

ARN

2026

**Aanbestedingsreglement Nutssectoren
2026**

English translation

**Procurement Regulations for Public Utility
Sectors 2026**

Preamble

- Special sector companies are obliged to award assignments in accordance with the provisions of the Aanbestedingswet 2012 (Dutch Procurement Act).
- The Aanbestedingswet 2012 provides for abstract and concrete rules that procurement processes must comply with.
- A large number of special sector companies complement these rules with other (whether or not own) procurement regulations, providing a more detailed description of the course of the procurement process.
- The application of generic and sufficiently flexible procurement regulations that can accommodate both European and national procurement processes enhances the focus and professionalisation of the special-sector company and provides interested entrepreneurs with legal certainty in advance.
- A number of special-sector companies subjected to the Aanbestedingswet 2012 have jointly taken the initiative to produce these procurement regulations, which can be used by every special sector company.
- Special sector companies are therefore invited to make use of these regulations.

The management and further development of ARN²⁰²⁶ have been entrusted to the ARN²⁰²⁶ user group. Special-sector companies that wish to use ARN²⁰²⁶ and contribute to its further development may join this user group.

Further information can be obtained from the secretariat of the user group,

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Part I General

1 Definitions

In addition to the definitions set forth in Article 1.1 of the Aanbestedingswet 2012, the following terms and definitions apply:

procurement procedure:	the process by which the special-sector company invites one or more parties to submit a bid for the provision of works, services, or goods, in accordance with pre-established rules, procedures, and award criteria, the conduct and subject matter of which are further described in the Tender Documents;
tender documents:	collective term for all documents that the special-sector company has sent to the candidates/bidders in connection with the relevant tender procedure;
application:	a request to participate in a procurement procedure;
publication:	a call for competition published by any means other than through the electronic procurement system;
supporting documents:	the evidence, data, and statements (such as references, excluding European Single Procurement Document) on the basis of which the special-sector company determines that none of the grounds for exclusion apply, that a candidate or bidder meets the (minimum) eligibility requirements, and to what extent a candidate meets the selection criteria;
objection	a reasoned written objection by a party against a decision taken by the special-sector company in accordance with these regulations, with the aim of securing its reconsideration or amendment;
consortium member:	an entrepreneur participating in a consortium;
consortium:	a partnership of entrepreneurs;
combination agreement	an agreement that is permitted or exempted under the 2013 Policy Rules on Combination Agreements of March 31, 2013 (Government Gazette 2013; 9223);
day:	calendar day;
qualification system:	a qualification system established in accordance with Article 3.66 of the Aanbestedingswet 2012;
group:	an economic entity as referred to in Article 2:24b of the Civil Code;
award:	the acceptance of a bid, as referred to in Article 6:217, paragraph 1, of the Dutch Civil Code;
award criteria:	the criteria on the basis of which the special-sector company evaluates the bids and makes the award decision;
bid:	the submission of an offer in the manner prescribed by the special-sector company;
Member State:	a country that is a member of the European Union;
eligibility requirements:	the requirements to be set by the special-sector company, which candidates and bidders must meet in order to be invited to participate in a dialogue or negotiations, or to be invited to submit a bid and to be eligible for the award of the contract;
national procurement procedure:	a non-European and non-restrictive procurement procedure;

- information memorandum: the document—or the information provided on TenderNed or another designated procurement platform—through which the special-sector company answers the (anonymized) questions of potential candidates and bidders, provides clarifications, and, if necessary, makes changes to the other procurement documents. The Information Memorandum forms an integral part of the tender documents;
- tender report: a report documenting the bids received during a procurement procedure;
- selection criteria: the criteria on the basis of which the special-sector entity selects, from among the candidates who meet the eligibility requirements, those who may submit a bid or participate in the dialogue or negotiations;
- Grounds for exclusion: the grounds for exclusion set forth in Articles 2.86 and 2.87 of the Aanbestedingswet 2012 and declared applicable in the tender documents, on the basis of which a contractor may be excluded from participating in the procurement procedure.

2 Time Limits

- 2.1** A time limit specified in these regulations begins at the start of the first hour of the first day thereof and ends at the end of the last hour of the last day thereof.
- 2.2** If a time limit specified in days in these regulations commences at the moment an event or act occurs, the day on which that event or act occurs is not included in that time limit.
- 2.3** If the last day of a time limit specified in these regulations falls on a Saturday, a Sunday, or a generally recognized public holiday within the meaning of Article 3 of the Algemene termijnenwet, this time limit is extended through the next day that is not a Saturday, Sunday, or generally recognized public holiday.

3 Applicability

- 3.1** If a procurement procedure is to be conducted in accordance with these regulations, this will be stated in the procurement documents.
- 3.2** If the first paragraph has been applied, candidates or bidders are deemed to have agreed to the applicability of these regulations. They are also deemed to have agreed to the applicability of these regulations in the mutual relationship between the candidates or bidders involved in the tendering procedure.

4 Establishment and Initiation of the Tendering Procedure

- 4.1** The tender procedure to which ^{ARN2026} applies may take the form of a European, national, or private tender procedure.
- 4.2** The notice, or, if no notice is issued, the invitation to participate in the tender, shall specify which tender procedure will be conducted.

5 Language of the procedure

Unless the special-sector company has specifically stipulated otherwise in the tender documents, the language of the tender and the language in which the documents required for the tender procedure must be submitted is Dutch.

Part II European and national tendering procedures

6 Registration as a candidate

- 6.1** The deadline for receipt of applications in tender procedures with preliminary selection is specified by the special-sector company in the tender documents.
- 6.2** Only those applications that are received on time and meet the requirements set forth in the tender documents will be considered by the special-sector company, unless correction of a deficiency in the application as referred to above is permitted.

7 Grounds for exclusion

Candidates and bidders who meet the grounds for exclusion set forth in the tender documents and the information memorandum are excluded from participating in the tendering procedure.

8 Eligibility Requirements

- 8.1** To be eligible to participate in a dialogue or negotiations and to be considered for submitting a bid, the candidate or bidder must meet the eligibility requirements set forth in the tender documents.
- 8.2** The special-sector company specifies in the tender documents which supporting documents it requires as proof of financial and economic capacity, technical competence, professional competence, and professional qualifications.

9 Supplementing and Verifying Supporting Documents

- 9.1** The special-sector company may require the candidate or bidder to supplement or further explain supporting documents submitted within a specified deadline. The candidate or bidder may not derive any rights from this provision, nor may any obligation on the part of the special-sector company be inferred from it to require the supplementation of incorrect or incomplete supporting documents or to request further clarification thereof.
- 9.2** Those who submit supporting documents are responsible for their accuracy. The special-sector company has the right to verify the accuracy of the supporting documents submitted.
- 9.3** The candidate or bidder is required to provide full and unconditional cooperation in the verification of the supporting documents submitted by them. If it appears that the special-sector company receives insufficient cooperation from the candidate or bidder during the verification process, the supporting documents shall be deemed to be false with the intent to mislead the special-sector company. In that case, the candidate or bidder may be excluded from the procurement procedure, unless the candidate or bidder demonstrates that the insufficient cooperation was not intended to mislead the special-sector company.
- 9.4** Any supporting document submitted that, upon verification, proves to be untrue shall be deemed as a false statement. In such a case, the candidate or bidder may be excluded from the procurement procedure, unless the candidate or bidder demonstrates that the supporting document was not submitted with the intent to mislead the special-sector company.

10 Consortia

- 10.1** In addition to the supporting documents regarding technical and professional competence referred to in Article 8 paragraph 2, the candidate or bidder must submit a joint venture agreement with an organizational chart that clearly indicates which company will be responsible for which activities, as well as a statement that, should the contract be awarded, the division of labor set forth in the joint venture agreement will in fact be adhered to.
- 10.2** With regard to the grounds for exclusion included in the tender documents, each individual consortium member must provide the supporting documents required by the special-sector company.
- 10.3** Each individual consortium member must issue a statement in which it accepts joint and several liability toward the special-sector company in connection with any contract that may be awarded to the consortium.

11 Recourse to a natural person or legal entity

- 11.1** A candidate or bidder may rely on the technical and professional qualifications of natural or legal persons, regardless of the legal nature of its relationship with those natural or legal persons. In that case, he demonstrates that he will have at his disposal the resources necessary for the performance of the contract.

This must be done by means of a declaration to the special-sector company that is binding on both the candidate or bidder and the natural or legal person.

- 11.2** To the extent that a candidate or bidder wishes to rely on the technical and professional competence of a natural or legal person, the declaration referred to in the first paragraph must be accompanied by an organizational chart showing at least which company will be responsible for which activities, as well as a declaration that, should the contract be awarded, the division of labor set forth in the statement will in fact be adhered to.
- 11.3** To the extent that a candidate or bidder wishes to rely on the financial and economic capacity of a natural person or legal entity, the statement referred to in the first paragraph must indicate that the natural person or legal entity accepts joint and several liability for the performance of the contract in the event that the contract is awarded to the candidate or bidder in question.

12 Selection criteria

- 12.1** The special-sector company may rank the candidates who have not been excluded and who meet the eligibility requirements in order of suitability, based on the selection criteria set forth in the tender documents. The purpose of this is to invite the most suitable candidates, up to a number specified in the tender documents, to submit a bid or participate in a dialogue or negotiations
- 12.2** The tender documents specify whether and how the selection criteria are applied and what additional supporting documents the candidate must submit in this regard.
- 12.3** If the special-sector company has specified a maximum number of bidders in the tender documents, the assessment thereof shall be conducted in accordance with the provisions of this article. The most suitable candidates, up to the specified maximum number, shall be invited to submit a bid or to participate in a dialogue or negotiation.

13 Invitation

- 13.1** No later than at the same time as the invitations to submit a bid, participation in a dialogue, or engage in negotiations are sent, the special-sector company shall send a written notification to any rejected candidate stating that they are not being invited. The written notification shall include a statement of the reasons for the rejection. A rejected candidate who disagrees with the rejection may notify the special-sector company of this by filing an objection no later than six days after the notification referred to in this paragraph is sent.
- 13.2** As soon as possible after receiving the notification referred to in paragraph 1, the special-sector company shall communicate its opinion to the applicant concerned. If the opinion implies that the special-sector company maintains its rejection, the rejected candidate has the right to bring summary proceedings in this regard before the provisional relief judge competent pursuant to Article 21, paragraph 1, no later than ten days after such notification.
- 13.3** Any claim to participate in the tendering procedure lapses if summary proceedings have not been instituted before the judge competent pursuant to Article 21, paragraph 1, within the following period:
- ten days after the notification of the opinion referred to in the fifth paragraph if the notification referred to in the first paragraph was received within the aforementioned six-day period, or;
 - ten days after the notification referred to in paragraph 1, if the report referred to in paragraph 1 has not been received within the aforementioned six-day period.

14 Bidding

- 14.1** The bid must be submitted in the manner prescribed in the tender documents, no later than the deadline for receipt of bids. Bids will not be opened until the deadline for submission of bids has expired.
- 14.2** A bidder is authorized until the time referred to in paragraph 1 to withdraw their original bid or to submit a new bid in the prescribed manner. If a bidder has submitted more than one bid for the same tender procedure, the last one shall be considered the definitive bid. Withdrawal without submitting a new bid shall be effected by expressly withdrawing the bid prior to the time referred to in paragraph 1 through a notice addressed to the special-sector company, which can be proven to have been delivered to the special-sector company.
- 14.3** A bidder is required to submit information at the request of the special-sector company as soon as possible (but no later than two days) after the special-sector company's request, if:
- it follows from the tender documents or the information memorandum that more mandatory information is required than the bidder can provide on the bid form, and
 - this information is not required immediately upon submission of the bid.
- Such a request does not entitle the bidder to claim the contract. The request to submit the information referred to in this paragraph will not be made to a bidder who, in the opinion of the special-sector company, is highly unlikely to be eligible for the contract.
- 14.4** By submitting a bid, the bidder declares that it fully agrees to the provisions contained in the tender documents and any other provisions applicable to the tender procedure.
- 14.5** If a bid states a price in both numerals and words and these do not match, the price in words shall prevail, unless it can be inferred from the bid that the amount in numerals is to apply.

15 Validity Period

- 15.1** The bidder shall maintain its bid for 60 days following the latest date of receipt of the bids, unless a different period is specified in the tender documents or in the tender information on TenderNed.
- 15.2** If a party files an objection pursuant to Article 18, paragraph 6, or initiates summary proceedings against the award decision, the validity period of the bidders bid will be (automatically) extended until four (4) weeks have elapsed after the opinion regarding this objection has been issued or a judgment has been

rendered in the relevant preliminary relief proceedings.

- 15.3** Even if the preliminary injunction proceedings are withdrawn, the extension of the validity period applies until four (4) weeks have elapsed after the preliminary injunction proceedings were withdrawn.
- 15.4** The special-sector company may request an extension of the bid validity period. Such a request does not entitle the bidder to the contract.

16 Minutes of the Bidding Process

- 16.1** A record may be drawn up of the formal determination of the tenders received on time.
- 16.2** If the first paragraph has been applied, the bidders shall, upon request, receive the minutes of the formal determination of the bids received on time with due speed.

17 Invalidity of bids

- 17.1** Bids that do not meet the requirements set forth in these regulations and/or the tender documents are invalid, unless correction of a deficiency in the bid as described above is permitted. If the special-sector company has specified a maximum contract amount in the tender documents, bids exceeding that amount are invalid.
- 17.2** Bids are invalid if they are submitted by a bidder:
- i. who assists or has assisted the special-sector company during the tendering procedure in the selection, evaluation of tenders, or the award of the contract;
 - ii. that relies on a natural person or legal entity, or has in any way associated itself with a business entity, which assists or has assisted the special-sector company during the procurement procedure in the selection, evaluation of bids, or the award of the contract.
- 17.3** If a tender is subject to conditions, including any comment or reference in documents accompanying the tender from which the special-sector company may infer that the tenderer is offering something different or under different conditions than what he was required to do based on the tender documents and the information memorandum, the tender is invalid.

18 Award Procedure and Contract

- 18.1** The special-sector company always has the right—without being liable for damages—to terminate the tendering procedure and is not obligated to award the contract. The special-sector company shall notify the participating contractors as soon as possible, and in writing upon request, of the reasons for such a decision.
- 18.2** Only bidders who meet the eligibility requirements set forth in the tender documents both on the date of receipt of the bids and on the date of award, and who are not excluded on the grounds of exclusion, are eligible for the contract.
- 18.3** The bidder whose bid is eligible for award but whose bid, according to the special-sector company, is substantially higher than the special-sector company's cost estimate, will be invited by the special-sector company to explain its bid and compare it with the special-sector company's cost estimate. To the extent that the comparison, in the reasonable judgment of the special-sector company, has not yielded a satisfactory result, the special-sector company will refrain from awarding the contract. If the special-sector company refrains from awarding the contract, the tender procedure will be withdrawn.
- 18.4** If two or more bidders are equally eligible for the award of the contract, a lottery shall determine to which of them the contract will be awarded. The relevant bidders shall be notified in a timely manner that a lottery will take place and where, when, by whom, and in what manner the lottery will be held. They are entitled to be present at the lottery.
- 18.5** The special-sector company shall notify the relevant candidates and bidders of the award decision by means of

a written notice. That notice shall state the grounds for the award decision. The notice shall be sent simultaneously to all relevant candidates and bidders.

- 18.6** Any candidate or bidder who disagrees with the award decision may notify the special-sector company of this by filing an objection no later than six days after the notice referred to in the fifth paragraph is sent. The special-sector company shall immediately inform the bidder to whom it intends to award the contract of any notification referred to in this paragraph.
- 18.7** As soon as possible after receiving the notification referred to in the sixth paragraph, the special-sector company shall communicate its opinion to the relevant candidate or the relevant bidder who has filed an objection. The opinion may be communicated either in writing or orally. The bidder to whom the special-sector company intended to award the contract shall be informed of the conclusion of the opinion. If the opinion implies that the special-sector company maintains its award decision, the candidate or bidder who had indicated disagreement with it has the right to bring summary proceedings regarding the award decision before the provisional relief judge competent pursuant to Article 21, first paragraph. If the opinion implies that the award decision has been amended in favor of the candidate or bidder in question, the party to whom the special-sector company originally intended to award the contract has the right to bring summary proceedings regarding this matter before the judge competent under Article 21 within the time limit specified in paragraph 9.
- 18.8** If summary proceedings are instituted, other interested parties or bidders shall join the proceedings at the first request of the special-sector company, on pain of forfeiting any claim to the performance of the contract.
- 18.9** Notwithstanding the provisions of the first paragraph, and subject to Article 4.15 Aanbestedingswet 2012, any claim to the performance of the contract and any other legal action based on the award decision shall lapse if summary proceedings are not instituted within the following time limit before the preliminary relief judge competent pursuant to Article 21, paragraph 1:
In the case of a European procurement procedure:
- a. twenty days after the notification of the opinion referred to in the seventh paragraph if the notification referred to in the sixth paragraph was received within the aforementioned six-day period, or
 - b. twenty days after the notification referred to in the fifth paragraph if the notification referred to in the sixth paragraph was not received within the aforementioned six-day period.
- In the case of a national procurement procedure:
- a. ten days after the notification of the opinion referred to in paragraph 7, if the notification referred to in paragraph 6 has been received within the aforementioned six-day period, or
 - b. ten days after the notification referred to in paragraph 5 if the notification referred to in paragraph 6 has not been received within the aforementioned six-day period.
- 18.10** The contract is awarded by the special-sector company by means of a written notification or another legal act evidencing acceptance of the bid, which notification or act, in the case of a European tender—unless there is an urgent need not caused by the special-sector company—shall not take place earlier than after the expiration of the following periods:
- a. twenty days after the notice referred to in paragraph 5 is sent, if no notification as referred to in paragraph 6 has been received, or
 - b. twenty days after the opinion referred to in the seventh paragraph if no preliminary injunction proceedings have been instituted, or
 - c. after a decision has been rendered in summary proceedings in a manner that allows for the award.
- If a notification has been made or an act aimed at acceptance has been performed before the expiration of this period, the notification or act shall be deemed to have been made subject to the condition precedent that none of the bidders submits a notification as referred to in the sixth paragraph, or that no preliminary injunction proceedings have been instituted within the period specified in the ninth paragraph.
- 18.11** If the bidder eligible for the contract is a consortium, the bidder must, immediately following the notification referred to in paragraph 10 or any other legal act, reorganize itself into a consortium of entrepreneurs who are jointly and severally liable.

Part III Negotiated procurement procedures

19 Procedure

- 19.1** Articles 14 through 18 apply mutatis mutandis to a restricted procedure involving a single candidate, with the exception of Article 18, paragraphs 4 through 11.
- 19.2** Articles 14 through 18 apply mutatis mutandis to restricted processes involving multiple parties. For restricted processes involving multiple parties, the time limits for national procurement procedures as referred to in Article 18, paragraphs 9 and 10, apply.
- 19.3** The special-sector company directly invites one or more contractors to participate in the procurement procedure.
- 19.4** In private negotiations, the special-sector company may apply grounds for exclusion and (minimum) eligibility requirements. If this is the case, the special-sector company will specify in the invitation which supporting documents must be submitted.
- 19.5** The special-sector company shall specify in the invitation the manner and time by which tenders must be submitted to the special-sector company and, in the case of a multiple private tender procedure, the award criterion.

Part IV Other Provisions

20 Applicable Law

A procurement procedure conducted in accordance with these regulations is governed exclusively by Dutch law.

21 Dispute Resolution

- 21.1** Any dispute between the parties involved in the tendering procedure—including a dispute that is considered as such by only one of the parties—arising from the tendering procedure to which these regulations apply shall be resolved by the competent civil court in the district where the special-sector company is established.
- 21.2** The term “parties” as referred to in the first paragraph also includes an association with full legal capacity whose purpose is to represent both the collective and individual interests of its members, provided that at least one or more of these members is actually involved in the tendering procedure.

22 Final Provision

- 22.1** Candidates or bidders shall ensure that no money, goods, or services are offered or provided in any form to employees of the special-sector company or to contractors engaged by it. They are obligated to immediately report any form of solicitation to that effect to the management of the special-sector company. In the event of a violation of this provision, the candidate or bidder in question may be excluded from the tendering procedure.
- 22.2** Candidates and bidders shall ensure that competition between them is free and fair. Mutual coordination in the context of a specific tendering procedure—whether direct or indirect—is prohibited. In the event of a violation of this provision, the candidate or bidder in question may be excluded from the tendering procedure.
- 22.3** If any provision of the ARN²⁰²⁶ is void or voidable due to a conflict with (European) laws and regulations, this shall not affect the validity of the remaining provisions of the ARN²⁰²⁶.
- 22.4** These regulations may be cited as “Procurement Regulations for Utility Sectors 2026,” abbreviated as “ARN²⁰²⁶.”