

Turkey Announces Procedure and Principles Regarding R&D Tenders

1 Jun 2020

Presidential Decree ("**Decree**") numbered 2483 was published in the Official Gazette dated 30 April 2020 and numbered 31114 and entered into force on the same day. The Decree regulates the procedure and principles of services to be procured through tenders for the national research-development ("**R&D**") projects conducted and supported by the national R&D institutions within the scope of the exceptions of Public Tender Act ("**Act**") numbered 4734, excluding the penalties and prohibition from tenders.

The Decree determined all kinds of R&D service procurements be conducted and supported under the R&D exception set forth in article 3/f of the Law and the procedure and principles for these procurements. Key points addressed in the Decree include:

- No service procurement will be made for any work that does not have an allowance.
- The resources allocated will be used for various service procurements, which will also be for the benefit of others than the Ministry of Internal Affairs ("**Ministry**").
- The content of the tender document and the mandatory elements to be included in the administrative specifications are listed in the Decree. Essentially, no changes should be made to the tender documents after its announcement. However, if a mandatory change is required, those requirements will be determined, and the documents will be re-announced.
- The Decree regulates the mandatory elements that are required to be included in the tender announcements. Furthermore, the Decree states that the announcements will be invalid if it fails to comply with these regulations, and the tender cannot be made unless the announcement is updated accordingly.
- The relevant department will determine the approximate cost excluding VAT through price research before the tender of service procurements; however, this price will not be included in the pre-qualification announcements. The cost will not be disclosed to the tenderers or persons who are not officially related to the tender process.
- The Decree listed the documents may be requested from the tenderers to determine their economic, financial, professional and technical qualifications, and the persons that cannot participate in the tender.
- The tender commission will examine the tenders to be received as specified in the Decree. Consequently, the most economically advantageous tender will be determined on the basis of price or additional factors such as cost-effectiveness, efficiency, quality, and technical value.
- Upon the decision of the tender commission, all tender offers can be rejected, and the tender may be canceled. In such a case, the Ministry will not be under any obligation but will explain the reason for the cancellation to the tenderers making such requests.
- The Decree sets forth that R&D service procurements up to one million Turkish Liras from R&D institution (each to be calculated separately) will be realized through a protocol to be arranged between the administration and the R&D institutions.

- The Decree states that provisional bonds corresponding to at least 3% of the tender price may be requested from the tenderers, and performance bonds corresponding to 6% of the tender price will be received from the successful tenderers before signing the contract.
- The successful tenderers sign the contract containing the elements listed in the Decree by providing a performance bond.
- After the start of the project, the Ministry may request a report, make an on-site review, or receive information from the project team to monitor the progress of the project, when deemed necessary.

Please see this [link](#) for the full text of the Decree published in the Official Gazette dated 30 April 2020 and numbered 31114.

Related Practices

- [R&D, Licensing and Technology Transactions](#)

Related Attorneys

- [BENAN ARSEVEN](#)
- [A. BAŞAK ACAR, LL.M.](#)