



Report of the State Comptroller of Israel | November 2024

Local Government

Publication and Management of Tenders for Framework Agreements in Local Authorities and Municipal Corporations



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Background

To ensure that local authorities fulfill their obligation to allocate resources in an orderly and transparent manner and to prevent the unequal distribution of these resources, the legislature has established, among other things, arrangements for resource allocation by local authorities. According to the Municipalities Ordinance [New Version], a municipality may not enter into a contract for the transfer of goods, procurement of goods, or the execution of work "except through a public tender." From a public perspective, tender laws aim to uphold the principle of equality by providing equal opportunities to anyone wishing to submit their candidacy. From an economic perspective, tender laws reflect the aspiration to manage public funds efficiently and economically, while maximizing benefits for the tender issuer. According to the Mandatory Tenders Regulations, 1993, which apply to central government entities, a framework tender is a public tender conducted in two stages: in the first stage, the Tender Committee selects more than one framework supplier and signs a framework agreement with the selected suppliers. In the second stage, the specific supplier from whom goods, work, or services will be procured is determined from time to time during the framework agreement period, according to the terms of the framework tender. Tender laws¹ in the local government sector do not regulate the process of conducting framework tenders for local authorities. However, a local authority that decides to issue a framework tender must adhere to the principles of the tender laws and the competitive process. For guidance in this regard, it may draw on the rules applicable to central government entities. In its 2018 audit report, the State Comptroller recommended that the Ministry of the Interior establish guidelines for local authorities regarding the process of contracting with suppliers chosen in the for-framework agreements tenders².

1 Municipalities (Tenders) Regulations, 1987 (hereinafter: the Municipalities (Tenders) Regulations); the Fourth Annex to the Local Councils Order, 1950 (hereinafter: the Local Councils Order); the Second Annex to the Local Councils (Regional Councils) Order, 1958 (hereinafter: the Regional Councils Order).

2 State Comptroller, **Report on the Audit of Local Government for 2018** (2018), "Rehovot Municipality – Renovation of the Cultural Center" pp. 393–451.



Key Figures

66%

of the entities audited (23 out of 35) published tenders for framework agreements in the years 2019–2022

NIS 18.3 million

The average annual payment made by the audited entities through tenders for framework agreements

7

the average number of tenders for framework agreements published by entities that issued such tenders in the years 2019–2022

91%

of the entities that published tenders for framework agreements (21 out of 23), the tenders were issued without procedures regulating the publication and management processes

20 years

The time elapsed since the Ministry of Interior was required to establish regulations concerning the application of tender requirements to municipal corporations, but has not done so, despite a Supreme Court ruling and State Comptroller reports on this matter

85%

Of the winners of tenders issued by the **Petah Tikva Development Company** in the years 2019–2022 (64 out of 75) submitted a proposal that matched the minimum discount coefficient set in the tender conditions

2 out of 7


The number of tenders in the **Yavne Municipality** in which the majority of payments were made to suppliers who did not offer the lowest price, out of all tenders in which more than one supplier won and payments were made

19 projects

In which the **Petah Tikva Development Company** paid significant amounts ranging from NIS 1 million to approximately NIS 7.4 million to contractors for projects executed through framework agreements, without ensuring that ordering work through a framework agreement was better than issuing an individual tender



Audit Actions

 From March to December 2023, the State Comptroller examined the use of tenders for framework agreements by local authorities and municipal corporations. The audit was conducted in the **Yavne** and **Kiryat Bialik** municipalities (the local authorities reviewed) and the **Petah Tikva Development Company** (PTDC)³; (hereinafter: the in-depth audit)⁴. Supplementary examinations were conducted at the Ministry of Interior. Additionally, questions were sent to 16 local authorities and 16 municipal corporations. The entities reviewed as part of the in-depth audit and the questionnaire process will be referred to as "all entities included in the audit."

Key Findings

-  **Lack of a Normative Framework for Tenders for Framework Agreements in Local Government** – while a detailed normative framework for the publication and management of framework tenders exists for the central government – established through secondary legislation and guidelines – the Ministry of Interior has not established a similar framework for local authorities and municipal corporations. The State Comptroller comments the Ministry of Interior for failing to establish the necessary regulations or set specific rules for tenders in municipal corporations, although approximately 20 years having passed since the regulations were intended to be enacted. This, despite rulings by the Supreme Court and several State Comptroller reports addressing the issue. This is particularly concerning given the large number and significant financial activity of municipal corporations in Israel. As of May 2022, there were 627 municipal corporations operating in Israel, with an annual financial scope of NIS 17 billion.
-  **Monitoring Purchases Under Tenders for Framework Agreements** – the **Yavne** and **Kiryat Bialik** municipalities do not maintain a record detailing which work orders were issued under the tenders for framework agreements published by them in the years 2018–2022. At **PTDC**, which manages tenders that often include several sections, it was found that while there is a record specifying which work orders were issued under each tender, the record for the individual sections – each of which constitutes a sub-tender is

3 An audit of the Petah Tikva Municipality revealed that the municipality failed to publish framework tenders in the years 2018–2022. Framework tenders for work in Petah Tikva were published through Petah Tikva Development Company.

4 The in-depth audit examined tenders issued in the years 2018–2022.






written as free-text rather than structured field in the computerized system. This lack of structured records for work orders undermines the ability to effectively monitor the execution of orders issued under the tenders and their management.

- 📌 Selection of Framework Suppliers in PTCD Tenders** – the process for conducting **PTCD** framework tenders included the use of a "floor price" (minimum discount coefficient), which effectively resulted in 11 out of the 12 tenders for framework agreements where **PTCD** set a "floor price" being executed at that set price, offering discounts ranging from 5% to 25% off list prices. **PTCD** determined the identity of the winners based on relatively subjective criteria, which were difficult to evaluate, and it did not establish parameters for assessing these criteria. Furthermore, **PTCD** did not provide any explanation, as required in the tender protocols, for giving a particular bidder a specific quality score. This conduct by **PTCD** may affect and even violate principles of competition, transparency, equality, and fairness, which are fundamental to the tender process.
- 📌 Yavne Municipality's Selection of a single BID in a Tender for Framework Agreement** – in a tender for plumbing services, the **Yavne** Municipality selected the sole bid submitted. Contrary to the Municipalities (Tenders) Regulations and relevant case law, the **Yavne** Municipality's Tender Committee did not examine, in tenders where only a single bid was submitted, whether the bid exceeded market prices or whether there was only a single bid due to collusion among bidders. This issue is particularly significant in cases where the offered discount is lower than the municipality's estimated benchmark, and when the tender is intended to select multiple suppliers for plumbing services. In this case, the sole bid submitted was 8% higher than the municipality's estimate (a 2% discount in the bid compared to the municipality's 10% estimated discount).
- 📌 Failure to Establish Criteria for Selecting Specific Supplier from Framework Tender Winners – PTCD and the Kiryat Bialik Municipality** granted themselves broad discretion, without limitations, to select contractors from the 'winners of the first stage of the tender for the framework agreement, without convening a Tender Committee or establishing clear criteria for choosing which winner would perform a specific task. This applied to one of four tenders for framework agreements issued by the **Kiryat Bialik** Municipality and to all 13 tenders for framework agreements issued by **PTCD**. In two instances, **PTCD** allocated significantly extensive scope of work to bidders who did not have the highest weighted score, with differences amounting to approximately NIS 8.3 million and NIS 2.4 million. Similarly, the **Kiryat Bialik** Municipality allocated different work scopes to two bidders who offered the same discount percentage, with a difference of approximately NIS 3.3 million.
- 📌 Failure to Implement for Selecting a Specific Supplier from Among Suppliers that Won Tenders for Framework Agreements** – in the **Yavne Municipality**, 31 out of 315 work orders were found to have been allocated to suppliers without a




competitive bidding process, even though the work exceeded the threshold amount requiring such a process under the tender terms, sometimes by six or nine times the required amount. These included work orders unrelated to summer renovations. In three tenders issued by the **Kiryat Bialik** Municipality, where it had committed to distributing work as equitably as possible, no rules were established to monitor the allocation of work among the tender winners. This lack of monitoring undermined the equitable distribution of work among suppliers. For example, in a tender for renovation work at educational institutions, **Kiryat Bialik** Municipality paid 73% of the total payments to a supplier who offered a 26% discount, while paying only 27% to a supplier who offered a 27% discount (NIS 4.9 million compared to NIS 1.8 million, respectively). Similarly, in a tender for roof sealing and whitewashing work at educational and public institutions, the **Kiryat Bialik** municipality paid 71% of the total payments to a supplier who offered a 39% discount, while paying only 29% to a supplier who offered a 42% discount (approximately NIS 500,000 compared to NIS 200,000, respectively).

-  **Determining the Entity in Charge of Executing the Second Stage of the Tender** – it was found that staff members in the **Yavne, Kiryat Bialik, and Petah Tikva** municipalities, as well as in **PTCD**, made exclusive decisions regarding which winner of the tender for the framework agreement would execute specific work orders. These decisions were made without the involvement of a Tender Committee or any other professional committee, without verifying that issuing work orders through a framework agreement was preferable to issuing an individual tender, without the **Yavne, Kiryat Bialik** municipalities and **PTCD** establishing criteria to guide their decisions, and without transparency. This process raises concerns about potential favoritism. Some of these work orders amounted to millions of NIS in the **Kiryat Bialik** Municipality and **PTCD**. For example, **PTCD** paid approximately NIS 7.4 million to a single contractor for the execution of one project.
-  **Bid Guarantee and Participation Fees** – significant discrepancies were found in the amounts set for bid guarantees and participation fees in the tenders for framework agreements of the **Yavne** and **Kiryat Bialik** municipalities and **PTCD**. Thus, the bid guarantees in the tenders reviewed ranged from NIS 0 to NIS 200,000, while participation fees ranged from NIS 0 to NIS 2,500. It was found that none of the 22 tenders reviewed in the **Yavne** and **Kiryat Bialik** municipalities or **PTCD** included an estimate, making it impossible to determine whether these amounts aligned with the recommendation of the Federation of Local Authorities in Israel. This recommendation states that bid guarantee should not exceed 2.5% of the contract value, except in special cases justified with documented reasons. Furthermore, the amounts for bid guarantee and participation fees were determined without any established criteria and without providing justifications for these decisions in any of the tenders.
-  **Preference for Women-Owned Businesses** – it was found that in two tenders for framework agreements issued by the **Kiryat Bialik** Municipality and in all 13 tenders for



framework agreements issued by **PTCD**, no provisions were made to grant preference to women-owned businesses.


 **Engaging Consultants Through Tenders for Framework Agreements in the Kiryat Bialik Municipality** – The process for selecting consultants in the **Kiryat Bialik Municipality** requires neither a transparent and equitable procedure nor rules to ensure that the selection process aligns with the predetermined selection method or enables monitoring and oversight. As a result, the majority of the work was allocated to a specific consultant, a practice inconsistent with the principles of tender laws. For example, in Section A of a tender for providing management and supervision services for engineering projects, where ten suppliers were selected, approximately 87% of the total payments were made to Consultant A.









Preference for Women-Owned Businesses – in the tender for a framework agreement issued by the **Yavne Municipality** and in six out of eight tenders for framework agreements issued by the **Kiryat Bialik Municipality**, it was stipulated that if the best offers were identical, and one of the offers was from a women-owned business, preference would be given to that offer, in alignment with the Municipalities (Tenders) Regulations.

Publication of Tenders for Framework Agreements – the State Comptroller commends the publication of tenders for framework agreements by the reviewed local authorities and municipal corporations on their websites.

Key Recommendations

 The Ministry of Interior should examine the need to update the legislation applicable to local government and consider adopting the principles established in the normative framework applicable to the central government, with necessary modifications. This should include, among other aspects, the normative principles regarding the management of tenders for framework agreements, adapting them to changes that have occurred over time, and making adjustments for emergencies. The Ministry of Interior should also seek to enact regulations regarding transactions of local corporations and establish rules for conducting tenders in municipal corporations, taking into account the existing regulatory framework in Israel. Until the matter is regulated by legislation, it is recommended that the Ministry of Interior provide guidance to local authorities and municipal corporations on the proper conduct of the tender processes for framework agreements. This is to ensure competitive procedures and adherence to the principles of equality and fairness that are core values of the bidding system.



-  In light of the absence of specific guidelines regarding tenders for framework agreements in local government, and given the complexity of such tenders and their scope, it is recommended that the **Yavne** and **Kiryat Bialik** municipalities, the **Petah Tikva Development Company** (PTCD), and all local authorities conducting tenders for framework agreements establish procedures that include provisions to ensure compliance with the principles of tender laws. These should include, among other things, the conduct of a competitive process during the selection of the winners.
-  It is further recommended that the **Yavne** and **Kiryat Bialik** municipalities and **PTCD** establish rules enabling them to monitor work orders issued under the tenders they publish. These rules should include structured fields in the computerized system necessary for monitoring work executed under the tenders.
-  As part of the first stage of the framework tender, the **Kiryat Bialik** Municipality must ensure that the tenders it publishes include clear and measurable criteria for selecting winning suppliers. If the selection is based on the lowest bid, this should be explicitly stated. In the second stage of the tender, **PTCD** and the **Kiryat Bialik** Municipality must establish clear, predetermined, and measurable criteria for selecting a specific supplier to execute a particular task from among the suppliers who won in the first stage of the tender for the framework agreement. They must also justify the selection process and the considerations evaluated, based on which they assigned specific tasks to particular suppliers. The **Kiryat Bialik** and **Yavne** municipalities must implement the criteria determined in their tenders for framework agreements while maintaining efficiency and transparency.
-  **PTCD** should evaluate whether its current practice of setting a maximum discount coefficient, which determines the actual execution price, aligns optimally with the principles of tender laws, as this approach leaves little room for price competition. **PTCD** must ensure that the tenders it publishes uphold the principles underlying tender laws, including maintaining a competitive process, establishing clear, evaluable, and measurable criteria, and operating transparently while providing justifications for its decisions.
-  It is recommended that the **Yavne** and **Kiryat Bialik** municipalities, as well as **PTCD**, manage the process of selecting a specific supplier to execute a particular task under tenders for framework agreements by establishing a monitoring mechanism for work orders, and ensuring the process is transparent. As part of this recommendation, for high-value engagements (over NIS 50,000), it is advised that the second stage of the tender be managed by the Tender Committee or by a professional committee comprising the local authority's CEO, treasurer, and legal advisor, as stipulated in the Ministry of Interior's circular regarding engagements by local authorities through framework tenders conducted by a public entity. This process is intended to ensure optimal efficiency in utilizing the tender for framework agreement for specific tasks.
-  It is recommended that the Ministry of Interior address the issue of determining the amounts for bid guarantees and participation fees required in tenders for framework agreements issued by local authorities and municipal corporations. This recommendation



is made in light of the difficulty in deriving these amounts from the financial scope of those tenders, as their total monetary value is not estimated at the time of publication, and due to the absence of rules for setting these amounts in the tenders for framework agreements of the **Yavne** and **Kiryat Bialik** municipalities and **PTCD**.



The **Kiryat Bialik** Municipality and **PTCD** must ensure that their tender conditions include a preference for women-owned businesses, as stipulated in the Municipalities (Tenders) Regulations.



General Data Arising from the Audit



The number of entities that issued tenders for framework agreements in the years 2019–2022



23

Published



12

Not published



The number of entities with procedures for publishing tenders for framework agreements (from among the entities that issued)



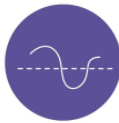
2

Published



21

Not published



The average number of tenders for framework agreements among the entities that issued such tenders in the years 2019–2022

7



The average annual payments by an entity that published tenders for framework agreements

18,347,986 NIS

Based on data from the 35 entities examined (both through in-depth auditing and via questionnaires), as processed by the State Comptroller's Office.



Summary

Local authorities are required to allocate their resources through an orderly and transparent process to prevent inequitable distribution of resources and ensure proper governance, fair competition, and equal opportunity for all. The audit found that the legislation governing the conduct of public tenders in local authorities does not regulate the conduct of tenders for framework agreements. Additionally, the Ministry of Interior has yet to enact regulations regarding the application of tender provisions to municipal corporations, despite approximately 20 years having passed since these regulations were intended to be established. This, despite the State Comptroller's comments in previous reports and Supreme Court rulings on the matter.

The findings presented in this report emphasize the need for the Ministry of Interior to guide local authorities and municipal corporations about managing framework agreements tendering processes, given their unique characteristics. This guidance is essential to ensure that the principles of equality and fairness, which are the core values of the bidding system, are upheld at all stages of the tender process. The Ministry should also evaluate the need to update the legislation governing local authorities by adopting, with necessary modifications, the principles for managing framework tenders established in the legislation applicable to the central government.

Local authorities and municipal corporations must ensure that the publication and management of tenders for framework agreements comply with tender law principles and are conducted efficiently, transparently, and fairly, while providing equal opportunities to bidders, both in selecting framework suppliers and in allocating the work among them.