusion and selection criteria;
- (b) the award criteria;
- (c) the evidence of access to procurement;
- (d) the subject matter of the procurement procedure;



- (e) background information;
- (f) type of tasks;
- (g) scope of work;
- (h) duration and expected results;
- (i) assumption and risks;
- (j) logistics and timing;
- (k) requirements; and
- (l) reports and monitoring of the contract.

The technical specifications shall serve as the contractor's mandate during contract implementation. They shall be included as an annex to the resulting contract.

#### 4.1.7. Exclusion criteria

These criteria are applicable in all procurement procedures and must be announced. No modification of the criteria is allowed during the procedure.

The purpose of the exclusion criteria is to determine whether an operator is allowed to participate in the procurement procedure or to be awarded the contract. Potential tenderers are obliged to declare that they are not in one of the exclusion situations through a declaration on honour, signed and dated. To this aim, a template for the declaration on honour must be provided by the Secretariat.

Article 136(1) and Article 137, paragraphs 1 to 4 of Regulation (EU, Euratom) 2018/1046, on exclusion criteria and decision on exclusions, and declaration and evidence of absence of an exclusion situation, shall apply.

Exclusion criteria are verified on a pass/fail basis on the appropriate required evidence.

#### 4.1.8. Selection criteria

- 4.1.8.1. The purpose of the selection criteria is to determine whether a tenderer has the capacity necessary to implement the contract. To this end, the selection criteria must be clear, non-discriminatory, appropriate and proportionate to the subject matter and value of the contract. The Secretariat shall also make sure that it imposes criteria that can be easily verified.

- 4.1.8.2. The contracting authority shall indicate in the procurement documents the selection criteria, the minimum levels of capacity and the evidence required to prove that capacity. All requirements shall be related and proportionate to the subject matter of the contract.
- 4.1.8.3. The contracting authority shall specify in the procurement documents how groups of economic operators are to meet the selection criteria.
- 4.1.8.4. Where a contract is divided into lots, the contracting authority may set minimum levels of capacity for each lot. It may set additional minimum levels of capacity in the event that several lots are awarded to the same contractor.
- 4.1.8.5. With regard to capacity to pursue the professional activity, the contracting authority may require an economic operator to fulfil at least one of the following conditions:
- (a) be enrolled in a relevant professional or trade register, except when the economic operator is an international organisation;
  - (b) for service contracts, hold a particular authorisation proving that it is authorised to perform the contract in its country of establishment or be a member of a specific professional organisation.

- 4.1.8.6. When receiving requests to participate or tenders, the contracting authority shall accept a declaration on honour stating that the candidate or tenderer fulfils the selection criteria.
- 4.1.8.7. The contracting authority may ask tenderers and candidates at any moment during the procedure to submit an updated declaration or all or part of the supporting documents where this is necessary to ensure the proper conduct of the procedure.
- 4.1.8.8. The contracting authority shall require the candidates or successful tenderers to submit up-to-date supporting documents except where it has already received them for the purpose of another procedure and provided that the documents are still up-to-date or it can access them in a national database free of charge.
- 4.1.8.9. The contracting authority may, depending on its assessment of risks, decide not to require evidence of the legal, regulatory, financial, economic, technical and professional capacity of economic operators in the procedures for contracts awarded with a value not exceeding the thresholds referred to in 3.1.2.
- 4.1.8.10. Where the contracting authority decides not to require evidence of the legal, regulatory, financial, economic, technical and professional capacity of economic operators, no pre-financing shall be made except in duly justified cases.

- 4.1.8.11. An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It shall in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by those entities to that effect.
- 4.1.8.12. With regard to technical and professional criteria, an economic operator shall only rely on the capacities of other entities where the latter will perform the works or services for which those capacities are required.
- 4.1.8.13. Where an economic operator relies on the capacities of other entities with regard to criteria relating to economic and financial capacity, the contracting authority may require that the economic operator and those entities be jointly liable for the performance of the contract.
- 4.1.8.14. The contracting authority may request information from the tenderer on any part of the contract that the tenderer intends to subcontract and on the identity of any subcontractors.
- 4.1.8.15. For works or services provided at a facility directly under the oversight of the contracting authority, the contracting authority shall require the contractor to indicate the names, contacts and authorised representatives of all subcontractors involved in the performance of the contract, including any changes of subcontractors.

- 4.1.8.16. The contracting authority shall verify whether the entities on whose capacity the economic operator intends to rely and the envisaged subcontractors, when subcontracting represents a significant part of the contract, fulfil the relevant selection criteria. The contracting authority shall require that the economic operator replaces an entity or subcontractor which does not meet a relevant selection criterion.
- 4.1.8.17. In the case of works contracts, service contracts and siting or installation operations in the context of a supply contract, the contracting authority may require that certain critical tasks be performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators, a participant in the group.
- 4.1.8.18. The contracting authority shall not demand that a group of economic operators have a given legal form in order to submit a tender or request to participate, but the selected group may be required to adopt a given legal form after it has been awarded the contract if such change is necessary for the proper performance of the contract.
- 4.1.8.19. Selection criteria are verified on a pass/fail basis.
- 4.1.8.20. The selection criteria remain applicable throughout the whole performance of the contract, i.e. the contractor must comply with these criteria at all times.

#### 4.1.9. Economic and financial capacity

To ensure that economic operators possess the necessary economic and financial capacity to perform the contract, the contracting authority may require in particular that:

- (a) economic operators have a certain minimum yearly turnover, including certain minimum turnover in the area covered by the contract;
- (b) economic operators provide information on their annual accounts showing ratios between assets and liability; and
- (c) economic operators provide an appropriate level of professional risk indemnity insurance.

For the purposes of the first subparagraph, point (a), the minimum yearly turnover shall not exceed two times the estimated annual contract value, except in duly justified cases linked to the nature of the purchase, which the contracting authority shall explain in the procurement documents.

For the purposes of the first subparagraph, point (b), the contracting authority shall explain the methods and criteria for such ratios in the procurement documents.

The contracting authority shall define in the procurement documents the evidence to be provided by an economic operator to demonstrate its economic and financial capacity. It may request in particular one or more of the following documents:

- (a) appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
- (b) financial statements or their extracts for a period equal to or less than the last three financial years for which accounts have been closed;
- (c) a statement of the economic operator's overall turnover and, where appropriate, turnover in the area covered by the contract for a maximum of the last three financial years available.

If, for any valid reason, the economic operator is unable to provide the references requested by the contracting authority, it may prove its economic and financial capacity by any other document which the contracting authority considers appropriate

#### 4.1.10. Technical and professional capacity

The contracting authority shall verify that candidates or tenderers fulfil the minimum selection criteria concerning technical and professional capacity in accordance with the following paragraphs.



The contracting authority shall define in the procurement documents the evidence to be provided by an economic operator to demonstrate its technical and professional capacity. It may request one or more of the following documents:

(a) for works:

- (i) supplies requiring siting or installation operations or services, information on the educational and professional qualifications, skills, experience and expertise of the persons responsible for performance, a list of the following:
  - 1. the principal services provided and supplies delivered in the past three years, with the sums, dates and clients, public or private accompanied upon request by statements issued by the clients;
  - 2. the works carried out in the last five years, accompanied by certificates of satisfactory execution for the most important works;
  - 3. a statement of the technical equipment, tools or the plant available to the economic operator for performing a service or works contract;

4. a description of the technical facilities and means available to the economic operator for ensuring quality, and a description of available study and research facilities;
  5. a reference to the technicians or technical bodies available to the economic operator, whether or not belonging directly to it, especially those responsible for quality control;
- (b) for supplies:
- (i) samples, descriptions or authentic photographs or certificates drawn up by official quality control institutes or agencies of recognised competence attesting the conformity of the products clearly identified by references to technical specifications or standards;
- (c) for works or services:
- (i) a statement of the average annual manpower and the number of managerial staff of the economic operator for the last three years;
  - (ii) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;
  - (iii) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract.

For the purposes of points a) and b), where necessary in order to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account.

For the purposes of point c), where necessary in order to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant works delivered or performed more than five years before will be taken into account.

A contracting authority may conclude that an economic operator does not possess the required professional capacity to perform the contract to an appropriate quality standard where the contracting authority has established that the economic operator has conflicting interests which may negatively affect its performance.

#### 4.1.11. Award criteria

The purpose of the award criteria is to evaluate the technical and financial offer with a view to choosing the most economically advantageous tender which consists in lowest price or best price-quality ratio after verifying that the tender complies with the minimum requirements of the procurement documents.

The Secretariat shall announce in the tender document show each criteria will be assessed, the relative importance of each of the quality award criteria and of the price (if a weighting formula between quality and price is applied).

Quality criteria may include elements such as technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics, production, provision and trading process and any other specific process at any stage of the life cycle of the works, supplies or services, organisation of the staff assigned to performing the contract, after-sales service, technical assistance or delivery conditions such as delivery date, delivery process and delivery period or period of completion.

The contracting authority shall specify in the procurement documents the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender except when using the lowest price method. Those weightings may be expressed as a range with an appropriate maximum spread.

The weighting applied to price or cost in relation to the other criteria shall not result in the neutralisation of price or cost.

If weighting is not possible for objective reasons, the contracting authority shall indicate the criteria in decreasing order of importance.

The contracting authority may lay down minimum levels of quality. Tenders below those levels of quality shall be rejected.

#### 4.1.12. Time limits

##### Time limits for receipt of tenders

The time-limit for receipt of tenders for low value contract shall be minimum 10 calendar days counting from the day after the dispatch of the invitation to tender to the potential tenderers.

The time-limit for receipt of tenders for middle value contract shall be minimum 15 calendar days counting from the day after the dispatch of the invitation to tender to the potential tenderers.

##### Time limits in urgent cases

In the case of urgency, if properly justified and documented, the minimum deadline can be reduced.

#### 4.1.13. Opening of tenders

The authorising officer shall decide about the appropriate organisation of the opening session by evaluation committee. The person(s) in charge of opening shall verify whether the offers have been received within the deadline.

The procedure shall be still valid if not all invited candidates submit a tender, as long as at least one tender passes all criteria.

Exceptionally, where no tenders or no suitable tenders have been submitted after that initial procedure has been completed, provided that the original procurement documents are not substantially altered, the procedure may be repeated with one invited candidate.

#### 4.1.14. Evaluation of tenders

Tenders shall be opened and evaluated by an evaluation committee formally and promptly appointed by the authorising officer.

An evaluation committee must be appointed for middle value contracts. For low value contracts, an evaluation committee may be established when there is more than one offer received. There must be a minimum of three evaluators in the evaluation committee.

The content thereof shall be recorded in an evaluation report, which shall be signed by all its members and it should be a separate document to the award decision (it is the basis for feedback to the tenderer). The evaluation report should include conclusion on the awarding the contract.

The tenders must be evaluated in time to allow the procedure to be completed within the validity period of the tenders. Once the evaluation has been completed, the authorising officer may take the award decision.

#### 4.1.15. Contact with tenderers

A functional mailbox shall be provided where the economic operators may express their interest or ask information on the procurement procedures that have been launched.

Contacts between the Secretariat and potential tenderers are prohibited throughout the procedure except in exceptional circumstances, i.e. during the submission phase.

Contacts with tenderers are allowed during the submission phase, by way of exception, in the following circumstances: at the request of economic operators, the Secretariat may supply additional information solely for the purpose of clarifying the procurement documents; on its own initiative, the Secretariat may inform interested parties if it finds any error, inaccuracy, omission or other clerical error in the procurement documents. If the Secretariat has to correct the procurement documents with a significant change, it shall extend the time limit for receipt of tenders or requests to participate so that tenderers can take these changes into account.

Contacts shall always take place in writing (preferably by electronic means so to guarantee prompt reaction and avoid risk of delays due to issues with postal services).

Any additional information provided at the request of a tenderer and any information provided by the Secretariat on its own initiative must be accessible simultaneously to all tenderers by the same means as for the procurement documents.

The tenderers may request additional information no later than 4 calendar days before the deadline for submission of tenders. The Secretariat shall provide the requested information as soon as possible and no later than 3 calendar days before the deadline for submission of tenders.

If the information is given less than 3 calendar days before the deadline, the Secretariat shall extend the time limit for receipt of tenders.

The Secretariat shall not be bound to reply to requests for additional information made less than 4 calendar days before the deadline for receipt of tenders but may do so if feasible. In case the deadline for receipt of requests for additional information does fall on public holiday, Sunday or Saturday, the period shall end with the expiry of the last hour of the following working day.



In line with good administration, it is obligatory to contact the tenderers to ask for missing information or documents in relation to exclusion or selection criteria or missing signatures. The absence of contact in these cases must be duly justified and documented by a note in the procurement file. However, the request for clarification must not result in alteration of the content or price of the already submitted tender.

#### 4.1.16. Results of the evaluation and award decision

Following the evaluation, the authorising officer shall decide to whom a contract is to be awarded, in compliance with the selection and award criteria specified in the procurement documents, and sign an award decision.

The Secretariat shall inform the successful tenderer as well as the unsuccessful tenderers of the grounds on which the decision was taken, as well as the duration of the standstill periods referred to in point 4.1.18 of these rules. Afterwards, the authorising officer may sign the contract with the successful tenderer. The successful tenderer shall sign the contract first.

#### 4.1.17. Information for candidates and tenderers

Contracts between EUR 20 001 and the threshold referred to in Directive 2014/24/EU awarded in one financial year shall be published on the Permanent Secretariat of the Transport Community's website before 30 June of the following year.

#### 4.1.18. Standstill period before signature of the contract

A standstill period of at least 7 calendar days shall apply to procedures with more than one tenderer. The standstill period shall start from the day after simultaneous dispatch of the notification on outcome of the selection procedure by electronic means to all tenderers (successful and unsuccessful). The authorising officer shall not sign the contract before the end of the standstill period.

Where appropriate, the Secretariat may suspend the signing of the contract for additional examination if justified by the requests or comments made by unsuccessful tenderers during the standstill period or any other relevant information received during that period.

#### 4.1.19. Cancellation of procurement procedures

The Secretariat may, before the contract is signed, cancel the procedure without the candidates or tenderers being entitled to claim any compensation.

Cancellation is decided when the contract is not awarded (e.g. because no tender was acceptable, no tender complied with the selection criteria or with the technical specifications, no tender reached the minimum quality thresholds, etc.), the needs that triggered the procurement procedure become obsolete (e.g. due to a change in policy priorities) or in case the financing of the expected contract is not secured.

The cancellation decision shall be signed by the authorising officer.

No later than 15 days after the signature of the cancellation decision, the Secretariat shall notify all tenderers in writing (by e-mail or mail) of the reasons for the cancellation.

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