

## Instructions for rectification and directions of appeal in procurement matters

A decision concerning a public procurement or other resolution made in connection to a procurement process can be applied against by demanding rectification of procurement as referred to in the Act on Public Procurement and Concession Contracts (1397/2016). Alternatively, the matter can be taken to the market court by lodging an appeal, if the value of the procurement exceeds the threshold value set for the said procurement in section 25 of the Act on Public Procurement and Concession Contracts.

### 1. Rectification of procurement (instructions for rectification)

The party that is unsatisfied with the decision or other resolution made during the procurement process can submit a written rectification of procurement claim as referred to in section 132 of the Act on Public Procurement and Concession Contracts. The rectification of procurement can be made by a bidder who participated in a bidding competition or a candidate who submitted a participation application, i.e. the party to whom the decision concerns or on whose right, obligation, or interest the decision has a direct impact (a concerned party).

The rectification of procurement claim must specify the claims and their grounds. The claim must include the name of the person who demands the rectification and who prepared the claim and the necessary contact details for managing the matter.

The rectification of procurement claim must be submitted to the relevant authority by the end of the rectification period. The rectification of procurement claim must be received by the closing time of the office at 15:45 on the last day of the rectification period. The rectification of procurement claim can be sent by post or email at the sender's own risk.

#### Relevant authority

The rectification of procurement claim will be submitted to the appeal authority specified in the decision under "Appeal authority".

The rectification of procurement claim must be sent to:

Tampereen kaupunki  
Kirjaamo  
Aleksis Kiven katu 14 - 16 C / PL 487  
FI-33101 Tampere

Alternatively, the rectification of procurement claim can be submitted by using the official e-service form at <http://www.tampere.fi/asiointi/> or by email to [kirjaamo@tampere.fi](mailto:kirjaamo@tampere.fi). The City of Tampere does not assume responsibility for the information security of rectification of procurement claims or appeals submitted by email.

#### Time limit

The rectification of procurement claims must be lodged within **14 days** from the moment the party was informed of the decision.

#### Notification

When an electronic notification is used, the party will be considered to have been informed of the decision and related documents on the day on which the electronic message that contained the said documents became available to the recipient on his or her receiving device so that the message could be processed. The day on which the message was sent will be considered as such a day, unless it is reliably shown that the recipient has received the electronic message on a later date due to a disruption in the telecommunication network or a similar circumstance.

If the decision and related documents are delivered to the recipient as a traditional letter, the concerned party will be considered to have been notified of the decision and related documents on the seventh day from the moment they were sent, unless otherwise is proven. If a verified delivery method is used, the recipient will be considered to have been notified at the time indicated on the proof of delivery or at the time specified on a separate service document. The notification day is not included in the time limit. If the last day of the time limit is a public holiday, the independence day, the first of May, Christmas or Midsummer Eve, or a Saturday, the task can be completed on the following weekday.

## **2. An appeal to the market court (directions of appeal)**

If the Act on Public Procurement and Concession Contracts has been violated in the procurement, a bidder, a candidate who submitted a participation application, or some other concerned party, can take the matter to the market court for resolution by lodging an appeal. Based on section 146(3) of the Act on Public Procurement and Concession Contracts, decisions of the procurement unit that are based on a framework arrangement or concern the approval of a dynamic procurement system cannot be appealed against, unless the market court grants a leave to address the matter. Such a leave must be granted when:

- 1) granting the leave is important for the application of the law to other similar cases; or
- 2) there are good grounds for granting the leave related to the actions of the procurement unit.

### **Appeal period**

Unless otherwise is regulated, the appeal must be lodged **within 14 days** from the moment the candidate or bidder was notified, in writing, of a decision that affects his or her situation or of a resolution of the bidding procedure and related grounds and received written instructions on taking the matter to the market court for resolution (directions of appeal).

The appeal must be lodged within 30 days from the moment the concerned party was notified of the decision if the procurement unit has signed a procurement or concession contract based on point 1) or 3) of section 130 of the Act on Public Procurement and Concession Contracts without complying with the standstill period.

The appeal must be lodged within six months from the moment the procurement decision is made in a situation where the candidate or the bidder has received the procurement decision and directions of appeal, and either the procurement decision or the directions of appeal were essentially defective.

The initiation and processing of a rectification of procurement claim do not affect the time limit within which the concerned party can take the matter to the market court.

### **Notification**

When an electronic notification is used, the party will be considered to have been informed of the decision and related documents on the day on which the electronic message that contained the said documents was available to the recipient on his or her receiving device so that the message could be processed. The day on which the message was sent will be considered as such a date, unless it is reliably shown that the recipient has received the electronic message on a later date due to a disruption in the telecommunication network or a similar circumstance.

If the decision and related documents are delivered to the recipient as a traditional letter, the recipient will be considered to have been notified of the decision and the related documents on the seventh day from the moment they were sent unless otherwise is proven. If a verified delivery method is used, the recipient will be considered to have been notified at the time indicated on the proof of delivery or at the time specified on a separate service document.

### **Appeal prohibition**

Based on section 163 of the Act on Public Procurement and Concession Contracts (1397/2016), matter that falls under the jurisdiction of the market court cannot be appealed against based on the Local Government Act (410/2015) or the Administrative Judicial Procedure Act (586/1996).

Based on section 146(2) of the Act on Public Procurement and Concession Contracts, a decision or other resolution of the procurement unit cannot be submitted to the market court for resolution by lodging an appeal when the said decision or resolution concerns:

- 1) solely the preparation of the procurement procedure
- 2) the failure to divide a procurement contract into parts based on section 75; or
- 3) the use of the lowest price or expense alone for assessing the overall cost-efficiency of the tenders as referred to in section 93.

### **Submitting an appeal**

The appeal must specify the procurement matter that the appeal concerns and the claims of the appellant and related grounds. In case of procurements that are based on a framework arrangement or a decision of the procurement unit that concerns approval into a dynamic procurement system, the appeal must specify why the leave should be granted.

The appeal must state the name and domicile of the appellant. If the appellant has authorized a legal representative or agent to act on his or her behalf, or if the appeal has been prepared by another person, their name and domicile must also be stated in the appeal. In addition, a postal address and telephone number must be provided for the delivery of notifications related to the processing of the appeal. The appeal must be signed by the appellant or by his or her legal representative or agent.

The decision that is subject to appeal must be enclosed with the appeal, either as the original document or a copy, as well as proof of the date on which the appellant was notified of the decision, or some other clarification of the starting of the appeal period.

Documents to which the appellant appeals in support of his or her appeal must be enclosed with the appeal. An agent must enclose with the appeal an authorisation as regulated in section 21 of the Administrative Judicial Procedure Act.

The appeal must be submitted to the market court before the appeal period ends. The appeal must be delivered before the closing time of the market court office on the final day of the appeal period. The day on which the party was informed is excluded.

The appeal can be submitted to the market court office in person, by using an agent or a courier, or by post, telefax, or email as is regulated in the Act on Electronic Services and Communication in the Public Sector (13/2003). If the last day of initiation is a public holiday, the independence day, the first of May, Christmas or Midsummer Eve, or a Saturday, the documents can be submitted to the market court on the following weekday.

### **Contact details of the market court**

Markkinaoikeus  
Radanrakentajantie 5  
FI-00520 Helsinki  
Tel. +358 29 56 43300  
Fax +358029 56 43314  
Email: markkinaoikeus@oikeus.fi

Appeals can also be submitted by using the online service of administrative and specialised courts at <https://asiointi2.oikeus.fi/hallintotuomioistuimet>

### **Notifying the procurement unit of the appeal**

The party appealing against a procurement matter must notify the procurement unit in writing of the submission of the matter to the market court (section 148 of the Act on Public Procurement and Concession Contracts). The notification must be delivered to the procurement unit no later than when the appeal concerning the procurement is submitted to the market court. The notification must be delivered to the address of the appeal authority specified in the decision under "Relevant authority".