

Construction Planning and Management

Tender Forms Contract Forms

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Tender Forms

Tender Forms in Building and Construction

When choosing tender form and contract form, the counsellors and the building owner determine how the construction project in broad outline shall be managed and the structure and detail of the tender documents.

Private construction projects are not bound to follow the open procedures as they may choose either to go directly to a certain counsellor or construction contractor of their own choice or to comply with public rules. It is therefore important to differentiate between private and public construction projects.

The EU basically determines that public authorities must use standardised and open procedures and treat tenderers equally when public contracts are allocated. This applies irrespective of the EU directives.

Acts on tendering in construction

The Danish Act on Tender Procedures for Public Works Contracts No. 338 of 18 May
Circular on price and time as regards building and construction work etc. **No. 174 of 10 October 1991.**

AB92, general conditions of work and supply in building and construction work

ABT93, general conditions of turnkey contracts

Important links concerning tendering rules:

www.retsinfo.dk

www.ks.dk

www.udbudsportalen.dk

On the following pages you will find some user-friendly checklists which may help you through the general regulations of the different tender forms. Note that some regulations only apply to EU tender documents.

Below you will find a simplified schematic outline of the different tender forms. The table may be used to form an idea of which tender form you may choose for your project. The regulations must be controlled at every tender.

Tender Forms

- Public Tendering
- Restricted Tendering
- Confidential tender
- Negotiated procedure
- Design contests

Table of Tender Forms

	Public Tendering	Restricted Tendering with prequalification	Restricted Tendering without prequalification. Invited tendering	Confidential tender
Contracting parties	Building owner/ Consultants		Building owner/ consultants and turnkey contractors	Building owner/ local councillors and principal/ turnkey contractors
Number of tenderers, applicants	Unlimited	Unlimited number of applicants Number of selected applicants 5-20 (5-7) who fulfilled the award criteria must be announced	The number of invited tenderers is usually between 5-20. (5-7) There must be at least one non-local tenderer.	Maximum 3 tenders. However it is possible to invite a fourth confidential tender if the awarding authority has reserved this right in the invitation to submit tenders and the fourth tender is invited from outside the local area.
Contact to tenderers	Notice of Tender To be announced in the local and national press		Direct invitation to the tenderers	
Award criteria: The economically most advantageous tender	It must be stated how the criteria will be weighted. If that is not possible a prioritized order must be stated.			
Award criteria: The lowest tender	Negotiations are not permitted Contractor with the lowest price gets the job			Negotiation is permitted

	Public Tendering	Restricted Tendering with prequalification	Restricted Tendering without prequalification. Invited tendering	Confidential tender
Form of bid	In writing only			By "word of mouth" / written
Rejection of bid	Yes, it is possible - a reason must be given.			
Annulment (cancellation) of the Tendering	Yes			
Attendance of tenderer	The tenderer is permitted to be present when the bids are opened. They must also have access to the amounts bid and their reservations.			Public opening of tenders is not a requirement
Notifying the tenderer	As fast as possible, and with the decision of whom won the Tendering and why?			As soon as possible and with the decision of the placement of the contract
Deadlines in DK. Main project	15 days to respond to the advert		A tender must be submitted 15 days from the tender day	-
Eu directives state that "Before a project can be put out to tender the 'Threshold limit' must be announced"	National tendering below DKK 44 million / DKK 7,4 million partial work			Only below DKK 3 million / DKK 500,000 partial work
EU directives define minimum deadlines	52 days to submit a tender	37 days to respond to the advert. 40 days to submit a tender	40 days to submit a tender	-

General rules

In Denmark the tenderer is entitled to attend the opening of tenders.
There must be at least 40 days from the acceptance of the tender to the project commencement. Projects below DKK 400,000 are exempted from the above deadlines.
Replies will be sent as quickly as possible after the tender.

Other tender forms (which will not be dealt with here)

- Design contests: In connection with large construction projects, architect assignments, or IT projects.
The tenderer takes part in the formulation of the tender.
A selection board will be appointed. There is no obligation to enter into a contract.
The local authority is entitled to negotiate the tender.
- Negotiated procedure: Is only permitted if no qualified tenders appear after public or private tender.
In the case of monopolistic conditions

Exclusion from tender

- Reasons for exclusion: The tenderer is legally incapable
The tenderer is in suspension of payments
The tenderer is convicted of a criminal offence
The tenderer guilty of negligence

Criteria

- Lowest tender The lowest price is given the highest priority according to the tender documents.
The tender cannot be negotiated subsequently.
The tenderer is entitled to review his tender before the acceptance if there is a substantial price difference between the lowest and the second lowest tender.
- Economically most advantageous tender When the contract is awarded in consideration of price, quality, construction time, revenue expenditure, profitability, technical value, environment, architecture and function. The way of prioritising the criteria must be announced. Concrete choices of tenders must be announced and the reason for choosing them must be stated. The procedure for the negotiations must be announced before the negotiations start. The task and criteria cannot be changed in the course of the project.

Other notes

- Keeping the tender open: According to AB92 the contractor must keep the tender open for 20 days. According to the Act on Tender Procedure for Public Works Contract the tender must be open for at least 40 days
- Bid rigging The tenderers are introduced to each other in order to give them the opportunity of making agreements in relation to tenders.

General EU regulations

Corrective statements will be sent at least six days before submitting a tender according to EU procedure.

Restricted procedure
according to accelerated
procedure:

An accelerated procedure may be used if it has been published in the Official Journal of the European Communities that submission of a tender in the form of a periodical indicative tender notice at the beginning of each year will be expected in the course of the coming year.

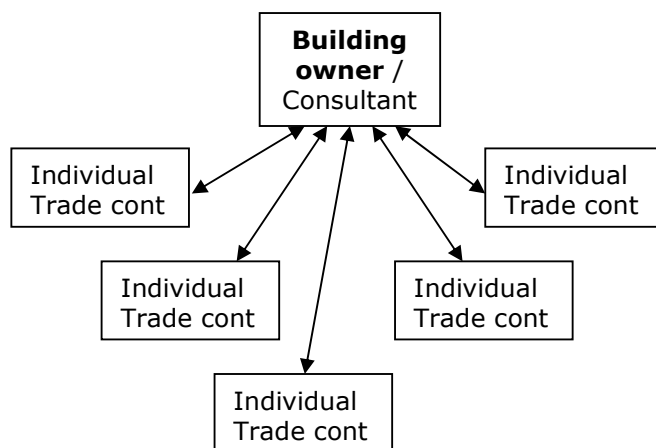
Table of Contract Forms

A contract form for each project must be determined. Which contract form is most suitable for the project in question? Procedure for building and construction works according to the Danish Act on Invitation of Tenders in Construction and Civil Works.

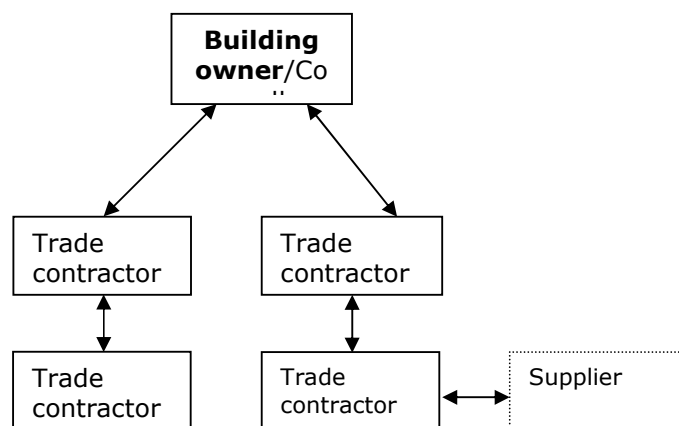
	Individual Trade contract	Trade contract	Main contract	Turnkey contract
The building owner has entered into a contract with	Each Individual Trade contractor and the consultant of the project.	Each Trade contractor and the consultant of the project The Trade contractor has made a contract with several of the Individual Trade contractors.	The Main contractor and the consultant of the project. The Main contractor has made a contract with all individual trade contractors.	The turnkey contractor. The turnkey contractor has made a contract with all specialist contractors and the project planners.
Organisation	Each Individual Trade contractor reports to the building management who reports to the building owner.	Each Trade contractor reports to the building management who reports to the building owner.	The Main contractor reports to the building management who reports to the building owner.	The turnkey contractor has the building management and reports to the building owner. Project planners and individual trade contractors report to the turnkey contractor.
The building management	The building management, who co-ordinates the Individual Trade contracts, is not included in the tender price.	The building management, who co-ordinates the construction contracts, is not included in the tender price.	The Main contractor is responsible for the building management and the building management is therefore included in the tender price.	The turnkey contractor is responsible for the building management and the building management is therefore included in the tender price.
Participants at building meetings	All contractors and the expert supervision		The Main contractor and the expert supervision	The turnkey contractor and counsellors of the building owner if required
Tender form	Public or restricted procedure			Restricted procedure
Implementation/ tender documents	Made by the consultant and paid as a separate fee			Made by counsellors in cooperation with project implementers. Included in the total tender amount and contract.

Organisation Diagrams for Contracts

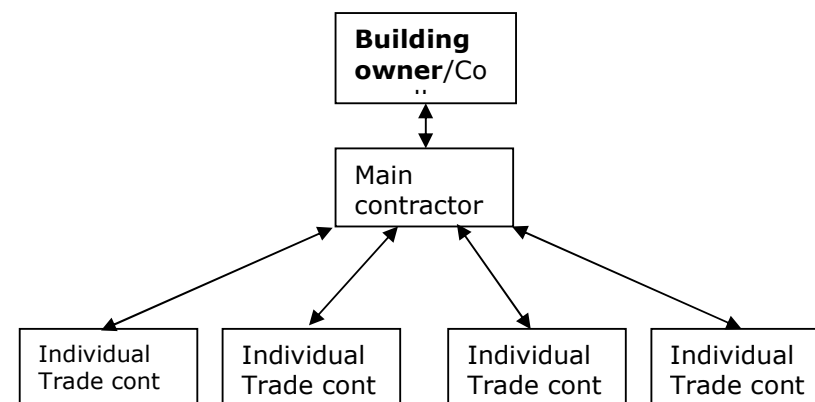
Individual Trade contract:



Trade contract:



Main contract:



Turnkey contract:

