

# Regulations concerning the procedure to be followed for the acquisition of goods and services in the event of possible conflicts of interest

LEX 5.8.3

15<sup>th</sup> April 2010, status as at 1<sup>st</sup> January 2017

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*The Direction of the Ecole polytechnique fédérale de Lausanne, based on the Federal Act of 20 December 1968 on Administrative Procedure (APA) (Status as at 1<sup>st</sup> January 2011) ([RS 172.021](#)) and based on the *Loi fédérale sur les marchés publics (LMP)* of 16 December 1994 (Status as at 1<sup>st</sup> January 2012) ([RS 172.056.1](#)), hereby adopts the following:*

## Context

Occasionally there is a need for a unit to acquire equipment or other goods and services in a potential situation of conflict of interest:

- because the transaction concerns a spin-off;
- in the event of participation in the board of directors of the company concerned or consulting;
- because certain employees hold interests in the company concerned.

It would be paradoxical and counterproductive to wish to exclude the possibility for a unit to acquire equipment, goods and services resulting from its own work.

It is on the other hand imperative to ensure that the legal framework referred to below is respected and that questions regarding possible conflicts of interest be dealt with.

## Article 1 Necessity clause

The Vice-President, School Dean or College Director concerned appoints a third person, not connected with the acquiring unit and qualified to evaluate whether the anticipated acquisition is justified on the technical level in view of the features specifically required in order that the acquiring unit can fulfil its teaching, research or service objectives. This person also verifies the appropriateness of the quantity to be ordered in relation to the explicitly justified requirements. Any likelihood of repetitive contracts must be indicated at the outset and duly justified.

## Article 2 Tender at cost price

The Purchasing Office concerned verifies that the tender is based on a cost price established as follows:

- the components and materials/raw material will be invoiced at cost price, with the invoices of the suppliers of the latter ultimately serving as proof of payment;
- the work is invoiced at the standard hourly rate, according to the company's salary scale;
- the supplier accepts that the tender and its conditions may be audited if required by the Internal Audit of the ETH Board or the Swiss Federal Audit Office.

## Article 3 Invitation to tender according to the LMP

<sup>1</sup> The LMP constitutes the basic reference. The public invitation to tender procedure is systematically applied when the legally specified threshold is likely to be attained or exceeded.

<sup>2</sup> This procedure is carried out under the responsibility of the appropriate Purchasing Office. The Vice-Presidency, School or College concerned sets up a qualified and independent group to validate the specifications prior to the invitation to tender, and subsequently the tenders and purchasing proposal formulated and justified on the basis of the latter will be validated by the acquiring unit.

**Article 4 Order placed by the Vice-Presidency, School or College concerned and the appropriate Purchasing Office**

<sup>1</sup> The order drawn up and signed by the Vice-Presidency, School or College concerned is forwarded to the appropriate Purchasing Office, which countersigns it after having verified that the conditions specified by the APA and LMP are respected.

<sup>2</sup> In any event, the order is subject to the fact that the supplier accepts that the tender and its conditions may be audited if required by the Internal Audit of the ETH Board or the Swiss Federal Audit Office.

**Article 5 Coming into force**

The present regulations come into effect on 15<sup>th</sup> April 2010, status as at 1<sup>st</sup> January 2017.

On behalf of the EPFL Direction:

President  
Patrick Aebischer

General Counsel  
Susan Killias

Comment: this Directive has been reviewed as part of the 2017 reorganisation. No modifications were made to this directive as a result of the review.