Tarbijakaitse ja Tehnilise Järelevalve Amet

Guide

# Guide to electronic auction

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# General information

**Consumer Protection and Technical Regulatory Authority** (hereinafter referred to as CPTRA), with the address Endla 10a, Tallinn 10122, conducts competitive tenders on the basis of section § $113^{10}$ of the Building Code (BC) in the existence of competing superficies licence applications by means of an auction in order to select the applicant for whom the superficies licence proceedings will be initiated.

The auctions are carried out in accordance with Regulation No. 20 of the Minister of Economy and Infrastructure, "Procedure for Initiating Superficies Licence Proceedings by Competitive Tender," hereinafter Regulation No. 20, established on the basis of subsection 14 of § $113^{10}$ of the BC. If the CPTRA conducts the competitive tender by means of an electronic auction, it is based on this non-legally binding instruction when announcing and conducting the auction, including preparing the notice of the competitive tender, establishing the requirements for the application for participation in the auction and the bid, taking into account the circumstances related to the specific competitive tender and the object. This guide cannot be considered a preliminary administrative act of the competitive tender on the announcement or a procedural act of the competitive tender.

Competitive tender notices are submitted to competing superficies licence applicants at least **30 days before the deadline for submission of bids**.

**Information about auctions and superficies licences can be found at** https://ttja.ee/en/business-client/buildings-construction/superficies-licences-offshore-wind-farms.

Additional information **about participating in the auction and using the auction site** can be requested by email at hoonestusload@ttja.ee until the date specified in the competitive tender notice. All questions must be submitted via email.

# Participation

**Only the applicants who have:**

1. **Submitted an application for a superficies licence to the CPTRA on time, and the CPTRA has not made a decision on refusal regarding it;**
2. **Submitted a written application for participation in the auction that meets the requirements to the CPTRA after receiving the notice of the competitive tender from the CPTRA;**
3. **Been approved as a participant in the auction by the CPTRA;**
4. **Paid the deposit on time, after receipt of the payment notice from the CPTRA;**
5. **Registered in the auction site and,**
6. **Been qualified as a participant in the auction approved by the CPTRA.**

## Application for participation in the auction

**The application for participation must include:**

1. Name of the area to be encumbered in the public water body.
2. Participant's name and personal identification code (if not available, date of birth), in the case of a legal entity, the registry code of the country of residence, or other identifier.
3. Postal address of the participant's country of residence.
4. Participant's email address.
5. Confirmation that the participant is aware of the requirements for participation in the auction and accepts the terms of the auction.
6. A document certifying the right of representation of the participant's representative (digitally signed or original document) if the right of representation does not derive from the law, and it cannot be checked in the Estonian Commercial Register system. **If the participant is not registered in the Estonian Commercial Register, the power of attorney must be notarized.**

Bids cannot be made by a participant's representative who is not indicated in the application for participation in the auction. The participant can change the representative until the date specified in the competitive tender notice by informing the CPTRA email address hoonestusload@ttja.ee.

The application shall be submitted in Estonian or accompanied by translation into Estonian. **The application must be digitally signed and submitted by email to**

hoonestusload@ttja.ee**. The applicant is responsible for the timely delivery of the application to the CPTRA.**

The participant has the right to withdraw the application before the deadline for submission of the application specified in the competitive tender notice and, if desired, to submit a new application. **Only the last application submitted on time will be taken into account**. A participant who, without submitting a new application, has withdrawn their application before the due date for submitting the application **will be refunded the paid deposit within ten working days as of the due date for submitting the application.**

## Confirmation of participants in the auction

Within three working days, the CPTRA checks the compliance of applications received by the deadline with the provisions of § 3 of Regulation No. 20 and inform the applicants of the results of the check.

## Registration of participants in the auction site

Confirmed participants will be granted access to the auction site by the time the auction begins. Registration in the auction site is necessary to place a bid.

Before registering for the auction, the participant is obliged in the auction site to:

1. **Access the information published about the object in the auction site** and all attached documents;
2. **Access the conditions of the auction and confirm that they have read and accepted the conditions of the auction in the auction site**;
3. **Log in** for the auction with an ID card, Mobile-ID, Smart-ID, or EU eID in the auction site at www.riigimaaoksjon.ee;
4. **Pay a deposit**.

**The state land auction site is in Estonian, and the auction is conducted in Estonian.**

## Registering to participate through a representative

**The participant can participate in the auction through a representative whose right of representation derives from the law or who has been given the right of representation in written form.**

When registering for the auction, the logged-in representative's data is pre-filled in the representative's data block.

**When registering for the auction, the representative undertakes to:**

1. Enter **the representative's contact information** (phone number, email address) on the registration form. Information about the auction will be sent to the email address entered.
2. **Confirm that they have read the terms and conditions of the auction and agree to them.**

**It is not necessary to submit a power of attorney** if **the right of representation of the bidder on behalf of the company is reflected** in the electronic **commercial register** or if the same representative who submitted the application for participation in the auction on behalf of the participant and the right of representation to participate in the auction results from a power of attorney submitted with the application. To ensure the possibility of checking the right of representation, the legal entity participating in the auction must ensure that the right of representation of its representative or the person who gave the representative a power of attorney is reflected in the electronic business register or is proven in another way acceptable to the CPTRA. If the person being represented is registered in a foreign commercial register, etc., a notarized, and if necessary, legalized /confirmed with a certificate (*apostille*) register extract must be submitted to prove the statutory right of representation.

## Payment of the deposit

1. The CPTRA prepares a payment notice for the approved participant with information about the payment of the deposit in accordance with the provisions of the competitive tender notice.
2. **The size of the deposit is 2% of the auction's starting price.**
3. The participant pays the amount of the deposit to the current account of the Ministry of Finance indicated on the payment notice, choosing a bank suitable

for the payer. When making a transfer, all data must be indicated on the payment order, following exactly what is indicated in the payment notification. **Participation in the auction is not possible if any data is provided inaccurately when making the payment.**

4. When paying by transfer from a foreign bank, the IBAN code of the current account, the name of the account holder, and the SWIFT/BIC code of the bank must be indicated.
5. **The deposit is considered paid if the amount of the deposit specified in the payment notice has been received by the date specified in the competitive tender notice to the account number indicated in the payment notice.**

**If the person who wants to participate does not pay the specified deposit or all the information specified in the payment notification is not correctly submitted in the bank transfer, they will not be granted access to participate in the auction.**

## Qualification of registered participants to participate in the competitive tender

Once the participant has been approved to the auction, the CPTRA will check that the deposit has been received by the deadline and will notify applicants who have fulfilled all the requirements of their qualification as a participant of the auction. Upon qualification, the participant will be given a **unique registration number** in the auction site under which they will participate until the end of the auction.

# Conduct of auction

## Submission of bids

The auction is open all days of the week and around the clock.

Bids can **only be submitted through the legal or authorized representative of the participant qualified by the auction organizer CPTRA** (hereinafter participant) only in the auction site (www.riigimaaoksjon.ee) in accordance with the procedural rules established.

A participant can make an unlimited number of bids until the auction deadline.

Participants enter their bids electronically in the auction site. Subsection 3 of § 7 of Regulation No. 20 states that bids shall be submitted in full euros (without cents) in the increments specified in the competitive tender notice. Bids cannot be lower than the starting price.

The number of auction participants, registration numbers, and bids made by participants are visible to all participants in real-time.

**If there are technical obstacles to participating in the auction and making bids, the participant must immediately inform the organizer of the auction.**

**By submitting an offer, the participant undertakes to pay the amount of the bid in the event of winning, under the conditions and within the deadline specified in the tender notice. It is not possible to withdraw the submitted offer. The participant is bound by their bid from the time the bid is submitted until the results of the auction are confirmed. The participant who made the highest bid is bound by their bid until the bid amount is paid or the application for a superficies licence is withdrawn.**

## End of auction

Auctions conducted in the auction site are **ascending clock auctions.** The ascending clock period is **15 minutes**. The auction ends on the day and time specified by the auction organizer in the conditions of the auction if no bids have been received within the period determined to be the ascending clock period before the time specified in the tender notice.

If a new bid is received within the ascending clock period before the deadline, the moment of receipt of this bid shall be considered as the new beginning of the period determined as the ascending clock period, and the auction will be ascended. The auction will be ascended until a new bid is received within the period finally

determined to be ascended. The auction will be ascended if no bid is received within the period finally determined to be ascended.

The results of the electronic auction are determined automatically in the auction site.

# Auction results

## Announcing the results

**The winner of the electronic auction is the participant who made the highest bid.**

The results of the auction are recorded in the auction protocol, which is automatically generated in the auction site. The protocol is available to all participants who bid in the auction site at www.riigimaaoksjon.ee immediately after the winner of the auction is announced.

**If, during the conducting of the auction, the auctioneer has been informed that there were technical obstacles in participating in the auction or making bids**, the CPTRA will review the claims received and check the log entries of the auction site.

According to subsection 7 of § $113^{10}$ of the Building Code, the CPTRA declares the competitive tender failed if:

1) the rules for conducting the tender have been violated;
2) after the tender has taken place, it comes to light that the winner has filed false information;
3) when the winner does not, within the time limit, pay the amount they have bid or withdraws their application for a superficies licence – only one bid remains that complies with the requirements;
4) no person has been registered as participant of the auction;
5) no bids or no bids that comply with requirements have been filed;

6) at the auction, an arrangement between, or concerted activity of, participants came to light, which materially affected or may have materially affected the result of the auction;
7) other circumstances mentioned by the organiser in the terms or notice of the auction come to light.

According to § 8 of Regulation No. 20, the competitive tender ends if:
1) on the basis of the application of the winner of the auction, the superficies licence proceedings are initiated;
2) the deposit has not been paid on time;
3) no application for participation in the auction is submitted, the said applications are dismissed or the participants are eliminated from the competitive tender;
4) the competent authority shall declare the competitive tender unsuccessful pursuant to subsection 7 of § $113^{10}$ of the Building Code.

# Confirmation of auction results

**The general director of the CTPRA decides whether or not to confirm the results of the auction** (including declaring the auction unsuccessful) within three working days after the results of the auction are announced.

When confirming the results of the auction, the decision shall state at least **the name/business name of the auction winner and the bid amount**.

**The decision to confirm the results** is sent to the auction participants. The decision is sent by email, which the representative of the participant has indicated as their contact in the auction site. The operative part of the decision is published on the website of the auction organizer, www.ttja.ee.

# Refund of the deposit

## Auction winner's deposit

**The deposit paid by the winner at the auction is not returned, but it is deducted from the bid made in the auction.**

## Deposits of other auction participants

The organizer of the action will return the deposit to participants whose auction bids did not win the competitive tender within 14 days after the end of the competition.

**The deposit will be returned to the same bank account from which the deposit was paid.**

**The deposit will not be returned to the person who caused the auction to fail.**

# Initiation of a superficies licence proceedings

**The superficies licence proceedings are initiated against the winner of the auction, who pays the bid amount within the deadline specified in the tender notice.**

Where circumstances provided for by § $113^{11}$ of the Building Code come to light, superficies licence proceedings that were initiated by competitive tender may end with a refusal to issue the licence.

## The amount offered at the auction

**The winner is obliged to pay the amount exceeding the deposit** to the current account of the Ministry of Finance. To pay the amount, the auction organizer sends an invoice to the winner, which must be paid by the deadline specified in the tender notice. **When making the payment, the data provided on the invoice**, including the reference number and explanation of the payment, must be indicated.

# Disputing the auction procedure

A person who participated in the auction who believes that their rights have been violated or their freedoms have been limited in the bidding procedure has the right to submit a complaint to the CPTRA in the manner and term stipulated in the Administrative Procedure Act or to the Tallinn Administrative Court in the procedure and term stipulated in the Code of Administrative Court Procedure.

# Final provisions

**The CPTRA ascertains the applicant regarding whom the superficies licence proceedings will be initiated and makes a decision to initiate the superficies licence proceedings within 90 days** from the ascertainment of the above applicant. On the basis of other competing applications, the CPTRA shall take a decision to refuse to initiate the superficies licence proceedings within the same time limit. In justified cases, the CPTRA shall have the right to extend the time limit.